

What happens if your children's services are judged inadequate by Ofsted?



Key messages

A council children's services department is likely to face central government intervention following an Ofsted inspection grading as 'inadequate', under the current Inspection of Local Authority Children's Services (ILACS) framework.

This power is triggered under Section 497A of the Education Act 1996. The secretary of state (or the minister of state on their behalf) has a high degree of discretion but the choice of what type of intervention must be 'reasonable'.

There are different levels of intervention ranging from an Improvement Notice to a statutory Direction from the Department for Education (DfE), which can include directing the council to enter into a contract with a third party to perform the function(s) on the council's behalf. There is no hard and fast rule about which level of intervention to use and the level of intervention will depend upon the individual circumstances of the council.

A number of councils have experienced DfE intervention, and those that have successfully implemented and delivered improvement are those where Ofsted findings were acknowledged, accepted and senior political leaders and strategic officers committed to making the improvements necessary. Effective, speedy and sustainable improvement requires system leadership, transparency and honesty, financial commitment, and an openness to sector support and guidance. Cross party political commitment is needed, as well as robust challenge and support by elected members to ensure the appropriate measures are being put in place. It is important to remember that the Ofsted inspection often only identifies the symptoms of the issues affecting the service. You will need to fully understand all the issues before beginning to address them. You will need to ensure that the decisions made are the correct ones and will bring about sustainable improvement.

That said it is important to move at pace. The evidence indicates that councils which do not move quickly to understand and address the issues can become stuck in a cycle of poor performance.

There are a number of common issues that exist in councils that are found to be judged 'inadequate' by Ofsted. Many councils will see a high turnover of staff and a negative impact on staff morale. High caseloads are a significant factor as a result of the number of vacancies which in turn has a direct impact on delivering good practice and the need to use significant numbers of agency social workers which are expensive and often bring instability to the workforce and make it more difficult to deliver improved services as a result of the churn of frontline staff and managers. Following the judgement the situation will often worsen before it begins to improve. You should also expect to experience a spike in the number of referrals which will need to be managed effectively.

It is important for councils that are subject to DfE intervention to develop a robust improvement plan together with a reporting framework that outlines and evidences improvement against the areas for improvement identified by Ofsted and DfE. As part of the inspection process you are required to prepare and publish a written statement of the action you intend to take in response to the report within 70 working days of publication of your report. This will usually take the form of your Improvement Plan and Performance Report. Ofsted will review the action plan as soon as possible after receiving it. They are not responsible for 'signing off' or endorsing the action plan. Ofsted will advise whether the action plan reflects the findings in the inspection report. Ofsted offer an opportunity for the local authority to seek comments on a draft action plan. There is a dedicated section in Ofsted's framework called 'monitoring inadequate local authorities' that sets out the arrangements.

Introduction

As lead member you hold political responsibility for the leadership, strategy and effectiveness of council children's services and will work closely with the director of children's services (DCS) who carries the professional accountability. The lead member for children's services (LMCS) is also accountable to the local community for delivering improved outcomes for children and families while also improving productivity and value for money to meet the financial challenges facing your authority.

The Ofsted inspection places a lot of pressure on all staff, but particularly the DCS and senior managers, so you should be aware of this. The inspection process is resource intensive and will create pressures across children's services. The Inspection of Local Authority Children's Services (ILACS) has now been introduced and will be the mainstay of Ofsted's inspection work for at least the next few years. The general consensus is that the framework is an improvement on its predecessor (the Single Inspection Framework, SIF) as it offers a stronger continuous and shared commentary on an authority's performance through annual self-evaluation of the quality and impact of practice with families and related 'annual engagement meetings', a wider range of less intensive visits and inspections (focused visit). The ILACS inspection event still retains the capacity to have the most profound impact on children's services and the wider authority and partnership.

Moving on and responding to the judgement can be a difficult process if the overall inspection outcome is negative. The inspection report is embargoed until the publication of the final report by Ofsted when there may be considerable media and local interest. There will be the need to communicate the outcome to all stakeholders early, especially those staff and partners who were involved in the inspection process, and who will be closely involved in developing and implementing the improvement plan. Once the Ofsted report is published councils that

have been in this position report considerable benefit in writing a contextual webpage and a council report or press release to accompany the report. The DfE will be made aware of inadequate inspection outcomes once they have been confirmed internally by Ofsted and before publication (usually around the same time that Ofsted share the draft report with the local authority for factual accuracy comments). Discussions with the council concerned are therefore likely to start before publication of the inspection report. The DfE would encourage councils that have been rated as inadequate to contact them as soon as the judgement is known so that a package of support can be agreed.

