

GOVERNANCE IN MODERN DAY SCHOOL DIVERSITY

Introduction

Past history and successive governments have provided the education service with an ever-changing pattern of diversity in school structures. Over time school structures have provided county schools that have become community schools, voluntary aided schools, voluntary controlled schools, grant maintained schools that have become foundation schools, specialist schools and academies. The government of today uses the term School Diversity to describe the way in which the education system is structured to enable schools to differentiate themselves according to their individual ethos, special character and areas of specialist expertise. The expected extension of the academies programme, the introduction of foundation schools with a trust (Trust Schools) as part of the Education and Inspections Act, 2006, the extended schools/services programme, and the opportunities for organisations to federate or collaborate open the way for integrated provision and joined up working never seen before.

Perhaps now more than ever this diversity in education presents a range of key opportunities, as well as challenges. In Leeds we need provision which reflects the diverse needs and aspirations of our children and young people, and recognises that the education system must be responsive and dynamic if it is to meet the challenges of rapid regional and global change.

We know that a school which builds on its individual strengths and develops a clear sense of its own ethos and character is more likely to be a successful school. School diversity has the potential to benefit all children and young people in a community when schools work together to share their resources and expertise. As schools develop their individual strengths, and standards of teaching and learning improve they can then contribute to raising standards in the wider system through a local network, or 'community of schools'. Networks of schools that are differentiated according to what they excel in and can go on to provide a source of expertise for other schools, sharing learning programmes, learning resources and professional development so that all children and young people in the community benefit.

A true pathway is opening up for everyone in the education and children's services world to demonstrate, through the developing diversity of provision, that every child does matter and that change for children becomes a reality.

Why develop educational provision through governance?

Corporate governance can be defined as:

The framework of accountability to users, stakeholders and the wider community, within which organisations take decisions, and lead and control their functions, to achieve their objectives.

Good corporate governance combines robust systems and processes with characteristics such as effective leadership and high standards of behaviour. These include in particular:

- Leadership that establishes a vision, generates clarity and fosters professional relationships.

- An open and honest culture in which decisions and behaviours can be challenged and accountability is clear.
- Supporting accountability through systems and processes, such as financial management, performance management and internal controls.
- An external focus on the needs of service users and the public.

It is also useful to note that overarching local authority duties under the 2006 Act are to:

- promote high standards;
- ensure fair access to educational opportunity and the fulfilment of every child's educational potential;
- secure diversity in the provision of schools and increase opportunities for parental choice.

The strategic leadership responsibilities of all types of governing body and of local authorities can give powerful effect to the development of key partnerships across the educational and children's services spectrum.

Governance Structures Compared

Community, Voluntary Aided, Voluntary Controlled and Foundation schools.

Community, voluntary aided, voluntary controlled and foundation schools which were established prior to the provisions of the 2006 Act are constituted and governed by the school government regulations, including regulations covering federation and collaboration, particularly in extended school situations. Collaboration regulations which allow collaboration across the different categories of school mentioned above are currently being extended to cover further education establishments. Constitutions are based on the stakeholder principle with representatives from all sectors of the community playing their part. These are local authority maintained schools funded through the local Fair Funding Scheme. Within this sector there are many similarities in terms of their responsibilities, but some key differences in the respective categories of governing body.

Trust Schools

Proposals for Trust schools were introduced in the October 2005 White Paper Higher Standards, Better Schools for All. The proposals form part of the Government's choice and diversity agenda. The Government has stated that Trust arrangements are intended to open up new and different ways for schools to work in the future. Schools (or groups of schools) that choose to take up the new arrangements will be backed by a charitable trust.

Legislatively, any school will be able to opt to become a Trust School once the relevant parts of the Education and Inspections Act 2006 come into effect in early summer 2007.

A Trust school is legally a foundation school supported by a charitable foundation that appoints some of its governors. The law has previously allowed for foundation schools to be formed, and to acquire a foundation with almost no process surrounding it (like consulting parents, allowing others to comment etc) or any safeguards on what a Trust can and cannot do. The new Education and Inspections Act puts in place some safeguards around forming and acquiring a Trust.

A Trust school is a local authority maintained school that is funded on the same basis as other local authority maintained schools, and funding will be delegated to the governing body, not the Trust. There will be no additional funding from the local authority for a Trust school, and there is no expectation that the Trust will provide the school with additional funding.

Trust schools may not be uniform in nature. The members of the Trust might include education charities, further or higher education institutions, business foundations or community groups, for example. A Trust might work with a single school, a group of local schools or a network of schools.

