

Title	Protocol for Monitoring the Performance of Academies and Free Schools
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Protocol for Monitoring the Performance of Academies and Free Schools

1.0 Introduction

- 1.1 The 2010 White Paper 'The Importance of Teaching' confirms that Local authorities should 'stand up for the interests of parents and children, and promote high standards' in all state-funded schools. This includes both local

authority maintained schools and academies. In addition the Ofsted Inspection Framework makes clear that Ofsted inspects on the basis that the local authority duties apply to **all** children and young people, and to **all** education and training providers, including Academies. In this respect academies and local authority maintained schools are treated equivalently, although the mechanisms for engagement are different in several respects. In this protocol the word 'school', when used alone, refers to both academies and maintained schools.

- 1.2 An effective quality assurance system benefits all: pupils and their parents, schools and the local authority. Schools will benefit from a reliable and trusted local assessment that will validate their self-evaluation and is separate from the Ofsted inspection framework. For this reason, schools will derive direct benefit from positive engagement with the local authority quality assurance function.
- 1.3 Ofsted has made it clear that local authorities have statutory duties to promote high standards in all schools so that children and young people achieve well and fulfil their potential as defined by section 13A of the Education Act 1996, and that this includes a duty to hold Academies to account for their performance.
- 1.4 To ensure that these statutory requirements are fulfilled the local authority will extend the school performance monitoring policy which includes a graduated approach to school improvement, in which every school receives an appropriate level of challenge and support in order to ensure and sustain good or better provision and outcomes for pupils.

2.0 National and local context

- 2.1 National policy continues to increase the autonomy of schools, in particular by allowing them to become academies and promoting greater opportunities (and greater responsibility for) driving improvement. Reforms under the Academies Act 2010 also allow new providers to enter the state school system in response to parental demand. The stated intentions of these policies are to increase parental choice and support the most vulnerable groups of pupils. These reforms confirm a revised role for local authorities and a new relationship with schools.
- 2.2 In September 2012, Ofsted revised the school inspection framework in order to place greater focus on schools that are not yet identified as securing a judgement of good or better for overall effectiveness. This revision reflects the explicit expectation of The Department for Education and Ofsted that that all young people should receive good or better education. Subsequent revisions to the framework have increased the focus on the impact of the pupil premium, the achievement of the most able pupils and the effectiveness of governance.
- 2.3 Within the context of the increased autonomy given to schools under the Academies Act 2010, the Chief Inspector of Education, Children's Services and Skills (HMCI) has stated that local authorities have a duty to work with

these schools and report on them to central Government when they fail to perform¹.

- 2.4 In February 2013, Ofsted launched a new programme of inspections targeting local authorities that were identified as “underperforming”. The process includes a series of targeted school inspections in areas where the proportion of children attending a good or outstanding school is currently below the national average.
- 2.5 In June 2013, Ofsted also launched a new framework for the inspection of local authority arrangements for supporting and ensuring school improvement. The framework was updated in November 2014 and it confirms the focus on the local authority’s statutory duties in relation to promoting high standards in schools and among other providers so that children and young people achieve well and fulfil their potential as defined by section 13A of the Education Act 1996. It also confirms the statutory duty to provide support for schools causing concern as set out in Part 4 of the Education and Inspections Act 2006.¹

3.0 The role of the Local Authority

- 3.1 The 2010 Schools White Paper confirmed that local authorities hold a central and strong strategic role as champions for parents, families and vulnerable pupils. It states that local authorities will promote educational excellence by ensuring a good supply of high quality school places, co-ordinating fair admissions and developing their own school improvement strategies to support local schools. The White Paper states:

"The primary responsibility for improvement rests with schools... Our aim should be to create a school system which is self-improving... We know that teachers learn best from other professionals... We will make sure that schools are in control of their own improvement and make it easier for them to learn from one another."

