

REPORT TO THE AUDIT COMMITTEE TUESDAY 31 JANUARY 2017

EDUCATION AND THE ROLE OF THE LOCAL AUTHORITY

1. Executive Summary

This report was requested by the chair of the Audit Committee, Cllr Tristan Chatfield, following a qualifying statement in Grant Thornton's 2016 Audit Letter in relation to OfSTED's comments on the management of schools, and in particular governance issues. It sets out the background of change of education policy at national level and then shares Birmingham's improvement journey since Trojan Horse in 2014. Evidence is provided to both demonstrate progress and outline remaining challenges. The potential fragmentation of education as a result of increased numbers of academies which diminishes the local authority's role is a cause for concern. Measures are in place to mitigate the impact of academisation.

In November 2016, there were 228 maintained schools and 219 academies and free schools in the city.

2. National background

At national level, the role of the local authority in relation to education has been changing since the Education Reform Act 1988. That legislation introduced local management of schools, the most salient features of which are delegation of an increasing share of the budget to schools and stronger local governance.

Incrementally, successive governments have since increased the overall level of delegation of responsibility to schools and favoured a school-led system based on long-term international research which demonstrates that the best people to run and improve schools are the school leaders themselves.

To address the chronic failure of some inner city schools, the New Labour Government created city academies which were run directly via a contract, known as the funding agreement, between the academy trustees and the Secretary of State.

In 2010, the Coalition Government passed a new education act which enabled highly successful schools (only those graded "outstanding" by OfSTED and pledging to support other local schools) to convert to academy status.

During these years, the role of the local authority was reduced and redefined. Local authorities' statutory duties in relation to education are:

1. Early Years - promoting high quality early years provision centres to secure sufficient, high quality, free early education for all three and four year olds and disadvantaged two year olds. Plus securing sufficient childcare for working parents.

2. Sufficiency of school places and fair admissions to schools – ensuring there are enough school places for children in Reception through to students in Year 11. Making sure that the statutory Admissions Code is applied fairly.
3. Keeping children safe in education from early years through to further education colleges.
4. Identifying, assessing and meeting children’s high level Special Educational Needs and Disabilities (SEND).
5. Ensuring clear pathways for students at fourteen plus and reducing those not in education, employment and training (NEET).
6. School improvement - LAs have the responsibility to maintain high standards in maintained schools and support vulnerable schools. (This duty was due to be removed in 2017 following publication of the White Paper *Educational Excellence Everywhere* in March 2016. That policy decision has now been reversed and the duty continues, albeit with significantly reduced funding).

3. The position in Birmingham

Birmingham City Council’s (BCC) education service was the subject of Department for Education intervention in 2014 following publication of the Trojan Horse letter; 21 inspections of schools resulting in 5 requiring “special measures” (4 academies and 1 maintained school) due to serious failings in leadership, governance and safeguarding. Thousands of Birmingham children had been exposed to risk as a result of the influence of a group of governors who had exercised a profoundly negative impact on those schools.

Trojan Horse was symptomatic of a wide and deep failure in BCC’s custodianship of its schools. There were equally serious failings at DfE in relation to the academies in the city and at OfSTED where its inspectors’ judgments lurched from “outstanding” to “special measures” in relation to certain academies.

The Secretary of State appointed Sir Mike Tomlinson as Education Commissioner in September 2014. Sir Mike reported to both BCC’s Chief Executive and the Secretary of State on a monthly basis from the start of his tenure until it ended in July 2016. BCC produced an Education Improvement Plan which was signed off by the Secretary of State in early 2015.

The priorities contained in the Improvement Plan, 2015/16, were:

- Getting the basics right in relation to governance and safeguarding

- Ending the isolation of schools and commissioning BCC's school improvement duties via the Birmingham Education Partnership (BEP), an organisation comprising over 300 of the city's schools
- Creating a source of joined-up management information about schools via the new Education Data Dashboard
- Improving overall leadership and management of the education service and restoring good relationships with schools
- Improving communications with schools, particularly via the establishment of the weekly Schools Noticeboard.

By April 2016, 92% of the activities in the 15/16 Improvement Plan were completed. The impact of the outputs and outcomes of the Plan were assessed by:

- LGA Peer Review November 2015 (with the positive report highlighted by the Auditor's letter)
- Reports from the Programme Manager and Executive Director for Education to the Education Quartet on a fortnightly basis
- Monthly reports of the Education Commissioner to the Secretary of State and BCC Chief Executive
- Bi-annually at the Education Stocktake, chaired by the Education Commissioner, with senior representatives from OfSTED and DfE
- Bi-annual meetings with the Secretary of State, her ministers and officials
- A self-assessment underpinning the creation of the Education Services Delivery and Improvement Plan 2016/17 (appended)
- Contract Management Group meetings to assess the effectiveness of the BEP school improvement contract.

Overall, good progress has been made addressing the biggest risks that were evident in 2014. DfE officially ended the intervention in summer 2016 when the Education Commissioner submitted his final report.

4. The Annual Audit Letter November 2016

The letter stated that weaknesses were evident in areas of SEND, links with independent schools and governor checks. The following actions have been taken to reduce these risks.