A Trust School is subject to the Education School Government Regulations that apply to all maintained schools.

Academies

Academies are a new type of school. They are intended to bring a distinctive approach to school leadership drawing on the skills of sponsors and other supporters. Academies are all ability schools established by sponsors from business, faith or voluntary groups working in highly innovative partnerships with central Government and local education partners. Sponsors and the Department for Education and Skills (DfES) provide the capital costs for the Academy. Running costs are met in full by the DfES.

The Government has stated that its Academies programme aims to challenge the culture of educational under attainment and to deliver real improvements in standards. Most Academies are currently located in areas of disadvantage. They have either replace one or more existing schools facing challenging circumstances or are established where there is a need for additional school places. The DfES expects local authorities (LAs) to consider the scope for the establishment of Academies as part of their strategic plans to increase diversity in secondary provision and improve educational opportunities.

As an academy becomes successfully established it will be expected to share its expertise and facilities with other schools and the wider communities. Academies are also expected to have a key part to play in the regeneration of communities. This role is comparable to that of maintained schools where the governing body is responsible for extended provision on its site, the well-being of children in the area, and has a part to play in community cohesion.

Academies are publicly funded independent schools. Their independent status is designed to allow them the flexibility to be innovative and creative in their curriculum, staffing and governance. Academies, therefore, work in some different ways to traditional local authority (LA) schools.

The DfES expects academies to be set up as companies limited by guarantee with charitable status. Each Academy will be under the control of its governing body, which will have a clearly defined strategic role in shaping the success of the Academy.

Where an Academy is an extended school, they may consider having representatives from the various joined-up services on the governing body. The governing body can also appoint co-opted governors. All members of an Academy governing body are appointed on the basis of the contribution that they will make to the school and have a legal duty to act only in the interest of the Academy.

The governing body of an Academy is accountable to the Secretary of State through the requirements of a Funding Agreement. The Funding Agreement requires the governing body to publish procedures of its meetings. As charitable companies, academies must also prepare and file annual accounts with the Charity Commission, prepare an annual report for the Charity Commissioners, and ensure that their accounts are independently audited.

The Governing Body is constituted under the Academy's Memorandum and Articles of Association and is generally chaired by the Sponsor. Unlike maintained schools, governance procedures are not prescribed in primary or secondary legislation. Rather this is set down in model Memorandum and Articles laid down by the Department as part of the Funding Agreement.

Although there are many similarities between the governing bodies of LA maintained schools and Academies, there are also important differences. As independent schools, Academies are set up as charitable companies to give sponsors and governors broader scope and responsibility for ethos, strategic direction and challenge.

However, academies cannot work in isolation. They must set out their proposals for working with other schools and the wider community in their annual development plan. Academies are accountable to local parents in the same way as maintained schools. They must take part in local admissions forums.

Extended Schools

The Government's Five Year Strategy for Children and Learners spells out a vision that over time all schools should develop extended services of some kind to their pupils, families and the local community. Extended Schools can provide a range of services and activities, often beyond the school day, to help meet the needs of children, their families and the wider community. Building on the experiences of those schools already delivering extended provision the Government has set out a core offer of extended services that they want **all** children to be able to access through schools by 2010

The extended school agenda is very much about joined-up working, partnerships and shared goals, because we know that children's and young people's learning is affected by a range of family, social, health and community factors which schools cannot manage in isolation, and which necessitate collaborative activity with other agencies and organisations.

Increasingly, governing bodies established under diverse structures will be expected to see themselves as networkers, influencers and, advocates for their school and their community. This will necessitate the inclusion of governors in developments around the community planning process and the development of corporate improvement priorities.

Under the new OFSTED Framework for Inspecting Schools, which came into effect in September 2005, inspectors must evaluate and report on the:

- Effectiveness of the school's links with parents;
- Quality of any links with the local community;
- Effectiveness of extended school services and educational and support programmes for parents, families and members of the community;

School's links with other schools and colleges.

These requirements apply to all schools whether in the maintained or non-maintained sector, and in terms of accountability give a clear focus to school governors to look beyond the single institution and into the world of locality based provision and integrated services. This is already being demonstrated at extended school cluster level in the development and implementation of models of community governance.

Federations/Collaboration

Opportunities exist to enable maintained school governing bodies to federate or collaborate to enable organisations to work together in delivering provision at a strategic level. Innovative partnerships are being developed which involve the sharing of common outcomes and targets and the pooling of budgets and human and other resources.

Legislatively, provision is not available currently to enable collaboration between the maintained and non maintained sectors, although regulations are being set currently to enable formal collaboration between maintained schools and the FE sector.