- 3.2 This promotes the local authority’s role as the strategic commissioner of schools and the emphasis on the increasing commissioning of services to schools. It also confirms the general duty of local authorities to secure “efficient” primary, secondary, and further education in order to meet the needs of the local population² stated in the Education Act 1996. However, this is underpinned by our duty under s13A which places on every local authority the duty to promote high standards, ensure fair access to education and training and promote the fulfilment of learning potential.
- 3.3 Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, has confirmed³ that local authorities have a vital role in driving school improvement, and have statutory responsibilities to ensure good provision for all children in their area, through identifying and reporting under-performance in Academies.
- 3.4 The local authority therefore has a statutory duty to support and challenge the performance of all schools and settings overall and for narrowing the gaps in

¹ [Education and Inspections Act 2006; www.legislation.gov.uk/ukpga/2006/40/part/4](http://www.legislation.gov.uk/ukpga/2006/40/part/4).

the achievement of vulnerable groups of pupils and their peers, and driving high standards across the whole school system.

- 3.5 Shropshire Council is committed to promoting the very best provision and outcomes for all of the children and young people within the county. The local authority recognises that it has a duty to all children and young people and to all education and training providers including academies.

4.0 Reviewing, supporting, and challenging the performance of Academies

- 4.1 Shropshire council is responsible and accountable for promoting educational excellence and ensuring appropriate measures are in place to safeguard children and young people regardless of the type of school they choose to attend. They are Shropshire children and therefore our responsibility. The local authority's 'Vision for Shropshire learners' identifies our aim and commitment to maintain and continue to improve excellent education in Shropshire and ensure that all schools are judged to be good or outstanding by Ofsted (see appendix 2).
- 4.2 We want all children and young people to have the very best opportunities to fulfil their potential and for parents and carers to be able to access educational provision that will prepare their children well for the next stage of their lives, in terms of learning and their social and emotional development.

Supporting the wider school system

- 4.4 The Department for Education (DfE) anticipates that school-to-school support will be a central feature of local authorities' school improvement strategies, including the deployment of National and the contribution of Teaching Schools.
- 4.5 Shropshire is committed to promoting the self-improving School System and effective school to school support through the School Performance Monitoring Policy, the work of attached School Improvement Advisers (SIAs) and Associative Headteachers and the Teaching School Alliances.

Monitoring, supporting and challenging the performance of Academies

- 4.6 The Academies Act 2010⁵ confirms that the local authority has no statutory powers of intervention in academy schools but is expected to refer any concerns it may have to the Secretary of State. Additionally, under the Education Act 1996, the local authority is expected to secure "efficient" primary, secondary, and further education in order to meet the needs of the local population. There is also national recognition that local authorities have a strong strategic role as champions for parents, families and vulnerable pupils. Additionally the Ofsted Handbook for the inspection of Local Authority arrangements for supporting school improvement (November 2014) confirms that where the local authority has concerns about standards or leadership in an academy, they should alert the Department for Education through the Regional Schools Commissioner as appropriate (page 14, paragraph 31).

- 4.7 Shropshire Council is committed to ensuring an appropriate balance between the accountability of academies to local people for local services and school performance and enabling academies to function autonomously and effectively on a day-to-day basis.
- 4.8 As is currently the case for maintained schools, academies will be monitored as part of the local authority biannual school performance monitoring procedures. We will meet with the Headteacher and an invitation is extended to the chair of governors, of each academy at least annually to confirm the strengths and priorities for improvement at the academy. Where an academy is part of a multi academy trust we may meet with the CEO and/or officers of the trust as the CEO considers appropriate. Each academy will be identified as presenting a (low, medium or high) level of risk regarding performance and/or the well-being of pupils. This will ensure consistency of school performance monitoring across all schools within the local authority area. Where an academy is considered to present a medium or high level of risk the local authority will monitor performance more frequently. This would typically be when:
- Where the most recent Ofsted inspection judgement is requires improvement or inadequate
 - Where the most recent performance data indicates that the attainment or progress of pupils leaves the academy vulnerable to a judgement of requiring improvement or inadequate;
 - Where outcomes are below national floor standards;
 - Where we are made aware of parental and/or community concerns;
 - Where there are reported safeguarding concerns;
 - Where an academy is considered to be at risk/to be underperforming.
- 4.9 In these circumstances, and in the first instance, the Headteacher/Principal, Chair of Governors (and, where appropriate, the sponsor) would be contacted to arrange a meeting to confirm and agree the area(s) of concern and explore potential solutions to the underperformance.
- 4.9.1 In practice, the local authority would need to be confident that any plan to address the concerns will result in rapid and sustained improvement⁶. This could include "challenge and support" from a range of sources including the Education Improvement Service (EIS), National Leaders of Education (NLE), Specialist Leaders in Education (SLE), Safeguarding officers and/or members of the multi-agency team.
- 4.10 Where an academy is identified as presenting a medium or high level of risk due to low performance, safeguarding issues or parental / community concerns the portfolio holder for Children's Services, Transformation and Safeguarding, and local Shropshire Council member for the ward in which the academy is situated will be informed.
- 4.11 In the event of persistent underperformance, we would expect the Department for Education (DfE) through the Office of the Schools