Full time placement of children with SEND. This continued to be a major issue until June 2016. Since then numbers of children without a school placement, including those with an Education, Health and Care Plan or those

permanently excluded from school, have dropped dramatically following management intervention.

Links with independent schools. BCC has worked closely with OfSTED and DfE to ensure that any unregistered schools operating unlawfully in the city were closed. This joint work has been praised widely and received national recognition. Additionally, there is now an Independent Schools Forum to which all independent schools are invited which meets termly with BCC officers to ensure that these schools are safe.

Checks on the suitability of governors BCC's procedure and process for nominating Local Authority school governors in Birmingham was updated in 2015. All applications for Local Authority governor positions are now subject to approval by a School Governor Nomination Committee that is chaired by a member of the Council, includes Headteachers and Chairs of governing boards who are national leaders in governance. As well as providing personal details and employment history, applicants must declare any relationship they have with people working in Birmingham schools and any previous governor positions held. Applicants must also provide two references, complete an audit of their skills, experience and attributes and agree to comply with the BCC Model Code of Conduct for governing boards.

Regulations that came into force on the 18/3/2016 require all governors to be DBS checked. Any governor appointed on or after the 1/4/16 must apply for a DBS check within 21 days of appointment. Any governor appointed prior to 1/4/16 must apply for a DBS check by 1/9/2016. This does not include checks on any 'barring' list.

It is important to note that all of the above information relates to the governance of LA maintained schools and *not* academies and free schools. The governance of academies and free schools is the direct responsibility of the trustees and directors with accountability to the Education Funding Agency.

5. Evidence from the Audit programme

The headline findings from audit visits 2015/17 covering 104 maintained schools are set out below. It can be seen that, as is evident nationally, there are weaknesses in areas of school governance.

- **Governance** – Our audits up to November **2016** identified that workload pressures have contributed to delays in governing boards' responding to the need to self-evaluate their skills and their impact on the school. In addition, number of governing boards had yet to develop training plans to show completed and planned training.

- **Financial Governance** – Weaknesses continue to be identified in the delegation framework in a proportion of schools. While these do not stop the school functioning effectively, it means that there is not the required clarity around financial responsibilities. Improvements are required in the financial reporting to governors and this is coupled with developing financial challenge and its recording in minutes. The correct completion of pecuniary interest forms remains an ongoing issue in a number of schools together with the improved recording of gifts and hospitality. Generally, the majority of schools are now completing their Schools Financial Value Standard on an annual basis but this is not always submitted by the deadline or recorded as approved.
- **Strategic Oversight** – Our audits up to November identified that while governing boards are still developing an overarching school strategy which should be used to drive the improvement plan there were instances of governing boards not formally approving the School Improvement Plan. This area is no longer reviewed however the 3 year financial strategy and financial weather proofing is covered by our 'budget planning' review (see below).
- **Budget Planning** – Whilst day to day financial management was well established, a high proportion of schools are relying on their carry forward balance surplus to set a balanced budget. This poses a risk for future years when the surplus has been utilised unless action plans to reduce expenditure/increase income are developed. We did not see the depth of planned responses, and corrective actions, to the situation we would have hoped for. It is not surprising that this continues to be an area of significance as the financial challenges in schools grow, notably there is a continued increase in school forecasting deficits in future years.
- **Purchasing** – We identified the need for greater compliance regarding the control environment for the ordering and receipting of goods as well as improved division of duty.
- **Delegated Powers** - We have recently seen an improvement of the reporting of quotes to governors in the appropriate way however, improvement is required in the effective monitoring of cumulative expenditure to ensure value for money obtained.
- **Safeguarding** – Schools were well aware of their responsibilities in relation to safeguarding their children and take that responsibility seriously. There was one school that had not obtained DBS clearance within 5 weeks for a new governor but this is now in place. There remains the need for improvement in respect of effective monitoring of IT and Internet use and undertaking due diligence prior to lettings for both safeguarding and the 'No Platform for Extremism Policy' (Responding to speakers promoting messages of hate and intolerance in Birmingham) requirements. Schools are rolling out Prevent training but still need to improve the recording of when employees have been trained.

- **Attendance** - Overall attendance remains well managed and effective arrangements are in place. There are two areas that continue to require further development – the retention of sufficient records where pupils leave a school in year and ensuring correct codes are used to record attendance.
 - **Governor and Senior Leadership Surveys (There is confidence in the financial management of the school, appropriateness of roles, core values and Culture of Tolerance/Mutual Respect).** Overall, there have been no significant concerns identified. When governors or members of Senior Leadership have raised concerns, where appropriate we have provided recommendations and/or consulted/informed relevant officers within the directorate. In the main, the surveys have raised training issues for the governing boards Governing Body where there is a lack of knowledge or understanding of the questions.

6. Conclusion

My assessment is that the overall pace of change has been fast when the 2014 baseline is considered. The Education Commissioner remarked on the pace regularly in his reports. However, there is a long improvement journey ahead before Birmingham's schools are at national average for the % judged "good" or better by OfSTED and its results are approaching national par. There are encouraging signs at Key Stage 4 GCSE results and Key Stage 5 A levels but the primary position overall remains weak. The correct strategic partnerships and strong leadership and management are now in place at BCC education.

Appendices

Extract from Grant Thornton letter November 2016

Education Services Delivery and Improvement Plan 2016/17