



School Performance

Understanding Education – Briefings

What do I need to know?

A local authority must exercise its education functions with a view to promoting high standards (as set out in the Education Act 1996 (section 13A). Local authorities have freedom as to how they deliver their statutory functions but they are expected to act as “champions of high standards of education across their schools” and in doing so, should:

- Understand the performance of maintained schools in their area, using data as a starting point to identify any that are underperforming, while working with them to explore ways to support progress
- Work closely with the relevant RSC, diocese and other partners to ensure schools receive the support they need to improve
- Where underperformance is identified in a maintained school, the local authority should work proactively with the relevant RSC, including sending warning notices and using intervention powers where this will improve leadership and standards
- Encourage good and outstanding maintained schools to take responsibility for their own improvement, support other schools and enable other schools to access the support they need to improve

The statutory guidance on the role of the DCS also states that local authorities should work with headteachers, school governors and academy sponsors and principals to “promote educational excellence for all children and young people and be ambitious in tackling underperformance”. This very clearly establishes the need for local authorities to know what is happening across all schools in their area irrespective of the status of the school.

Given the growing number of intermediaries in the management of schools (Regional Schools Commissioners, MATs, Diocesan authorities etc), many local authorities have taken the lead in establishing Education Strategic Partnerships to facilitate the sharing of information and priorities and more importantly, to develop a shared vision for school improvement in their areas. This has also assisted in maintaining some cohesion and providing that sense of place and context in what could otherwise be a fragmented system.

By establishing these relationships with all key partners, it enables early action to be taken when a school is in need of support.

Local authorities receive a 'School Improvement Monitoring and Brokering Grant' to assist them in providing support to schools. Increasingly, school improvement initiatives must be funded by the school itself or through the DfE via its tiered system (see below).

Academies are accountable to the Secretary of State for their performance. If a local authority has a concern about an academy's standards, they should raise these with the relevant RSC. Best practice shows that where the RSC and local authority work closely together, early intervention can be very effective. RSCs are expected to apply the same rigour to academies and free schools as local authorities are expected to apply to maintained schools.

School Curriculum and Key Stages of Education

The basic school curriculum includes the 'national curriculum' as well as religious education and sex education. Academies and private schools do not have to follow the national curriculum but they must teach a broad and balanced curriculum including English, maths and science, as well as religious education. The Key Stages of learning are:

A Levels or other national qualifications
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Key Stage	Age of Child	Assessment
Early Years	3-4 years	
Early Years (Reception)	4-5 Years	Teacher assessments
Key Stage 1 (Year 1)	5-6 years	Phonics screening check
Key Stage 1 (Year 2)	6-7 years	National tests and teacher assessments in English, maths and science
Key Stage 2 (Year 6)	10-11 years	National tests and teacher assessments in English and maths, and teacher assessments in science
Key Stage 3 (Years 7- 9)	11-14 years	None
Key Stage 4 (Years 10 and 11)	14-16 years	GCSEs
Key Stage 5 (Years 12 and 13)	16-18 years	A Levels or other national qualifications

Performance Measures

Understanding Progress and Attainment Measure

Pupils are measured on 'attainment' and 'progress'. Attainment reflects whether a pupil is working 'at the expected level'. Progress refers to how well the pupil has progressed in his/her learning from their starting point. Schools are required to publish both sets of data.

Primary Measures:

- Attainment measures a child's achievement in school compared to a standardised expectation for their age level, regardless of individual starting points. It also measures those who are working 'at greater depth'.
- Progress measures aim to capture the progress that pupils have made from the end of Key Stage 1 to the end of Primary school. Schools have progress measures in three subjects; reading, writing and maths.

Secondary Measures:

- **Attainment 8** – measures the achievement of a pupil across 8 qualifications including maths and English (both of these being double weighted), 3 further qualifications that count in the English Baccalaureate (EBacc) measure and 3 further qualifications that can be GCSE qualifications or any other non GCSE qualifications on the DfE approved list.
- **Progress 8** – aims to capture the progress a pupil makes from the end of primary school to the end of secondary school. It is a value added measure which means that pupils' results are compared to the actual achievements of other pupils with similar prior attainment.

