



**CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY COMMITTEE –
7 NOVEMBER 2023**

**THE ROLE OF THE LOCAL AUTHORITY REGARDING MULTI ACADEMY
TRUSTS**

REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY SERVICES

Purpose of report

1. The purpose of this report is to provide the Committee with an overview of the legislative role of local authorities in education, specifically with Academies. The report will set out how these duties are discharged by the Children and Family Services Department.

Policy Framework and Previous Decisions

2. This paper is based on a recommendation within the Final Report of the Scrutiny Review Panel on Multi Academy Trusts which recommended that where it was recommended that the Children and Families Overview and Scrutiny Committee receives an annual progress report from the School Effectiveness Team.
3. As a Local Authority, Leicestershire County Council has statutory responsibilities across education, including Multi Academy Trusts.

Background

4. The County Council has a strategic role, to lead for education of children and young people and duties to ensure every child fulfils their potential. The County Council's roles and responsibilities under education law are set out in several statutes and statutory instruments, as well as central government guidance. They include responsibilities in relation to:
 - a) **School standards and improvement** – The Council must exercise its education functions with a view to promoting high standards.
 - b) **Safeguarding** - Children's services have a legal responsibility to promote the wellbeing of all local children. The Council has an overarching responsibility for safeguarding and promoting the welfare of all children and young people in its area, regardless of the types of educational settings they attend.
 - c) **Pupil planning** - ensuring a sufficient supply of school places for all children and young people in Leicestershire.
 - d) **School admissions** – co-ordinating all school admissions in its areas during the normal rounds at the start of primary and secondary school. Although the

statutory duty on the Council to coordinate in-year admissions outside the normal rounds has been removed, many schools request the county Council to undertake this role.

- e) **Home to school transport** – Councils are required to offer free school transport for those children who meet certain criteria. The Council is also required to offer an appeals process independently of the decision maker.
- f) **School attendance** - improving attendance for the whole area, track local attendance data to prioritise support, including to children who are /or who are at risk of becoming persistent absentees,
- g) **School funding** - The Council's role is to agree a local formula with schools for the distribution of funds received from the Government through Designated Schools Grant (DSG).
- h) **Special educational needs provision** and children with health needs who cannot attend school. The Council is subject to a range of duties and responsibilities to support children and young people with SEND and health needs, including making sure that they can access a suitable education.

Education Legislation

5. The following legislation is relevant to the role of local authorities within Education. The 1996 Education Act, Section 4 sets out the definition of a school as 'an educational institution which is outside the further education sector and the higher education sector and is an institution for providing—
 - a) primary education,
 - b) secondary education, or
 - c) both primary and secondary education, whether or not the institution also provides part-time education suitable to the requirements of junior pupils or further education.
 (1C) An alternative provision Academy.'

6. A local authority must exercise its education functions with a view to promoting high standards as defined in Section 13A of the Education Act 1996, the duty to promote high standards and fulfilment of potential. S.13A A local education authority in England must ensure that their relevant education functions and their relevant training functions are (as far as they are capable of being so exercised) exercised by the authority with a view to -
 - a) promoting high standards,
 - b) ensuring fair access to opportunity for education and training, and
 - c) promoting the fulfilment of learning potential by every person to whom this subsection applies.

7. The local authority's statutory responsibilities for educational excellence are set out in the School Standards and Framework Act 1998.

8. The duty of LEAs to promote high standards in primary and secondary education was repealed and replaced by The Education and Inspections Act 2006 which defines the strategic role of the local authority.

9. Key points within this act 2006) identify the role of the LA as champion of the needs of children and young people and their families; in the planning, commissioning and quality assurance of educational services; in challenging schools and, where

appropriate, to commission support and, if necessary, intervene in the management and governance of schools and where a local authority has concerns about academy performance it must raise them directly with the DfE.

