

Must know for education



Key messages

Despite considerable changes in national education policy and school organisation over recent years, councils retain the bulk of their statutory duties. They have a key role as champions of educational excellence for all children and young people in their areas.

However, significant budget cuts and the increasing number of academies and free schools, directly funded and accountable to the Secretary of State for Education, mean that the council role in school improvement is changing.

Schools are increasingly expected to take responsibility for their own improvement and for helping other schools. A variety of models are developing across the country, with councils facilitating and supporting school-to-school improvement partnerships.

Councils must ensure sufficient high-quality school places locally and there is significant increase in demand for additional school places in many areas. This will involve strategic planning and partnerships with all local schools, including academies and free schools.

Councils maintain a significant role in ensuring fair school admissions locally and have duties in relation to home-to-school transport for some children and young people. They also maintain a significant role in the local allocation of school funding.

Early education

The Childcare Act 2006 places a duty on councils to improve the wellbeing of young children in their areas and reduce inequalities, including in relation to education. Councils must also make sure that there is enough childcare available for every eligible two, three and four-year-old to access their free childcare entitlements every week.

Councils are funded for early years provision through the early years block in the dedicated schools grant (DSG). Councils must use a locally-determined, transparent formula – the early years single funding formula (EYSFF) – to allocate the early years block to providers. This can include supplements for issues including deprivation, rurality and flexibility. Providers and the Schools Forum should be consulted on the local formula, and councils must pass through at least 95 per cent of the early years block to providers. The rest can be retained for central costs, such as support for providers.

For more information on the council role in early education, please see our Early Education and Childcare resource pack.¹

School standards and improvement

The council role in school improvement has changed considerably in recent years. There are increasing numbers of academies and free schools, directly funded and overseen by the Department for Education (DfE), and increasing autonomy for all schools. The majority of secondary schools are now academies.

The local authority role has become more strategic and schools are increasingly expected to take responsibility for their own improvement and to help other schools that are struggling. However, this is a crucial area of importance for every council and most formal statutory responsibilities remain.

¹ <https://www.local.gov.uk/early-education-and-childcare-resource-pack>

Children's services have a legal responsibility to promote the wellbeing of all local children. Councillors will always have a keen interest in school standards locally to improve the educational outcomes and life chances of local children and young people.

The Government's aim is to create a school-led, self-improving education system and a national infrastructure to support this has been established. This includes more than 500 Teaching Schools and the appointment of National Leaders of Education and National Leaders of Governance.

Councils make use of this infrastructure and a variety of models to support school improvement are developing. The LGA/Isos report, "Enabling school improvement",² includes examples of how different areas are responding to local challenges and outlines nine key conditions important to establishing an effective local school improvement system:

1. A clear and compelling vision for the local school improvement system
2. Trust and high social capital between schools, the local authority and partners
3. Strong engagement from the majority of schools and academies
4. Leadership from key system leaders
5. A crucial empowering and facilitative role for the local authority
6. Sufficient capacity for school-to-school support
7. Effective links with regional partners
8. Sufficient financial contributions (from schools and the local authority)
9. Structures to enable partnership activity.

School place planning

Councils have a unique responsibility to make sure that there are enough school places available for children and young people in their areas. Fulfilling this duty is currently an enormous challenge in many areas, with a risk that nearly 134,000 children will miss out on a secondary school place by 2023/24 as a result of the surge in primary school pupils. Councils have created an additional 600,000 primary school places since 2010 to cope with rising demand, but this pressure is now moving to secondary schools.

Councils have no powers to direct academies to expand and as the majority of secondary schools are now academies, a key challenge is working in partnership with them to deliver the new secondary places needed.

Schools admissions

Councils are the admissions authorities for community schools and are responsible for setting their admissions policies and catchment areas. Faith schools (voluntary-aided schools), foundation schools, academies and free schools are responsible for setting their own admissions policies and catchments (they are 'own admission authorities').

Councils are responsible for co-ordinating all school admissions in their areas during the normal rounds at the start of primary and secondary school. This means that parents apply through the council on a common application form and have three to six choices typically, including for schools that are 'own admission authorities'.

The statutory duty on councils to coordinate in-year admissions outside the normal rounds has been removed, but many councils still undertake this role with the agreement of local schools.

² <https://www.local.gov.uk/enabling-school-improvement>

All schools and admissions authorities are bound by the statutory admissions code³ and if there are concerns about the fairness of a school's admissions practices, complaints can be made to the Office of the Schools Adjudicator.

Councils have a statutory duty to raise with the Schools Adjudicator any concerns they have about the admission policies of schools in their areas. They are required to submit an annual report to the Adjudicator about the operation of schools admissions policies in their areas and to publish the report on their website.

Councils are required to agree a Fair Access Protocol with local schools to place children who are finding it hard to find a school place, have been excluded from school or are new to the area.