School performance is not just about results. A school can be very effective in serving its community and in raising standards even if these do not achieve national averages. As long as children are continuing to make progress from their point on entry, the school should not be deemed to be underperforming. However, when standards do begin to fall in a school, there may be a number of reasons as to why this is happening. Some of the indicators might be:

- Leadership issues
- High staff turnover
- Budget deficit
- Safeguarding issues
- High level of parental complaints
- Pupils leaving the school
- Poor pupil behaviour
- Breakdown in governance

It is also the case that schools may have a more difficult cohort going through school who do not achieve at the same level as in previous years. As long as this is a 'one off' and there are no other issues, there is usually no reason to be over-concerned. Some schools, for example, have high mobility, pupils joining late with English as a second language etc. and this will impact on results.

Ofsted Judgements

Currently, there are four overall judgements that Ofsted can reach about schools: Outstanding, Good, Requires Improvement and Inadequate. Inadequate can be subdivided into two categories – serious weaknesses or requiring special measures. The grading of ‘Inadequate’ triggers the mandatory issuing of an academy order.

Schools are inspected on four areas:

- The quality of education
- Behaviour and attitudes
- Personal development
- Leadership and management

The frequency of inspection will depend on the previous grading of the most recent inspection. ‘Outstanding’ schools have been exempt from routine inspections but the DfE announced last year that these schools will be subject to a five year cycle of inspection when Ofsted resumes full inspections in 2021. ‘Good’ schools usually receive an inspection on a four year cycle unless concerns arise about their performance. Those schools judged as Requires Improvement (RI), will usually have a full re-inspection within 30 months. A school judged ‘Inadequate’ will be a school of concern and will become a sponsored academy.

Local Interventions to support a school in need of support

If schools are part of an Academy Trust, it is more than likely that through the Chief Executive of the Trust, another successful school within the Trust will be identified to offer leadership support and any other support the school may need. The RSC, to whom academies are accountable, will work closely with Academy Trusts to ensure progress is being made at the required pace.

For local authority maintained schools, it is likely that support in the first instance will be provided through a school to school support model where expertise from an outstanding school is brokered with another school.

In the case of Diocesan schools, the local authority needs to work closely with key officers from the appropriate dioceses to share information and any concerns which are emerging. Most local authorities will meet with Diocesan Directors of Education on a regular basis to discuss policies and developments, and to monitor progress of church schools and agree the brokerage of support where this is required.

DfE funded support

The DfE has made specific funding available through a tiered system:

- Tier 3 – Schools that currently have a Requires Improvement (RI) judgment and have not been rated good since 2005 – will receive up to three days’ support from a National Leader of Education (an NLE) who will work with the senior leadership of the school with an offer of £24,000 to address the needs of the school
- Tier 2 – For those judged as ‘Requires Improvement’ in their last two Ofsted inspections – schools will receive up to three days’ support from an NLE and an offer of up to £16,000 that can be put towards the costs of implementing the activity agreed between NLE and school
- Tier 1 – schools with a single RI judgement receive up to three days support from an NLE

The arrangements are coordinated through the Teaching Schools Council and it is for the maintained school or academy trust to make the final decision on whether to accept the offer of support. (The Teaching Schools Council is a national body which represents all Teaching Schools in England. Teaching Schools are outstanding schools which have been nationally recognised for their capacity to support and help other schools to improve outcomes). See also the Briefing on the ‘Education System Overview’.

More Formal Intervention - Statutory Guidance – Schools Causing Concern September 2020

In September 2020, the government issued updated guidance for local authorities and Regional Schools Commissioners on how to work with schools to support improvements to educational performance, and on using their intervention powers. It sets out the factors that RSCs and local authorities will consider and the process they will follow in order to decide the right approach to supporting a school to improve.

The guidance states that:

- RSCs will only mandate academy conversion, leadership change or trust transfer of a school in relation to educational standards if Ofsted has judged it inadequate
- RSCs will not use educational standards warning notices unless the school has already received an Ofsted inadequate rating
- RSCs will not use formal intervention powers as a result of a school meeting the coasting definition
- RSCs will not conduct uninvited visits to schools
- The DfE is committed to ensuring robust governance in all schools. Where breakdowns in governance occur, the RSC and Education and Skills Funding Agency (ESFA) will use their powers to hold schools to account for their governance and financial management regardless of the school's Ofsted rating. Both maintained schools and academies will be held to account equally and RSC's will continue to challenge underperformance in both types of school.