10. The Education and Adoption Act 2016 amends The Education and Inspections Act 2006_ Act and lays out further information regarding intervention powers where maintained or academy schools are causing concern. These can be summarised as follows: -
11. Maintained schools: Every school judged inadequate by Ofsted will become a sponsored academy. New powers were given to the Secretary of State to intervene in schools considered to be underperforming.
12. The legal definition of the 'eligible for intervention category' was expanded to enable the Secretary of State to turn such schools into academies or intervene in them in other ways by placing new duties on schools.
13. Schools can be required, in specified cases to work with an identified sponsor towards the making of academy arrangements with a sponsor. The requirement for a general consultation to be held where a school is being converted to a sponsored academy, was removed.
14. Academy schools: In circumstances where special measures are required to be taken in relation to the Academy, or the Academy requires significant improvement, or the Academy is coasting, and the Secretary of State has notified the proprietor that it is coasting, power to intervene are with the Secretary of State (and not the local authority).
12. Schools causing concern. Special measures are required to be taken in relation to a school if:
 - a) the school is failing to give its pupils an acceptable standard of education, and
 - b) the persons responsible for leading, managing or governing the school are not demonstrating the capacity to secure the necessary improvement in the school.
13. Schools Causing Concern is a crucial statutory document for local authorities on holding to account. The document defines the criteria for 'Schools that are not making necessary improvements: the school's overall effectiveness at its most recent Ofsted inspection under section 5 of the Education Act 2005 was Requires Improvement (RI), and the school's overall effectiveness was also below Good at the inspection under Section 5 immediately prior to the most recent such inspection
14. From 1 September 2022, the Secretary of State has the powers to intervene in these schools, by virtue of the legislation on 'coasting' schools. The definition of 'coasting' in regulations has been amended to match the definition of 'schools that are not making necessary improvements' given above.
15. The Coasting Schools (England) Regulations 2022 came into force on 1 September 2022 and changed the definition of coasting so that Ofsted judgements rather than performance data is used to determine whether a school is coasting.

16. Under the updated regulations a school will fall within the coasting definition if it was judged as 'requires improvement' at their most recent Section 5 Ofsted inspection and were also judged as 'requires improvement', 'satisfactory' or 'inadequate' at the previous inspection including judgements given to its predecessor schools. Schools with two consecutive 'requires improvement' or less inspection judgements are defined as coasting and therefore eligible for intervention.
17. A school judged as 'requires improvement' or 'inadequate' will usually be inspected within two and a half years. However, post pandemic the picture is more complicated. A school with a 'requires improvement' judgement could be waiting up to five years for an inspection; a school currently grade as good more than five years ago could be waiting at least six years before being inspected again. This is outlined by Ofsted in 'When will my school be inspected?'
18. Responsibilities for challenging underperformance in academies sit with the Regional Director, DfE. Schools Causing Concern states: *'Where a local authority has concerns about standards, management or governance, or safety in an academy, it should alert the relevant Regional Director.'*

Role and responsibilities of the Regional Director

19. Regional Directors act on behalf of the Secretary of State for Education. Regional Directors work closely with local authorities promoting financial health in the academy trusts leading on ensuring strong governance in academy trusts – this does not include financial governance issues as they are overseen by the Education and Skills Funding Agency (ESFA).
20. From 1 September 2022, the Secretary of State may use the discretionary power to intervene in academies that are coasting (not making necessary improvements).

Role and responsibility of Ofsted in education

21. Ofsted are responsible for inspecting Maintained schools and academies, independent schools, colleges, apprenticeship providers, prison education and many other educational institutions and programmes outside of higher education. Ofsted are also responsible for publishing reports of their findings so they can be used to improve the overall quality of education and training.
22. Duties of the Chief Inspector as described in Education Act 2005 section 13 Duties of Chief Inspector where school causes or has caused concern. This is when the outcome of a section 5 inspection judgement is that special measures are required to be taken, or that the school requires significant improvement. In these circumstances the Chief Inspector must write to the Secretary of State, in the case of a maintained school, to the local authority or in the case of any other school, to the proprietor of the school.

Safeguarding

Academies

23. Local authorities have overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area, regardless of the types of

educational settings they attend. In order to fulfil these duties effectively, local authorities need to work in partnership with all schools (including independent schools), appropriate religious bodies and further education and sixth form colleges in their area.