Commissioner (OSC) to be in contact with the academy to provide necessary support, challenge and intervention.

- 4.12 Where an academy has been established through sponsorship following an inspection that placed the school in an Ofsted category of serious weaknesses or special measures, or through Local Authority powers of intervention, we may continue to monitor improvement through attendance at monitoring meetings with the Headteacher, governors or Trust Board members. This may be as frequent as every 6 weeks. This monitoring may continue until either the leadership and management or overall effectiveness of the school is identified as good by Ofsted, or through Local Authority school performance monitoring procedures.

5.0 Working constructively with the Academy, the Regional Schools' Commissioner, the Department for Education and Ofsted

- 5.1 The local authority will seek to work constructively with the Academy, the RSC, DfE and Ofsted in order to discharge our responsibility as a strategic commissioner of schools and to achieve the Shropshire Vision for Learners. There are well established links for communicating with the DfE in respect of underperforming schools. A chart summarising our overall approach can be found in appendix 1.
- 5.2 Detailed guidance on the mechanism for reviewing, supporting and challenging the performance of schools including academies is set out in the Local Authority School Performance Monitoring Policy and Criteria.
- 5.3 In the event of the local authority identifying an academy as underperforming over time (or having failed to address concerns) or requiring rapid intervention, we will advise the Headteacher/Principal, Chair of Governors (and where appropriate) the school sponsor along with the DfE and Ofsted.
- 5.4 Rapid intervention could also mean raising concerns about safeguarding at the academy. Section 157 of the Education Act 2002 requires that proprietors of independent schools (including academies and free schools) must make arrangements to safeguard and promote the welfare of pupils and in doing so have regard to statutory guidance: 'Working Together to Safeguard Children' 2015 which includes guidance on dealing with allegations of abuse against Teachers and other Staff and 'Keeping Children Safe in Education 2016' has replaced previous guidance on 'Dealing with Allegations of Abuse Against Teachers and other Staff' (withdrawn by the DfE in April 2014) and 'Safeguarding Children and Safer Recruitment in Education' (2007).
- 5.6 Academies should ensure that their own arrangements take into account the procedures and practice of the Local Authority. Section 10 of the Children Act 2004 obliges local authorities to make arrangements to promote co-operation between itself and relevant partners, which includes academies. Relevant partners are under a duty to co-operate in the making of such arrangements.

- 5.7 'Working Together to Safeguard Children' 2015 also defines the statutory objectives of the Local Safeguarding Children Board (LSCB), which includes monitoring and evaluating that is undertaken by the Local Authority and their Board partners individually and collectively to safeguard and promote the welfare of children and advising them on ways to improve.
- 5.8 Where the local authority has concerns about underperformance or safeguarding arrangements in an academy we will seek to work constructively with the academy (and where appropriate with the academy sponsor) to ensure that the academy is appropriately challenged and supported in order to promote high standards and ensure fair access to education for children in Shropshire. Where the local authority considers that the concerns have not been addressed appropriately we will alert the DfE and all relevant stakeholders including Ofsted and the Regional Schools' Commissioner.

