

## HAMPSHIRE COUNTY COUNCIL

### Report

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| <b>Committee/Panel:</b> | Education Advisory Panel                          |
| <b>Date:</b>            | 25 September 2013                                 |
| <b>Title:</b>           | Statutory Responsibilities for School Improvement |
| <b>Reference:</b>       | 5207  |
| <b>Report From:</b>     | Director of Children's Services                   |

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#### 1 Summary

- 1.1 This report lays out the statutory responsibilities relating to school improvement which successive Government Acts have laid upon Local Authorities. It also outlines the intention behind these responsibilities and the related documentation which Government has published in an attempt to clarify those responsibilities and ensure that LAs carry them out effectively.
- 1.2 The report goes on to explain the approach Hampshire County Council has adopted, and continues to adopt, in response to those responsibilities and how they are funded in the light of the current economic restraints.

#### 2 Context: statutory responsibilities

- 2.1 The statutory basis for the majority of the school improvement functions that sit with local authorities is government legislation. Although additional and altered responsibilities appear in education and schools related acts since 1968, the primary responsibilities which still impact upon activity are in the Education Acts of 1996, 2002 and 2006.
- 2.2 Beyond a range of specific provision relating to early years, religious education or post-16 entitlement, the majority of statutory requirements fall within four broad categories; these are: governance, assessment, inclusion and intervention/improvement.
- 2.3 The "Duty to promote high standards in primary and secondary education," originates from the 1996 Act. This provision was amended in the 2006 Act to include, "...and the fulfilment of potential." The 2006 Act spells out the responsibility of the LA to promote high standards; ensure fair access and promote the fulfilment of every child's educational potential. This duty

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applies to children of compulsory school age and those of any age (up to 20) who are registered as pupils at schools maintained by the authority.

- 2.4 It is the 2006 Act which also introduces the inspection of LA statutory functions by Ofsted. Many LAs did not perceive this as pertaining to school improvement functions until the publication by Ofsted in May 2013 of “The Framework for Inspection of Local Authority Arrangements for Supporting School Improvement,” based upon sections 135 and 136 of the Education and Inspections Act 2006. The LA duty to write an action plan following an unsatisfactory Ofsted inspection had already been introduced in the 2005 Education Act.
- 2.5 The 2006 Act also lays out the range of intervention powers LAs have when the performance of individual schools is a cause for concern. These powers are draconian and range from the issue of warning notices to removal of the governing body and suspension of the school’s delegated budget.
- 2.6 It was the failure of many LAs to make use of these statutory powers which lead to a provision in the 2009 Act for the Secretary of State (SoS) to “require” an LA to issue a warning notice. The power of the SoS to compel LAs to intervene robustly in failing schools was further developed in the 2011 Act by the introduction of a requirement for an LA to give reasons to the SoS for not issuing a warning notice when told to do so and to send a copy of the warning notice to demonstrate compliance.
- 2.7 The 2002 Education Act introduced a range of provisions concerned with curriculum, assessment and governance. Whilst the majority of these were functions for the school, the LA acquired several key duties. The first of these relates to the monitoring and moderation of Key Stage (KS) 1 and KS2 assessments in schools with a requirement to visit a percentage of schools to ensure tests are administered correctly and teacher assessments standardised and accurate. The moderation of phonics testing was added to this regime in 2011.
- 2.8 The second range of provisions relates to ensuring that the National Curriculum requirements are being delivered and that a “broad and balanced curriculum,” is in place. Whilst the content of the curriculum has altered and the compulsory elements have been reduced, this duty has not been repealed for those schools which are not exempt and the 2009 Act added an additional duty for the LA to investigate complaints about the curriculum in schools, except in those areas of the country where there is a Local government Ombudsman (LGO) complaints service in operation.
- 2.9 The 2002 provisions relating to governance cover the establishment of new governing bodies, the oversight of the constitution of governing bodies and the provision of training and information for governors. The 2002 Act also prescribes the duties of the LA with regard to an exclusion from school and appeals against exclusion.

- 2.10 In terms of the wider education function of the LA, various Acts seek to ensure compliance in specific areas of the curriculum. These include religious education, physical education, health and sex, careers and, always, English and mathematics. They also seek to impact upon the performance or participation of various groups of children and young people: Children in Care, those on free school meals, those with special educational needs, early years or post-16.
- 2.11 All of the statutory functions which relate to school improvement in any of its guises require a relationship with schools which is both inspectorial and advisory but, primarily, the effectiveness of the LA in carrying them out relies upon a thorough and detailed knowledge of the schools within the LA area which is based upon comprehensive data and carried out via an on-going professional dialogue.
- 2.12 Following the Children Act in 2004 which established Children's Services and the statutory roles of the Director of Children's Services (DCS) and the Lead Member for Children's Services, the government published Statutory Guidance in 2005 to cover both of these roles and their responsibilities. This guidance was reviewed in 2009 and again in 2012.
- 2.13 This guidance became increasingly robust in relation to the school improvement function which sits with the DCS, culminating in section 28 "Educational Excellence," in the 2012 guidance (reviewed August 2013). This section draws on all the legislation which is still current to spell out, with refreshing clarity, the statutory function of the DCS, and therefore of the LA, in relation to the performance of schools. It is worth reproducing that section in its entirety:

### **"Educational excellence**

28. Working with headteachers, school governors and academy sponsors and principals, local authorities should promote educational excellence for all children and young people and be ambitious in tackling under-performance. More specifically, the DCS and LMCS should in their respective roles:

- take rapid and decisive action in relation to **poorly performing schools**, including using their intervention powers with regard to maintained schools and considering alternative structural and operational solutions;
- develop robust **school improvement strategies**, including choosing whether to offer such services in a competitive and open school improvement market, working beyond local authority boundaries;
- promote high standards in education by supporting effective **school to school collaboration** and providing local leadership for tackling issues

needing attention which cut across more than one school, such as poor performance in a particular subject area across a cluster of schools;

- support maintained schools in delivering an appropriate **National Curriculum** and early years providers in meeting the requirements of the **Early Years Foundation Stage** (as outlined in the EYFS Statutory Framework);
- establish a **schools forum** for their area, maintain a scheme for financing maintained schools and provide financial information; and
- undertake specified responsibilities in relation to **staffing and governance** of maintained schools. “

2.14 Local authorities have a clear and on-going role in delivering high quality education in their area. Despite subsequent legislation which introduces greater school autonomy and encourages other organisations to become involved in “sponsoring” schools, there has been no diminution of the LA’s duties and none of the relevant legislation has been repealed. The withdrawal by some LAs from their school improvement function has not only been ill-advised but it is not supported by legislation and the new framework through which Ofsted has begun to inspect this function makes that abundantly clear.

### **3 Inspection and Accountability**

3.1 “The Framework for the Inspection of Local Authority Arrangements for Supporting School Improvement,” opens with a statement from Her Majesty’s Chief Inspector (HMCI) of Education, Children’s Services and Skills, Sir Michael Wilshaw in which he states the intention of the framework to “assist local authorities in their duty to promote high standards and the fulfilment of potential in schools ... so that all children and young people benefit from at least a good education.” The framework also makes it clear that inspection will not be universal but will focus “where concerns about performance are apparent,” with the intention to “report on the effectiveness, or otherwise, of the local authority functions for promoting improvement in relation to education.”

3.2 The range of factors which would prompt inspection concentrate on data about school performance, primarily in relation to Ofsted inspections of schools, but also data about the overall performance and progress of children at the schools in the LA area, regardless of the status of those schools. This is designed to be an inspection of the LA, not with it, and early experience suggests that schools are the primary source of evidence for the judgement with little direct involvement by the LA itself.

3.3 The inspection will evaluate and report on the following:

- the effectiveness of corporate and strategic leadership of school improvement

- the clarity and transparency of policy and strategy for supporting schools' and other providers' improvement, and how clearly the local authority has defined its monitoring, challenge, support and intervention roles
- the extent to which the local authority knows schools and other providers, their performance and the standards they achieve and how effectively support is focused on areas of greatest need
- the effectiveness of the local authority's identification of, and intervention in, underperforming schools, including, where applicable, the use of formal powers available to the local authority
- the impact of local authority support and challenge over time and the rate at which schools and other providers are improving
- the extent to which the local authority brokers support for schools and other providers
- the effectiveness of strategies to support highly effective leadership and management in schools and other providers
- support and challenge for school governance, where applicable
- the way the local authority uses any available funding to effect improvement, including how it is focused on areas of greatest need.

3.4 Those authorities which have been inspected since this framework was published in May 2013 have not fared well, since they were selected for early inspection based upon clear evidence that they were not adequately fulfilling their school improvement functions. The key failings, however, can be summed up as follows:

- A lack of strategic direction for school improvement across the area
- Insufficiently robust and analytical data to support effective challenge
- Insufficient knowledge and understanding of schools to allow resources to be deployed appropriately
- Insufficient evaluation of impact to demonstrate value for money and efficiency
- Poor communication with schools and a lack of understanding by schools of the LA's school improvement function
- Insufficiently robust challenge and coherent support for school leaders.

3.5 Clearly, when determining the approach to school improvement across an area, robust, current and detailed knowledge and understanding of schools is of paramount importance. The fact that the existence of academies makes this more challenging for LAs is not a consideration which Ofsted are likely to take into account. The LA which does not maintain regular contact with all schools, as well as ensuring it has all the necessary data with which to plan interventions, is likely to fall foul of the inspection regime.