The majority of schools have to agree the protocol which is then binding on all schools, including academies. If a maintained school (faith, foundation or community school) refuses to admit a pupil under the Fair Access Protocol, local authorities have the power to direct them to admit the pupil. In the case of academies and free schools, the council has to apply to the Education and Skills Funding Agency (ESFA) for a direction to admit the pupil.

Home-to-school transport

Councils are required to offer free school transport to children aged between five and 16 if they go to their nearest suitable school and live at least:

- two miles from the school if they are under eight
- three miles away if they are eight or older.

Families on low incomes who are in receipt of certain benefits or are entitled to Free School Meals have greater rights to free transport.

Councils have to make transport arrangements for all children who cannot reasonably be expected to walk to the nearest suitable school because the nature of the route is deemed unsafe.

They also have to make transport arrangements for children who cannot reasonably be expected to walk to school because of their mobility problems or because of associated health and safety issues related to their special educational needs or disability (SEND).

Councils do not have to provide free transport to young people over the age of 16, but “have a duty to prepare and publish an annual transport policy statement specifying the arrangements for the provision of transport or otherwise that the authority considers it necessary to make to facilitate the attendance of all persons of sixth form age receiving education or training”.

Education funding

Councils retain a significant role in school funding, although revenue funding is ring-fenced within the Dedicated Schools Grant (DSG) and almost all the funding is passed directly to schools.

The council role is to agree a local formula with schools for the distribution of funds received from the Government through DSG. However, the amount of local discretion to vary local formula to take account of local needs and priorities has been curtailed in recent DfE reforms.

The decisions about the local formula are made in the Schools Forum, which is established and supported by the council. The Forum is required to have representation from schools and providers, including primary, secondary and special schools and nursery providers.

Academies and free schools are funded directly by the Government, through the Education and Skills Funding Agency (ESFA).

³ <https://www.gov.uk/government/publications/school-admissions-code--2>

However, they are funded in line with the locally-agreed formula and academies must also be represented on the Schools Forum. Funding for academies is then recouped from the DSG and paid to them by the ESFA.

The majority of school capital funding comes from the Government and schools receive 'basic need' grants to provide new places to respond to sharply increasing demand. Maintenance capital for maintained schools also comes through councils, although there is a separately identified allocation for voluntary aided schools.

Academies have to bid to the ESFA for their maintenance capital allocations and capital for establishing new free schools comes directly from the DfE.

Capital for rebuilding crumbling schools is centrally allocated by ESFA through the Priority School Building Programme and the projects are centrally procured by the ESFA.

Home education

Parents have the right to choose to home-educate their children and are then responsible for providing suitable education, including addressing any special needs. They are not required to register with a mainstream school or with the local authority, although some local authorities operate a voluntary registration scheme.

Local authorities have a duty to identify, as far as is possible, children not receiving a suitable education and intervene, for example, by issuing a school attendance order. However, local authorities have no legal duties to monitor the quality of home education on a regular basis and no powers to insist on seeing a child in order to establish whether they are receiving a suitable education.

Alternative provision

Local authorities are responsible for arranging suitable education for permanently excluded pupils, and for other pupils who – because of

illness or other reasons – would not receive suitable education without such arrangements being made. This is known as Alternative Provision (AP).

Councils retain an important role in supporting local fair access arrangements to ensure that children without school places are placed as quickly as possible in an appropriate setting, both convening schools and overseeing the operation of the Fair Access Protocol.

Special Educational Needs and Disabilities (SEND)

Councils have a range of responsibilities to support children and young people with SEND, including making sure that they can access a suitable education. For full details of the council role, please see our SEND Must Know document.

Questions to consider

- How do the standards of schools in your area compare to national averages and to the results in similar neighbouring council areas?
- What are the arrangements for supporting school improvement for your area?
- Are there any council-maintained schools causing concern in your local area? What is being done in those schools to support improvement?
- How many primary and secondary school places are available locally? What do projections for school places look like over the next five years? Does your local area have enough spaces to meet local demand?
- What are your local school maintenance needs and how is local schools capital funding allocated? Are any locally-maintained schools in need of significant central government funding for rebuilding projects?

Useful resources

LGA/Isos Enabling School Improvement report

www.local.gov.uk/enabling-school-improvement

LGA Childcare and early education resource pack

www.local.gov.uk/early-education-and-childcare-resource-pack

School admissions code

www.gov.uk/government/publications/school-admissions-code--2

Schools causing concern: statutory guidance for local authorities

www.gov.uk/government/publications/schools-causing-concern--2

Fair access protocols

www.gov.uk/government/publications/fair-access-protocols-in-school-admissions

Free school transport

www.gov.uk/free-school-transport

Home-to-school travel and transport: statutory guidance

www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance

Watchsted: the more recent school Ofsted inspection results

www.watchsted.com



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