



SCRUTINY LEADERSHIP GROUP – 27TH NOVEMBER 2014

SUBJECT: EDUCATION SCRUTINY

REPORT BY: INTERIM DEPUTY MONITORING OFFICER/INTERIM HEAD OF DEMOCRATIC SERVICES

1. PURPOSE OF REPORT

1.1 To clarify the role of scrutiny in relation legal functions of Schools and the Council.

2. SUMMARY

2.1 This report gives a clarification of the roles and functions of Schools and the Council with regards to the scrutiny of Education functions.

3. LINKS TO STRATEGY

3.1 The operation of scrutiny is required by the Local Government Act 2000 and the Local Government (Wales) Measures 2009 and 2011.

4. THE REPORT

4.1 Section 21 (2) of the Local Government Act 2000 gives overview and scrutiny functions the following powers;

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,
- (f) in the case of the overview and scrutiny committee or committees of an authority to which section 7 of the Health and Social Care Act 2001 applies, to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning of that section) in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.

4.2 However, as with all other functions of the Council, overview and scrutiny committees have to act within the powers of the Council and in line with the Council's Constitution, which includes the terms of reference of the respective Scrutiny Committees.

- 4.3 The Education for Life Scrutiny Committee's terms of reference includes; scrutiny of the discharge of the Council's obligations as Local Education Authority under statute and regulation, the details set out below provide a clarification about the Council's obligations.
- 4.4 The Welsh Assembly Government has devolved powers over education policy in Wales. Local Authorities have a duty to provide education to pupils of statutory school age in their area in accordance with section 13 of the Education Act 1996. In addition to this, section 13A of the Education Act 1996 places a duty upon local authorities to promote high standards in the provision of Education.
- 4.5 The Council provides support and strategic direction for schools, however schools are legally autonomous and under the Government of Maintained Schools (Wales) Regulations 2005, Governing Bodies have to be established for each school to control the school. Recently these regulations have been amended to include mandatory training for school governors.
- 4.6 The Policy and Resource Scrutiny Committee (P&R Committee) has financial planning and budget control within its terms of reference. However, most of the Council's budget for education is delegated to schools in line with the funding formula. Schools then provide education to pupils in accordance with the School Standards and Framework Act 1998. The P&R Committee also consider corporate policies and the corporate functions, including human resources. The Council contractually employs staff, including headteachers in schools (except in foundation and voluntary aided schools), however under the Staffing of Maintained Schools (Wales) Regulations 2006, Governing Bodies are also their employer and they have full control about their performance and conduct.
- 4.7 The P&R Committee also have corporate property within their terms of reference, this includes school buildings (except for foundation and voluntary aided schools), however under the Control of School Premises (Wales) Regulations 2008, Governing Bodies are given full control over the School, including the buildings. The P&R Committee also consider health and safety, equalities and legal functions of the Council, again schools are autonomous in this regard, however the Council provides advice and support through service level agreement in these areas.
- 4.8 The Audit Committee has within their terms of reference scrutiny of the Council's financial affairs and risk management. Once the Council has set Schools budgets, Governing Bodies are responsible for their own financial affairs and risk management. Additionally, schools have their own complaint's policies, however the Council again advises them and has provided a model procedure which includes 3 stages with the last being a hearing in front of a panel of Governors who have not been previously involved.
- 4.9 In summary, the Council's function with regards to education covers:
- Strategic management: includes making grants and internal audits and provision of school advisory services
 - Special Educational Needs and
 - Additional Learning Needs: including funding for pupils and Pupil Referral Units
 - School Improvement: particularly supporting underperforming schools
 - Access to Education: admissions policy and process, home to school transport and assessing eligibility for free school meals
- 4.10 School Governing Body functions include all the main policy decisions within schools including:
- Strategic Management of the school
 - Setting and monitoring the Budget.
 - Academic matters;
 - School discipline;
 - The appointment and dismissal of staff;
 - Repair and maintenance of school buildings.