Dedicated resources will be needed to coordinate and project manage the improvement process, specifically the development of the Improvement Plan and reporting framework to evidence impact and improvement, and organisation of the regular improvement board meetings where progress will be monitored.

Forms of intervention

There are a number of forms of intervention when a children's services department is deemed to be inadequate. The type of intervention is dependent on the severity of the situation, how long the authority has been underperforming, and the perceived capacity for improvement.

Non-statutory intervention includes: the provision of external consultancy, advisory or peer support, often from another council; the establishment of improvement boards (with or without an independent chair); enhanced monitoring and challenge; and the issuing of non-statutory Improvement Notices which have often been used to underpin a package of intervention (made up of some or all of the above).

Improvement notices: are not legal instruments, but rather formal notices designed to tackle significant or enduring underperformance in a council or partnership.

Issued by the appropriate secretary of state (or minister on their behalf), they clearly specify the issues of concern, the level of improvement required, when and how this will be assessed, and subsequent steps that may be taken if improvement is not achieved. Councils who are the subject of an Improvement Notice are involved in discussions about the content of the improvement notice with the DfE before it is finalised.

Statutory directions: More critical or enduring underperformance may necessitate the use of Statutory Directions. The secretary of state is able to direct a council using powers in section 497A of the Education Act 1996 (as applied to children's social care by section 50 of the Children Act 2004) to take whatever action is deemed expedient to achieve necessary improvement.

In extreme cases, the DfE can direct partial or complete outsourcing of children's services, with outsourcing to a third party or the establishment of Trust models of children's services delivery for example in Doncaster, Birmingham and Slough.

Most statutory directions will be based upon key findings arising from the Ofsted inspection, but may also include additional points for improvement, such as learning from a Serious Case Review.

When does a council children's services department go into intervention and why?

The majority of councils go into intervention following an Ofsted inspection that has judged the council children's services department to be 'inadequate' overall, although some areas can still be judged as 'requires improvement to be good' or 'good'. In some instances, if a council has received a previous poor inspection result, and showed little improvement, or unsustainable improvement, then they may be issued with

a second Improvement Notice or Direction. The DfE's 'Putting children first' publication states that two inadequate judgements within five years will result in a commissioner being appointed, so an automatic Statutory Direction.

There is no simple cause and effect relationship that determines service failure or inadequacy though you may find it helpful to refer to Ofsted's evaluation criteria that set out their definitions of good experiences and progress for children. Nevertheless analysis of those services, which have developed significant systemic problems, does highlight some consistency around certain characteristics which often reflect wider corporate issues. These are referred to as 'signatures of risk' appearing in whole or in part and in different degrees within individual authorities.

A number of 'signatures of risk' were originally published by the national Children's Improvement Board, and are still widely used in the sector. The signatures of risk were identified through support with those councils that were either inspected as inadequate or self-assessed as at risk of inspection failure. The list is not a prescriptive predictor but an aid for strategic reflection and informed dialogue:

- turnover and change in senior leadership
- service reorganisations combined with challenging budget reductions
- lack of political focus on safeguarding and care
- assuming performance standards are secure in an environment of service maintenance rather than development
- limited self-awareness and no external challenge
- inconsistent observation of practice
- professional weakness in supervision and audit
- lack of a learning organisational culture
- weak commitment from partners

- lack of focus on the child's journey or voice of the child
- poor workforce development and/or capacity
- failing to listen to or accept front line feedback
- not developing a culture of anticipation and early warning of issues.

The above signatures of risk may indicate that you have a problem in your children's services department which need further probing and scrutiny to establish what needs to be done.

What happens once Ofsted has left your council?

The immediate days and weeks following the inspection are difficult but support is available to help you manage the process of what happens next. In the first instance your council can make contact with your regional Local Government Association (LGA) children's improvement adviser and principal adviser. They will come and meet with you to discuss next steps and the support that is available; this can be done jointly with the DfE Regional Improvement Support Lead (RISL). Your council should already have regular contact with your RISL, either independently or through your Regional Improvement Alliance (RIA). It is recommended that you make contact with the DfE Improvement and Interventions Unit, through your RISL or your case lead if you already have one, at the earliest opportunity to advise them of the likely outcome of the published report so that they are aware and can establish a named case lead, discuss next steps and arrange support where needed. Councils that have been proactive in the immediate time after the inspection have found that they have been able to start their improvement work much sooner. It is the DfE Improvement and Interventions Unit who will make recommendations to the secretary of state through the minister of state on what intervention is appropriate and what support

should be deployed. The DfE's intention is to publish the improvement notice or direction on the same day as or as soon as possible after the Ofsted report is published, though of course they may be updated on an ongoing basis, to reflect changes to package being put in place.