The Academies Act 2010, Section 5D, enables the Secretary of State to revoke an academy order that was made because a maintained school is eligible for intervention. This power can be used at the discretion of the Secretary of State and it will only be used in exceptional circumstances and not just because a school's Ofsted rating has improved. It is the Secretary of State's view that schools in general should benefit from being part of an academy trust and that transferring underperforming maintained schools to academy trusts is the most effective means of securing their rapid improvement. Ministers will make decisions on any revocations of academy orders.

The 2 October 2020 update clarifies the factors that the Secretary of State will take into account when considering a request to revoke an academy order because of 'exceptional circumstances'. The updated guidance provides examples of what 'exceptional circumstances' means. For example the Secretary of State decides whether a school is viable as an academy; whether improvements can be maintained without the support of a strong sponsor; if the original judgment concerned safeguarding issues, which have now been addressed. This list is not exhaustive, as the Secretary of State will consider each individual case on merit.

Roles of Local Authorities and RSCs

Warning notices can be given to schools that are causing concern but are not currently eligible for intervention. The circumstances where this is likely to happen are:

- The standards of performance of pupils at the school are unacceptably low and are likely to remain so
- There has been a serious breakdown in the way the school is managed or governed which is prejudicing standards
- The safety of pupils or staff is threatened
- The Governing body have failed to comply with a provision of an order relating to teachers pay and conditions that applies to a teacher at the school, or have failed to secure that the headteacher complies with such a provision

Local authorities are expected to use warning notices to hold their schools to account and they should work with their regional RSC where they judge a warning notice is necessary.

RSCs can issue warning notices on grounds other than educational standards where in their opinion, it is “appropriate to act”. This might be where the local authority has not acted swiftly or robustly enough in the past or lacks the capacity to do so. However, in most circumstances, the local authority and the RSC will be aware of schools which are vulnerable and will be discussing approaches to supporting the school in partnership.

The local authority must give a copy of any warning notice they issue to the relevant RSC; similarly, an RSC must give a copy of any warning notice they issue to a maintained school, to its local authority. However, if there has been close collaborative working between the RSC and the local authority, this will be an agreed action. In the case of underperforming academies, the local authority should have alerted the RSC to their own concerns at an early stage, if the RSC has not already shared his/her own concerns. It is likely that the RSC will be keeping the local authority informed of the action he is taking with the Academy Trust or the Principal of the Academy.

Maintained Schools eligible for intervention

A maintained school may become eligible for intervention if it has:

- Failed to comply with a warning notice and/or
- Is judged inadequate by Ofsted

Where a maintained school is eligible for intervention, the local authority has the power:

- To require the governing body to enter into arrangements (specified services, collaboration with another governing body, joining a federation)
- To appoint additional governors (to bring additional expertise and strengthen existing governance)
- To appoint an Interim Executive Board (IEB) – creation of a new governing body which is likely to include a small number of previous governors but also a minimum of two new interim executive members. The IEB provides interim high quality governance and expertise to support future improvement and it will remain in place until such time that sufficient improvement has been made and responsibility can be restored to the substantive governing body
- To suspend the delegated budget

Where there is no prospect of a school making sufficient improvement through support, the Secretary of State has the power to direct a local authority to close a school but the SoS must consult relevant authorities (local authority, diocese, Foundation school body and any other appropriate persons).

If the direction to close a maintained school has been given, the local authority is expected to meet the costs of terminating staff contracts and making arrangements for pupils' continuing education. It should be noted that there is a presumption against closing rural schools and local authorities have a statutory duty to consider all alternatives to closure.

Regional School Commissioners are also under a duty to make an Academy Order where a school has been judged as inadequate by Ofsted. The RSC may also choose to make an Academy Order where a maintained school has failed to comply with a warning notice.

Academies Causing Concern

As with local authority maintained schools, Academies can be issued with 'Termination Warning Notices' given on the grounds that,

- The Academy Trust has breached the provisions of its funding agreement
- There has been a serious breakdown in the way the Academy is managed
- The safety of pupils or staff is threatened

The ESFA can issue a Financial Notice to Improve (FNti) where there is evidence of financial mismanagement or poor governance arrangements.

Academies judged 'inadequate' by Ofsted can have their funding agreement terminated by the RSC, on behalf of the SoS. This is a power however, rather than a duty.

In the case of an academy judged inadequate, the RSC can identify a new academy trust to take on responsibility for the academy or where it has previously been a stand-alone academy, it will be required to join a strong trust that has the capacity to improve the school.

Where can I access further information?

Schools Causing Concern: guidance for local authorities and RSCs

Exams, testing and assessment; detailed information

Academy trusts: governance