Appendix 1: Reviewing, supporting and challenging the performance of Academies

Annual (or more frequent) meeting(s) with the Headteacher, Chair of Governors and CEO : to confirm the strengths and priorities for improvement
LA biannual School Performance Monitoring Meetings: to include summary verbal report on provision and outcomes in line with LA SPM policy and criteria.
If there are no concerns identified no further action will be taken. If concerns are identified action is taken appropriate to the area(s) of concern.

Underperformance

The academy is contacted and a meeting is arranged to:

- discuss the area(s) of underperformance;
- consider existing plans to address the issue(s);
- Identify and confirm further challenge and support to ensure rapid and sustained improvement;
- Identify and agree the academies procedures for monitoring and reviewing progress against the improvement plan.

Safeguarding

Consider if rapid intervention is necessary. If it is not the Headteacher/Principal is contacted by the Education Improvement Adviser responsible for Safeguarding to ensure that they are aware of the issue(s). If rapid intervention is required, the academy is contacted and a meeting is arranged to:

- confirm the safeguarding issue(s);
- agree the immediate actions necessary to address the issue(s)
- Identify and agree any further steps necessary to safeguard pupils;
- Identify and agree procedures for monitoring and reviewing the effectiveness of new measures established.

Parental and/or community concerns

Consider the seriousness of the concerns raised and if intervention is necessary. If the concern is not serious but has some substance the Headteacher/principal is contacted by an appropriate officer to ensure that they are aware of the issue(s). If the concern is serious, the academy is contacted and a meeting is arranged to:

- confirm the concern(s);
- agree the actions necessary to address the concern(s);

If the Local Authority is confident that the actions taken and or plans that are in place to address the issue(s) will secure the necessary improvement (with regard to performance, safeguarding or parental/community concerns) no further action will be necessary.

If the Local Authority is not confident that the actions taken and or plans that are in place to address the issue(s) are suitable and sufficient to ensure rapid and sustained improvement in provision (including safeguarding) and outcomes the LA will:

- Contact the Headteacher/Principal, Chair of Governors and (if appropriate) the Sponsor to inform them of the continued concern(s)
- Contact the DfE/RSC and Ofsted to ensure that they are aware of the issue(s) causing concern.

Appendix 2

A vision for Shropshire learners

We have one aim: to maintain and continue to improve excellent education in Shropshire.

Children and young people in Shropshire will have the opportunities to achieve their best and develop a love of learning.

Shropshire's early years providers, schools, colleges and others who contribute to education will share responsibility for the success of all children and young people. We will all work together with parents and carers and the wider community to ensure we achieve better outcomes for our children and young people through collaboration than we would individually. We aim to prepare them for the next stage of their lives, in terms of learning and their social and emotional development.

The vision reflects the overarching statement of values and behaviours which has been developed for Shropshire Council, which are to:

- Focus on meeting the needs of our customers
- Value each other and achieve more by working and learning together
- Use the resources we have responsibly
- Recognise the value difference can make and treat everyone with respect
- Build trust by expressing ourselves openly and honestly

Any strategy for change developed from this vision must:

- be adaptable, and able to develop over time
- recognise the need for diversity, acknowledging that one solution is unlikely to meet the range of contexts, needs and aspirations within a county as varied as Shropshire; and
- above all, put the learners' entitlements at the heart of the decision-making

To meet the needs of our learners we seek to:

- reflect the **benefits of learning, living and working in Shropshire**, with all of its particular characteristics, and build on the existing strengths of our education provision
- ensure that wherever they live everyone feels they belong to the **larger learning community** of Shropshire, and that they have the opportunity and the aspiration to develop and achieve to their potential;
- ensure that all children and young people in Shropshire: are **healthy**; stay **safe**; **enjoy and achieve**; make a **positive contribution**; and achieve **economic well-being**;
- ensure that **learning is enjoyable** because teaching is exciting and challenging, and that learners are happy and sustain their engagement in learning throughout their lives;
- Ensure that through a **broad curriculum and extra-curricular activities** they gain knowledge, skills and experience and develop creativity, thinking skills and social and emotional skills. Our aims are that they become successful learners, confident individuals and responsible citizens;