When the DfE issues an improvement notice or statutory direction, it will set out on what basis the notice has been issued, the areas of improvement covered, based on the findings of the Ofsted inspection, and what improvements need to be made. It will also state whether there is to be an improvement board, whether this should be chaired by an independent chair and who this is, and whether a DfE social care adviser, or commissioner (there is always a commissioner if it is assessed that there has been sustained and significant failure and there is a need to assess if the council has the capacity and capability to improve) will be commissioned by DfE to work with the council. It will identify who is expected to submit formal reports to the DfE and the reporting schedule. This will usually be the improvement board chair and the DfE social care adviser or commissioner, if one is appointed.

Setting up your improvement framework

It is important that immediately following your inspection you start to think about setting up your improvement governance arrangements and improvement planning and reporting frameworks. These will evolve as time passes but a good robust plan at an early stage enables your staff and partners to sign up to their part in the improvement journey. This will also be the plan you submit to Ofsted up to 70 working days after publication of your report. At monitoring visits, Ofsted will evaluate your progress against their earlier inspection findings. As part of this, they will take account of progress against your improvement plan. DfE will measure this progress through their adviser or commissioner.

Most councils will set up an improvement board in the early weeks which will provide the governance and accountability for the delivery of the plan. This is usually a short term board that exists for the duration of the improvement notice or direction, which is usually between 12-18 months. Members of the board will include the leader, the lead member; some include the scrutiny chair, the chief executive, the DCS and senior officers from your partner organisations. In the first instance this board is often chaired by the chief executive until a decision has been made with the DfE case lead on whether an independent chair should be appointed. This is the most common model but there are other models and the DfE case lead will discuss this with the authority early on.

Improvement boards normally meet monthly to six-weekly. Servicing the board in terms of administration, progress against the plan and evidence of improvement is very time consuming for the council and experience shows that this cannot be done successfully without dedicated project and data performance support.

It is important that your staff and partner agencies are engaged in the improvement planning and delivery and therefore a good communications strategy will help to ensure their understanding of what needs to be done. Councils use a variety of methods including blogs from the DCS and lead member, newsletters, workshops etc.

Planning and delivering improvement

Planning and delivering improvement requires strong political leadership as well as commitment from senior officers. The council leader and lead member for children need to provide a balance of both support and challenge for officers. It is also vital to garner cross-party political support to commit to the improvement of children's services. Improvement works best where there is a cross council approach and where staff and partners are fully engaged.

Regional Improvement Alliances (RIAs) are in place in each region and are a key resource for accessing improvement support. All RIAs are partnerships whose members include a lead director of children's services, chief executive, lead member for children's services and LGA representation (either through children's improvement advisors or principal advisors). All of these individuals, along with DfE Regional Improvement Support Leads (RISLs) will be able to discuss any concerns you have regarding your children's services performance and will also be able to signpost you to the appropriate support available through the RIA.

The role of the LGA principal adviser and LGA children's improvement adviser is to have early discussions with the political and senior strategic leaders in the council, to act as a broker for member and officer support, or provide direct support for specific needs in planning and delivering improvement, particularly in the early days. Other authorities have been found inadequate by Ofsted and experienced intervention by the DfE so there is a lot of learning to be shared about good practice; the LGA children's improvement adviser will be key in ensuring that you benefit from this learning.

Re-inspection and the continuous journey

Ofsted will re-inspect the council about 2.5 years after the initial inspection that found services to be inadequate and this will be preceded by a number of monitoring visits. The frequency and timing of these visits will be discussed between Ofsted and the council, as set out in the ILACS inspection framework. A 'requires improvement to be good' or 'good' judgement at this stage will see the improvement notice or statutory direction lifted soon afterwards, with the council then moving into a period of support and supervision (this only applies to councils that move to 'requires improvement to be good') from the DfE which will last for up to 12 months. These transition arrangements will

have been part of on-going discussions in the run up to re-inspection.

The DfE will want to ensure that the assurance and challenge mechanisms within the council and with partners are strong enough to ensure that improvement is sustainable. There will therefore be a focus on the effectiveness of the corporate parenting board or other arrangements, the scrutiny function within the council and how well these are embedded and working with the other governance arrangements in the area, for example the health and wellbeing board and any children's partnership arrangements.

If the inspection finds that services are still inadequate, then further intervention measures are likely to be put in place, for example escalation to a Statutory Direction notice, or Direction that another person performs the function(s) on the local authority's behalf. The third party effectively becomes the council's agent, with the ultimate responsibility (technically) staying with the council, a trust or another council that has been appointed to 'run' services.