24. Where a local authority has concerns about an academy or free school's safeguarding arrangements or procedures (arising as a result of investigations about individual children or otherwise), these concerns should be raised to the DfE as the body with responsibility for ensuring that academy trusts comply with their Funding Agreements.
25. When safeguarding concerns are identified as part of the Ofsted inspection process, Ofsted will notify local authority. It is the role of Ofsted to monitor the progress of improvements to safeguarding arrangements through monitoring visits.
26. Where an academy is judged Inadequate for Leadership and Management, solely due to safeguarding (but judged Good or Outstanding in other key areas), Ofsted will carry out an early monitoring visit within three months of publication of the Inadequate judgement to determine whether improvements have been made. The monitoring visit will either confirm the academy remains Inadequate or if inspectors are satisfied that safeguarding is now effective and there has been no decline in the academy's performance in other areas, regrade the academy.

Independent schools

27. Where a local authority has a concern about an independent school's safeguarding arrangements or procedures (arising as a result of investigations about individual children or otherwise), these concerns are reported to the Independent Education Division at the DfE, who have responsibility for enforcing the independent school standards and taking regulatory action where necessary.

Leicestershire County Council's work with Academies

28. The Education Effectiveness Team have positive relationships with Multi Academy Trusts as they have a shared interest in the best outcomes for children and young people across Leicestershire. The role of the Education Effectiveness Team is to be the single point of contact for Multi Academy Trusts across Leicestershire to signpost and support and to work with Regional Director and Ofsted where there are concerns based on statutory legislation.
29. As referenced to in Appendix B, the Education Effectiveness Team includes Governor Development Services, Anti Bullying, Education Effectiveness Partners, and Safeguarding in Education. All teams have a responsibility for delivering the statutory requirements as identified in this paper. This involves regular visits on site and remote to quality assure provision across Leicestershire and signpost where further support or services may be required. The Education Effectiveness Team works across a range of departments within the Local Authority to ensure service users are provided with an efficient service.
30. There are currently 286 schools in Leicestershire. 123 of these schools are part of one of the 16 Multi Academy Trusts operating across Leicestershire. Appendix C provides an overview of schools and the organisational status of schools.

Conclusions

31. The Local Authority has statutory functions with Multi Academy Trusts as outlined in this report that support the safeguarding and improving outcomes for children and young people across Leicestershire. The role of the Education Effectiveness Team supports this statutory requirement for all schools including Multi Academy Trusts and is the single point of contact for education settings across Leicestershire.
32. Without the function of the Education Effectiveness Team this would increase demand across other service areas within the Children and Families Service.

Background papers

Education Act 1996

<https://www.legislation.gov.uk/ukpga/1996/56/section/13A>

School Standard and Framework Act 1998

<https://www.legislation.gov.uk/ukpga/1998/31/contents>

The Education and Inspections Act 2006

<https://www.legislation.gov.uk/ukpga/2006/40/contents>

The Education and Adoption Act 2016

<https://www.legislation.gov.uk/ukpga/2016/6/contents>

Schools Causing Concern Statutory Guidance for Local Authorities July 2023

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1168367/Schools_causing_concern_guidance.pdf

The Coasting School (England) Regulations 2022

<https://www.legislation.gov.uk/uksi/2022/720/contents/made?view=plain>

Education Act 2005

<https://www.legislation.gov.uk/ukpga/2005/18/section/13>

Ofsted: When will my school be inspected?

<https://educationinspection.blog.gov.uk/2023/06/12/when-will-my-school-be-inspected/>

Circulation under the Local Issues Alert Procedure

33. None

Equality Implications

34. There are no equality implications arising from this report

Human Rights Implications

35. There are no human rights implications arising from this report

Other Relevant Impact Assessments

36. There are no health implications, crime and disorder implications, environmental implications, partnership working, and associated issues and risk assessment identified in this report.

Appendices

Appendix A - Oversight and accountability for the state funded school, SEND and Children's Social Care System in England

Appendix B - Education Effectiveness Team Overview and Role

Appendix C - Number of Schools in Leicestershire including Multi Academy Trusts

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