## 4 The Hampshire Approach

- 4.1 In responding to the reductions in local authority budgets in 2010, Hampshire County Council made the strategic decision to retain a core school improvement service in order to fulfil statutory requirements but also to carry out its function as the champion of children. A core plank in this service is the allocation of a Leadership and Learning Partner (LLP) to each maintained school. This LLP role enables the LA to maintain a working knowledge of all schools, to put data into context and to alert the District Manager to the early signs of decline. In addition, the LLP provides a vital point of contact with schools so that they recognise the reality of their relationship with the LA and know who to call in times of need.
- 4.2 Another fundamental advantage of the LLP is to be a “front door” for brokering the sold school improvement service and ensuring that the support schools buy is, therefore, professional and of high quality with a measurable impact. The LLP relationship also maintains the up-to-date knowledge of good practice in schools in order for the LA to be effective in its statutory responsibility to broker school-to-school support.
- 4.3 Local authorities which abandoned this regular, if light-touch, relationship with their schools have found their statutory school improvement responsibilities increasingly difficult to fulfil and the quantity of school improvement activity sold to schools has also declined. However, LLPs cannot be deployed at LA expense to academies so this service is sold. Some, of course, do not subscribe which makes retaining this element of the relationship more challenging. The impact of this is only now becoming evident since the only indicator is the data which shows decline has happened, not that it is about to happen. The LA must then intervene by challenging academies and their sponsors, but the reversal of decline is demonstrably more difficult than averting it.
- 4.4 LLPs sit within a framework which enables them to be effective. Their work with individual schools is overseen by a District Manager who maintains the quality of the LLP work with schools and prioritises the interventions which result from it. The District Manager also co-ordinates the complex work with schools causing concern and maintains a coherent local approach to schools, ensuring that local stakeholders are properly involved and informed and that the work of other agencies which support schools is coherent. Hampshire is divided into two broad areas each overseen by an Area Director who manages the strategic approach to schools and the services, both sold and funded, which support their work.
- 4.5 A central function lead by the Deputy Director ensures that the strategic direction for school improvement is clear and compelling, as well as being understood by schools. The importance of this function cannot be overstated since schools are self-managing and the LA must influence their behaviour where it does not have powers to control. The maintenance of a “School System,” in Hampshire, despite the vagaries of national policy,

relies on a complex and reciprocal relationship with schools which is strategic and compelling as well as being local and responsive. This central function also provides the data and analysis which shapes the service and allows it to “know” schools in a forensic manner.

## **5 The Future of School Improvement**

- 5.1 Recent high profile Ofsted failures of LA school improvement services have led to three specific outcomes. Firstly, LAs which had withdrawn from school improvement work, having encouraged academisation amongst their schools, are struggling to re-build a service. The challenge with this is the reliance of school improvement services upon productive relationships with schools which are difficult to re-build once lost. Secondly, those services, such as HIAS, with a highly-regarded trading arm are experiencing a level of demand to provide services outside of the LA to which they do not necessarily have the personnel or infrastructure to respond. Thirdly, LA school improvement services struggle to recruit sufficient high-quality staff because it is now regarded as precarious employment.
- 5.2 Whilst the Hampshire service continues to trade effectively and is well-regarded, the increased focus on statutory functions will require a commensurate increase in the emphasis on challenge, including of converted academies, which is by its nature a core-funded activity. Effective challenge, particularly for secondary leaders, requires skilled and experienced inspectors who are both expensive and difficult to recruit and it is not an activity for which schools are likely to want to pay. The traded activity is in high demand and has the potential to continue to expand but, if this is not to impact upon the service which is provided to Hampshire schools, HIAS would need to make some significant strategic decisions in order to respond.

## **6 Recommendations**

- 6.1 That the Panel notes the statutory responsibilities which local authorities have for school improvement and the way in which these are carried out in Hampshire.
- 6.2 That the Education Advisory Panel notes the challenges faced by school improvement services nationally and in Hampshire.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

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| <b>Hampshire safer and more secure for all:</b>          | Yes |
| Corporate Improvement plan link number (if appropriate): |     |
| <b>Maximising well-being:</b>                            | Yes |
| Corporate Improvement plan link number (if appropriate): |     |
| <b>Enhancing our quality of place:</b>                   | Yes |
| Corporate Improvement plan link number (if appropriate): |     |

**IMPACT ASSESSMENTS:**

- 1. Equalities Impact Assessment:**
  - 1.1 No impact on equalities as a result of this report has been identified.
  
- 2. Impact on Crime and Disorder:**
  - 2.1 No impact on crime and disorder as a result of this report has been identified.
  
- 3. Climate Change:**
  - a) How does what is being proposed impact on our carbon footprint energy consumption?
  
  - b) How does what is being proposed consider the need to adapt to climate change, and be resilient to it's longer term impacts
  - 3.1 No impact on climate change as a result of this report has been identified.