- 4.11 The Estyn inspector's presentation to the Gwent Scrutiny Challenge stated that Estyn inspectors judge the effectiveness of scrutiny by elected members and other supervisory boards in challenging underperformance and in informing the continuous improvement of service delivery and policy development.
- 4.12 The Estyn Inspector confirmed that scrutiny is good where: The scrutiny process is well organised and effectively supports improvement;
- Elected members across the council and senior officers share a consistent and coherent vision for education services, which is free from political bias;
 - Leaders and managers are willing to take difficult decisions for the benefit of learners;
 - Communication and engagement with all stakeholders is good. Elected members hold all managers to account for the outcomes they are responsible for including managers within schools.
 - Sharply focused task and finish groups are able to drill effectively into specific issues;
 - Information, intelligence and data is clear, concise and informative enough to enable scrutiny members to understand where there is good performance and where there is poor performance, and through this to focus on specific pieces of underperforming provision; and
 - Scrutiny committee work programmes lead to clear and challenging recommendations for cabinet, officers and providers of education services.
- 4.13 The WLGA guide on the Scrutiny of School and Education Issues confirms that the local authority and schools are subject to a range of regulatory activity including external regulation, inspection and audit, as well as internal auditing. Schools are also accountable to their Governing Bodies. For scrutiny to add value it must complement rather than duplicate the work of these bodies, for example, if a scrutiny committee seeks to investigate a service area that is due to be inspected or has recently been inspected it may be duplicating effort.
- 4.14 The Council is not responsible for the performance of individual Schools; that is the role of the Governing Body. However, as stated above, scrutiny has a valid role in testing the robustness of the Council's education function as well as the effectiveness of the Education Achievement Service. In terms of school performance this includes considering the robustness of the procedures that are in place to improve school performance such as the intervention planning process, which involves not only Council Officers but also Cabinet Members and Challenge Cymru.
- 4.15 Scrutiny committees should ask council officers to present details of poor performance to the committee so that good performance is recognised and poor performance challenged and that external inspections of the Council do not reveal significant failings or areas of underperformance that the Council is not already trying to improve. Where poor performance is identified by Council Officers or EAS, there is an opportunity for scrutiny committees to challenge Council officers on the failings or areas of underperformance. Scrutiny committees may decide to undertake a more detailed investigation into the underlying causes of the poor performance and can review any action the authority intends to take to improve performance. This cannot focus on single school issues but can consider the Council's relationship with schools and strategic planning to improve education.
- 4.16 Cabinet Members from any relevant departments and council officers can be called to account in respect of any areas of responsibility, including education. Representatives of schools can also be involved in the scrutiny process, for example, when reviewing the Council's Improvement Objectives, it may be useful to involve head teachers and governors as expert witnesses when council officers consider it appropriate. This can help to ensure that a 'schools' perspective is given when education issues are considered by scrutiny. Again members should note that this should be undertaken on a strategic basis and should not focus on single school issues.
- 4.17 Although scrutiny committees may invite anyone to attend, inviting a headteacher to attend a committee must be very carefully considered. Members would need to be particularly careful to keep to the purpose of inviting the headteacher and could not use it as an opportunity to

question the performance of an individual head teacher. As the Council is the contractual employer of headteachers, the Council owes a duty of care to them but the Governing Body are directly responsible for headteachers performance.

- 4.18 The Council also has additional powers to intervene and responsibilities under the School Standards and Framework Act 2013 and the School Organisation Code. The current challenges relating to rationalisation of school places and budgetary constraints mean that the strategic planning and direction in education is vital and scrutiny committees have a significant role to play in ensuring the best education for pupils in Caerphilly County Borough.

5. EQUALITIES IMPLICATIONS

- 5.1 This report is for information purposes, so the Council's EqIA process does not need to be applied.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications not contained in the report.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications not contained in the report.

8. CONSULTATIONS

- 8.1 There are no consultation responses not contained in the report.

9. RECOMMENDATIONS

- 9.1 Scrutiny Leadership note and comment on the explanation in this report.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 For Scrutiny Leadership Group to clarify arrangements for Education Scrutiny.

11. STATUTORY POWER

- 11.1 Section 21 of the Local Government Act 2000.

Author: Angharad Price, Interim Deputy Monitoring Officer/Interim Head of Democratic Services

Consultees: Sandra Aspinall, Acting Deputy Chief Executive/Director of Education
Gail Williams, Interim Head of Legal Services/Monitoring Officer
Jonathan Jones, Democratic Services Manager
Catherine Forbes-Thompson, Scrutiny Research Officer
Keri Cole, Learning Education and Inclusion Manager
Cllr Rhiannon Passmore, Cabinet Member for Education