

**Report for:** Corporate Committee

**Item number:**

**Title:** Follow up following schools not complying with audit recommendations

**Report authorised by:** Zina Etheridge, deputy chief executive

**Lead Officer:** Chris Kiernan, interim assistant director, schools and learning

**Ward(s) affected:** NA

**Key/non key decision:** Non key

**1 Describe the issue under consideration**

- 1.1 The council needs assurance that maintained schools have appropriate plans in place to meet any recommendations arising from audit and risk management reports.
- 1.2 The report sets out a process that will be followed by officers in the schools and learning service, in liaison with auditors, to ensure all schools subject to recommendations address them.

**2 Recommendations**

- 2.1 It is recommended that, in cases where audit and risk management officers follow up a school audit report and find that there is non-compliance with any priority one and two recommendations, the auditor concerned should inform the school, in writing, of the requirement to demonstrate compliance within 15 working days; either by providing evidence to confirm the recommendation has been fully implemented, or an action plan that sets out the timeframe and means of implementation..
- 2.2 Should the auditor fail to receive evidence of compliance that she or he finds satisfactory, at that point, school governor services should be informed.
- 2.3 The head of governor support will liaise directly with the head teacher and chair of governors to ensure compliance with all recommendations. Compliance will be enforced through an escalation process as follows:
  - the first stage of escalation will be a letter to the head teacher and chair of governors stating the requirement that they offer assurance that appropriate action is being taken to address recommendations made within a specified time, to be specified by the head of governor services (following consultation with the head of audit and risk management);
  - should appropriate assurance not be given within the timescale set, an informal warning notice will be sent to the school by the assistant director, schools and learning, stating the requirement for the school to offer assurance of action to comply with audit recommendations within a specified time – this will generally be the same as for a formal warning notice (15 working days), but the assistant director, in consultation with the head of audit and risk management, may vary this;
  - should appropriate assurance not be provided within the timescale set in the informal notice, a formal warning notice, under section 60 (2) (b) of the Education and Inspections Act, 2006) will be sent to the head teacher and chair of governors by the director of children’s services, which must be responded to within 15 working days;
  - should appropriate assurance still not be forthcoming, the director of children’s services will consider what action should be taken using powers set out in section 63, 64, 65 or 66 of the Education and Inspections Act, 2006.

### **3 Reasons for decision**

3.1 While in most cases, head teachers and chairs of governors respond appropriately to audit recommendations and requirements, there are instances where this is not the case. To date, council officers have not used statutory powers that allow the council to intervene.

3.2 The following examples are issues resulting in Priority 1 recommendations being made:

- quotations and contract procedures not followed when awarding high value (over £25k) works
- high value expenditure not approved by relevant governing body;
- no evidence of the governing body meeting;
- no scheme of delegation in place;
- school development plan not approved;
- budget not approved;
- senior staff salaries set outside the scale and not approved.

3.2 This report recommends that the following sections of the Education Act, 2006 are considered for use in instances of non-compliance:

- section 60 (<http://www.legislation.gov.uk/ukpga/2006/40/section/60>), which empowers the council to issue a warning notice with which the school must comply where the standards of performance of pupils at the school are unacceptably low or there has been a serious breakdown in the way the school is managed or governed or the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise);
- section 63 (<http://www.legislation.gov.uk/ukpga/2006/40/section/63>), under which the council can require a governing body to enter into a contract or other arrangement with a specified person (for the provision to the governing body of specified services of an advisory nature);
- section 64 (<http://www.legislation.gov.uk/ukpga/2006/40/section/64>), which enables the council to appoint additional governors;
- section 66 (<http://www.legislation.gov.uk/ukpga/2006/40/section/66>), under which financial delegation is withdrawn, and the local authority can direct the head teacher to comply;
- section 65 (<http://www.legislation.gov.uk/ukpga/2006/40/section/65>), which gives the council the power to disband the governing body and constitute a new governing body comprising interim executive board members, following a consultation period, and an application to the secretary of state for approval.

### **4 Alternative options considered**

4.1 The alternative is to continue with the current follow-up process used by audit and risk officers. This is to follow up non-compliance with category one and two recommendations with the head teacher of the school concerned.

4.2 The problem with this option is that, in too many cases, there is continued non-compliance. In 2014/15, Internal audit followed up the 58 Priority one and 137 Priority two recommendations made in 2013/14 and found that 28 Priority one and 74 Priority two recommendations had not been implemented at the time of the follow up audit.

4.3 Hence the recommendations for the use – it is hoped only in a very limited number of cases – of an escalation process using the council’s powers under the relevant sections of the Education and Inspections Act, 2006.

## **5 Background information**

5.1 The council has powers and duties under the School Standards and Framework Act, 1998 and the Education Act, 2002.

5.2 The council’s chief operating officer has the overall duty to ensure that maintained schools have appropriate financial and other systems that are compliant with the relevant Acts of Parliament, regulations and statutory instruments. Council officers have the right to attend meetings of governing bodies to advise or report on major financial and other compliance matters, as well as statutory intervention powers as set out above.

## **6 Contribution to strategic outcomes**

6.1 Proper response to recommendations following an audit of a school is essential to good governance, which in turn contributes to priority one of the council’s strategic plan: Enable every child and young person to have the best start in life, with high quality education.

## **7 Statutory officer comments (chief finance officer (including procurement), assistant director of corporate governance, equalities)**

### **Finance and procurement**

7.1 Corporate Finance have been consulted during the drafting of this report and support the recommendations. The establishment of a clear process for dealing with persistent non compliance will contribute to maintaining good governance and sound financial management for Haringey schools. The processes set out should largely be carried out by existing staff; if additional costs do arise then wherever possible they should be charged to the budget of the school in question.

### **Legal**

7.2 The legal issues arising, which relates to the powers of the local authority to intervene in schools causing concern, are dealt with in the report under section 3. The local authority must also have regard to the guidance issued by the Secretary of State titled “Schools causing concern – Statutory guidance for local authorities January 2015” which sets out how the local authority should exercise its functions in respect of schools causing concerns. A copy of the statutory guidance is attached as Appendix 1.

### **Equality**

7.3 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- a) tackling discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- b) advance equality of opportunity between people who share those protected characteristics and people who do not; and
- c) foster good relations between people who share those characteristics and people who do not

- 7.4 The follow up on audit recommendations is a critical part of how the Council intends to oversee the delivery of its Education Excellence Policy across maintained schools in the borough.
- 7.5 The Council's education excellence policy aims to enhance the equality of opportunity through ensuring that all groups of children and young people are reaching their learning potential. Providing professional challenge for schools, and most especially those requiring improvement, through effective follow up on audit and risk management will support the delivery of this aim. This applies across the range of age groups receiving education services in the borough, from early years (0-5 years) to young people (aged 16+).

Annex to the report: <https://www.gov.uk/government/publications/schools-causing-concern--2>