- provide a journey through education, **from pre-school to adult education**, which is coherent; and
- Develop **individual learners' talents and interests** and ensure that their **needs are met**. We will challenge the more able, meet the needs of those with particular talents and identify and tackle additional learning needs early. Our aim is to narrow the gap between those who achieve well and those who underachieve.

To value each other and achieve more by working and learning together we will:

- ensure effective partnerships between the Council and all key partnersⁱ;
- promote the importance of **families and carers** working together with providers in their communities to help their children;
- **actively involve learners** in the design and development of education provision, including school buildings;
- **increase the use of information technology** to support all learners, for example through the use of the Shropshire Learning Gateway and video conferencing;
- **encourage providers to innovate** and develop models of excellence through extending links within and beyond the LA, developing local, national and international links and working with higher education centres;
- support the continued development of **higher education** in Shropshire; and
- Encourage **all providers to work in partnership**, with different approaches being explored and developedⁱⁱ.

To use the resources we have responsibly we will:

- develop schools and other education buildings as **centres within their localities**, with assets that can benefit children, young people and the wider community;
- provide **flexible, high quality learning environments** so that teaching and learning can be as effective as possible;
- provide **advice and support** to develop further teaching, learning and achievement;
- ensure that funding for all providers is **sustainable, fair and transparent** to all, including additional sources of income (e.g. project or grant funding); and
- Establish a **sustainable and coherent network of provision** to meet learners' differing needs at all stages.

To recognise the value difference can make and treat everyone with respect we will:

- encourage all providers to develop their **own visions and characteristics**;
- **celebrate diversity** both within and beyond Shropshire;
- support providers to **look outside their own communities**, and Shropshire's particular context, so that learners come to understand their place in the wider world; and
- Invest in the **development of all professionals**, continuing to develop the full workforce.

To build trust by expressing ourselves openly and honestly we will:

- build on our shared values, beliefs and aspirations;
 - Ensure that decision-making is as **inclusive, open and transparent** as possible.
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i. These will include:

- all learners and their families and carers;
- professionals working within the early years, schools, colleges, Children’s Centres and extended schools;
- diocesan partners;
- other agencies that support learning across the county; and
- representatives of the wider community of Shropshire

ii. Through, for example:

- ensuring all schools (1) are aware of the range of current partnerships, and enhance these where necessary;
- developing further formal partnerships between, for example, small primary schools, larger and smaller primary schools, primary and secondary schools, between secondary schools, between schools and colleges, in order to build and sustain a viable network of provision across the county;
- further developing models of sharing staff who work across a number of schools or providers, for example specialist teachers, teaching assistants, one-to-one tutors, learning mentors and school administrators;
- linking up schools across the county to work on specific areas of development - e.g. developing curriculum innovation or the role of the school business manager; and
- Considering alternative models of leadership (including governance) to secure sufficient and effective future leaders across the county.

(1) Unless otherwise stated, the use of the word 'school' or 'schools' refers to all LA-maintained and Academy schools located in Shropshire

Reference List

1. Speaking at the North of England Education Conference Sir Michael Wilshaw said: "The best council's... see it as their duty to ensure that all schools are part of the same family delivering high-quality provision for all children".
2. Under ss14-14A of the Education Act 1996, there is no express definition of "efficient" but a reasonable approach would be to regard it as ensuring that there is sufficient quantity and sufficient quality of education to meet the needs of children within the authority's area.
3. Evidence to the Education Select Committee 12th February 2013
4. Academies and free schools are outside of the statutory remit of the local authority, being responsible to the Secretary of State through the Education Funding Agency.
5. Ofsted inspection reports.

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