In view of this restriction the development of governance collaboration across the range of diverse provision, to deliver the five outcomes for children, will require the development of a vision and innovative thinking by all partners which may result in a bid under the local authority's power to innovate.

The attached document summarises the similarities and differences in responsibilities across the school structures.

Conclusion

This paper demonstrates that there are a range of possibilities within new and changing school structures to develop educational opportunities through governance beyond the single institution. These can take a number of forms with a common aim of each becoming a locality based education improvement partnership comprising a range of diverse schools and their key partners to deliver change for children.

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Summary of Responsibilities and Opportunities Across Governance Models

COMMUNITY SCHOOLS	VOLUNTARY CONTROLLED SCHOOLS	VOLUNTARY AIDED SCHOOLS	FOUNDATION (TRUST) SCHOOLS	ACADEMIES
GOVERNANCE, ORGANISATION AND ADMISSIONS				
LA maintained schools	LA maintained schools	LA maintained schools	LA maintained schools	Publicly funded independent schools
GB is corporate legal body without charitable status.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is corporate legal body with charitable status. This can help in the effective use of gifts and other support from the business community, parents and others.	GB is established as a charitable company. It cannot delegate its decision making power to a body upon which it does not have a majority.
GB constitution – stakeholders are parents, LEA, staff and community. Parents are the largest group.	GB constitution – stakeholders are parents, LEA, staff, community and foundation (normally church appointments). Parents are the largest group.	GB constitution – stakeholders are parents, LEA, staff, and foundation (normally church appointments). Foundation governors are in overall majority to preserve the religious character and ethos of the school.	GB constitution – stakeholders are parents, LEA, staff, and foundation. GB can decide that the majority of governors are appointed by the Trust. If so, a parents' council must be formed.	Constitutions - Governing body [Directors]: principal sponsor, sponsor governors, principal [ex-officio member], parent, LA and co-opted governors plus other categories as stipulated in the Articles of. Trust [company]: principal sponsor, persons appointed by the sponsor and Chair of Governors

COMMUNITY SCHOOLS	VOLUNTARY CONTROLLED SCHOOLS	VOLUNTARY AIDED SCHOOLS	FOUNDATION (TRUST) SCHOOLS	ACADEMIES
GOVERNANCE, ORGANISATION AND ADMISSIONS				
GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	GB can federate with other LA maintained schools but not with academies, independent schools or FE institutions	Cannot federate at governance level with maintained schools, but may be part of a school company.
GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	GB can collaborate with other LA maintained schools and FE institutions but not with academies or independent schools	Cannot collaborate at governance level with maintained schools, but may be part of a school company.
LEA is the admissions authority.	LEA is the admissions authority.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.	GB is the admissions authority and sets its admissions arrangements. Like all other schools, they have to act in accordance with the Admissions Code.
BUILDING AND SAFETY				
LEA is usually responsible for buildings and capital works. LEA is responsible for health and safety.	LEA is usually responsible for buildings and capital works. LEA is responsible for health and safety.	GB is usually responsible for buildings, especially capital works. Usually has liability for 10% of capital costs. GB as employer is responsible for health and safety.	LEA is responsible for capital funding. GB is responsible for buildings, land and assets. GB as employer is responsible for health and safety.	GB is responsible for buildings, land and assets. GB as employer is responsible for health and safety.

COMMUNITY SCHOOLS	VOLUNTARY CONTROLLED SCHOOLS	VOLUNTARY AIDED SCHOOLS	FOUNDATION (TRUST) SCHOOLS	ACADEMIES
FINANCE AND STAFFING				
Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	Funded through the LA Fair Funding Scheme	After initial sponsor input the majority of the funding for Academies comes from the DfES through the funding agreement. Some funding is from the Local Authority
LEA is the employer, although GB carries out many of the employer functions.	LEA is the employer, although GB carries out many of the employer functions.	GB is the employer and carries out all employer functions.	GB is the employer and carries out all employer functions.	GB is the employer and carries out all employer functions.

OFSTED INSPECTIONS				
Subject to a Section 5 inspection by OfSTED every three years.	Subject to a Section 5 inspection by OfSTED every three years. Must also arrange a Section 48 inspection of denominational education and collective worship.	Subject to a Section 5 inspection by OfSTED every three years. Must also arrange a Section 48 inspection of denominational education and collective worship.	Subject to a Section 5 inspection by OfSTED every three years.	Academies are inspected by Ofsted in the same way as maintained and independent schools and are inspected against both the maintained school framework and the Independent School Standards, as they apply to Academies