Questions to consider:

- Are you, as the lead member, able to articulate a clear vision for children in your community and do you have a clear mandate from your leader/mayor/cabinet?
- Do you have a clear and shared understanding with the leader/mayor/cabinet/chief executive and DCS of the corporate risk arising from inadequate children's services and the current strengths and weaknesses of the service?
- Have you discussed the signatures of risk and identified any areas of concern?
- Are you an active champion for children, promoting the work around corporate parenting and have a good grasp of current issues around care?
- How much exposure do you have to front line practice, do you test assumptions and processes and participate in and encourage external sector validation? Have you been on visits with social workers?
- Do you 'triangulate' the information you have, do the reports you receive from senior officers chime with the information you see and hear from social workers and children and young people in front line visits?
- Do you work well with wider partnerships fostering a climate of trust and co-operation whilst being prepared to challenge and scrutinise in order to uphold the interest of children and the quality of services delivered?
- Who are your looked after children? What are their needs? How are they being supported?
- Are your care leavers being given the right amount of support to transition successfully into young adulthood?
- Are you committing sufficient financial resources to ensure the sustainable improvement of your children's services?
- Have you looked at the outcomes of both your geographical and statistical neighbour authorities? Do they do things differently? Why? How? Can any learning be brought back to your council? Does benchmarking show performance in other councils being very different to yours?
- Are you aware of the key government policy areas and how your authority is performing, eg child sexual exploitation, domestic abuse, adoption, care leavers?
- Do you understand the issues affecting the performance and quality of your service provision?
- Do you have a peer mentor to support you in your learning and development?

Ofsted inspection: reflective questions

Ofsted ask local authorities to consider three helpful questions when reviewing the quality and impact of their services – helpful also to any lead member for children’s services.

- What do you know about the quality and impact of social work practice with children and families in your authority?
- How do you know it?
- What are your plans to maintain or improve practice?

Resources

Regional Improvement Alliances (RIAs) are being developed in each region and are a key resource for accessing improvement support. Each RIA will include a lead chief executive who will be able to discuss any concerns you have regarding your children’s services performance and will also be able to signpost you to the appropriate support available through the RIA.

Elsewhere, information on the support available from the LGA is available from your principal advisor and/or children’s improvement adviser, via the Society of Local Authority Chief Executives and from the DfE from your regional improvement support lead.

LGA’s Children’s Services Improvement Action Research

This project undertaken by the ISOS Partnership and commissioned by LGA sought to answer two central questions:

1. What are the key enablers of (and barriers to) improvement in local children’s services?
2. How can the system as a whole facilitate and support improvement in local children’s services?

The final report sets out detailed evidence and case studies about how local areas have brought about and sustained improvement, as well as recommendations about how the national system can support local children’s services to improve.

https://www.local.gov.uk/sites/default/files/documents/160621_LGA%20children%27s%20services%20improvement%20action%20research_final%20report.pdf

Alongside this report, we have developed a summary that draws out the important practical implications for lead members and senior leaders involved in leading improvement in local children’s services departments.

https://www.local.gov.uk/sites/default/files/documents/160621_LGA%20children%27s%20services%20improvement%20action%20research_practical%20sum%20%20%20.pdf

Children and Social Work Act 2017

<http://www.legislation.gov.uk/ukpga/2017/16/contents/enacted>

The Children and Families Act 2014

<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

The Children Act 2004

<http://www.legislation.gov.uk/ukpga/2004/31/contents>

The Children Act 1989

<http://www.legislation.gov.uk/ukpga/1989/41/contents>

Statutory guidance on the roles and responsibilities of the director of children’s services and lead member for children’s services

<https://www.gov.uk/government/publications/directors-of-childrens-services-roles-and-responsibilities>

Working together to safeguard children

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729914/Working_Together_to_Safeguard_Children-2018.pdf

**Ofsted Inspection of Local
Authority Children's Services
framework and summary**

[https://www.gov.uk/government/publications/
inspecting-local-authority-childrens-services-
from-2018](https://www.gov.uk/government/publications/inspecting-local-authority-childrens-services-from-2018)

[https://www.slideshare.net/Ofstednews/
inspectionoflachildrensservicesilacs](https://www.slideshare.net/Ofstednews/inspectionoflachildrensservicesilacs)

**Ofsted Social care commentary:
what do local authorities need to
do to improve from inadequate**

[https://www.gov.uk/government/speeches/
social-care-commentary-what-do-local-
authorities-need-to-do-to-improve-from-
inadequate](https://www.gov.uk/government/speeches/social-care-commentary-what-do-local-authorities-need-to-do-to-improve-from-inadequate)



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