

Report to: **Audit, Best Value and Community Services Scrutiny Committee**

Date: **28 February 2012**

By: **Director of Children's Services**

Title of report: **County Council Duties and Responsibilities in relation to Schools**

Purpose of report: **To update the Audit, Best Value and Community Services Scrutiny Committee on progress to date in relation to the work being undertaken to assess the Council's roles, responsibilities and powers in schools**

RECOMMENDATION: The Committee is recommended to note the current position of this work.

1. Financial Appraisal

1.1 There are no direct financial implications as the information does not raise any new financial risks.

2. Background

2.1 The increasing autonomy of schools and responsibilities of governing bodies mean that the Local Authority needs to be clear about where accountability lies when things go wrong and the extent to which the Authority has the power to enforce compliance by a school's governing body to corporate policies and procedures. In particular, it is important that:

- the Council's duties and responsibilities for schools' policy and practice are properly clarified;
- any associated risk exposure to the Council is understood, and;
- there is an understanding of the powers available to the Council in order to manage these risk exposures.

2.2 The Education Bill received royal assent on 15 November 2011 and was introduced into the House of Commons on Wednesday 26 January 2011. The Education Act 2011 is an important step in implementing the Government's education reform programme and helping to create an education system that delivers ever higher standards for all children. Most provisions in the Act have commenced, with those relating to abolition of arms-length bodies being commenced at the end of the financial year and the remainder at the start of the school year in September 2012.

2.3 The County Council has in place a formal Risk Management Strategy which states that the Chief Officers Management Team (COMT) is responsible for ensuring risk is managed effectively through regular ongoing reviews of the risk management strategy and through developing a culture of risk awareness. Departmental Management Teams are responsible and accountable for the identification, assessment and management of risks associated with their service areas.

2.4 It is recognised that the Local Authority (LA) retains a duty of care towards schools and the public funds they receive, and that a part of this duty is to provide best practice advice on managing risk.

2.5 In recent years, a number internal audit reviews have highlighted control weaknesses within schools and made a range of recommendations intended to address these. However, in agreeing these audit reports with Children's Services Department (CSD), a number of examples were identified where it was unclear as to what powers were available to the County Council to ensure schools took appropriate action to address the weaknesses. It was therefore agreed that CSD would work with Internal Audit and Legal Services in order to clarify where the County

Council has a statutory duty to schools, the extent of any risk exposure in these areas and what powers were available to the local authority to ensure compliance (and therefore mitigate the risks).

3. Current Position

3.1 In conjunction with services heads, managers and Internal Audit, work to date has focussed on identifying the areas where the Council has a statutory duty to schools and understanding the risk exposures of each. Key areas identified include:

- Health and Safety
- Data Protection and Freedom of Information
- Financial Management
- Employment
- Education
- Transport
- Admissions
- Business Continuity and Crisis Management
- Leadership and Management
- School Governance
- ICT Governance
- Estates and Property

3.2 Whilst clear progress is being made, this has proven to be a particularly complex issue, especially in terms of clarifying the boundaries of responsibility across such a wide range of areas. In addition, some of the reforms in the Education Act have already meant changes to the roles and responsibilities of both the Local Authority and schools and this is likely to be subject to further change as the Education Act is implemented and new guidance is issued.

4. Next Steps

4.1 Having now completed the work to identify the County Council's statutory duties, the next step in the process is to identify and assess the risks associated with non compliance within schools, along with the identification of risk mitigation measures expected to be in place. This phase of the project is now underway and is anticipated to be completed within the first quarter of 2012/13.

4.2 Once the above activity has been completed, further work will take place in conjunction with Legal Services to clarify any powers available to the Council to ensure compliance by schools in each of these areas.

5. Conclusion and Recommendations

5.1 Work is continuing on this project and further progress will be reported at the next meeting of the Committee. The work will enable an improved understanding of the Council's duties and responsibilities in relation to schools, including a much clearer picture of the apportionment of risk exposure between the Council and schools and the intervention powers available. This will then form a key source of information to enable the County Council to put in place appropriate monitoring and assurance mechanisms, including, potential focus areas for future internal audit activity within schools.

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Background Documents None