



Good to Great Schools Policy

Appendix 6 **Intervention**

September 2021

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1. Intervention:

The programme of support and challenge for a school receiving additional support is organised with the aim of securing rapid improvements. Hackney Education (as a relevant authority, along with the Secretary of State) reserves the right to use its additional statutory powers in any school in order that it shows progress towards exiting from a category of support within four terms.

Failure to comply with a warning notice will make a maintained school “eligible for intervention” under Sections 60 and 60A of the 2006 Act. Local authorities and RSCs will use their discretion to decide whether the use of formal powers is necessary.

Where a school fails to engage with the support and challenge programme agreed with the school in the form of an action plan, and still makes no improvement over a period of one term, the relevant authority will consider applying one or more of its statutory powers.

Regional Schools Commissioners (RSC) will exercise the powers of the Secretary of State in maintained schools that have been judged ‘Inadequate’ by Ofsted, Hackney Education will issue warning notices’ to schools that have not been judged inadequate, and are not coasting, but are otherwise causing concern.

Hackney Education will give schools a performance standards and safety warning notice and then a further notice that it is proposing to intervene in any of the following circumstances:

- there is persistent and severe underperformance in any of the key judgement areas (Achievement/standards; Quality of Education; Behaviour and Safety; Leadership and Management) – this includes cases where schools are performing below floor standards;
- there are other serious concerns which need tackling, such as where there has been a severe drop in performance, or serious breakdown in the way a school is managed or governed which is prejudicing or likely to prejudice provision of education that is good or better;
- the safety of pupils or staff and the school is threatened.

Hackney Education will use its statutory intervention powers where a school has failed to comply with a warning notice.

Hackney Education has the following six statutory intervention powers:

1. to appoint additional governors;
2. to suspend the delegated budget;
3. to issue a direction requiring specified actions;
4. to issue a formal warning notice;
5. to appoint an Interim Executive Board subject to approval by the Secretary of State for schools in Ofsted categories; and
6. in extreme cases, to move towards proposals to close the school.

The Secretary of State has the following intervention powers:

1. to require governing body to enter into arrangements;
2. to appoint additional governors;
3. to direct closure of a school;
4. to appoint an interim executive board (IEB);
5. to take over responsibility for an IEB;
6. to make an academy order

1.1. Appointing additional governors:

The procedure for appointing additional governors will be as follows:

- school is identified by Ofsted or Hackney Education as requiring special measures or significant improvement
- the Head of Hackney Education convenes a meeting with the governing body
- the attached LaMA starts working with the school leadership and governing body
- the need for additional governors is identified and the governing body is informed; recommendation for additional governors from core team to Head of Hackney Education / Hackney Education senior officer with any specific requirements e.g. financial background
- the Hackney Education list will be consulted to suggest potential governors and candidates are agreed with the Director in liaison with the core team
- potential additional governor is contacted by Director/and asked if they are willing to be appointed
- Head of Hackney Education / Hackney Education senior officer/LaMA meets with additional governor to brief them and clarify any particular role e.g. financial or personnel
- Hackney Education appoints additional governors and provides any training that is needed
- Additional governor invited to the first governing body meeting following the agreement of the school's priority action plan

Hackney Education sees the role of the additional governor as follows:

- to be an exemplar governor
- to participate fully in all governing body activities and assist the governing body to work effectively, identify any areas of weakness and encourage them to receive any training needed
- to receive training if necessary
- to ensure that the governing body takes the necessary actions to secure progress
- to monitor the work of the governing body and report back as agreed to the Director/Assistant Director
- to agree all monitoring and reporting with the Chair of Governors and Headteacher
- to alert the core team of any difficulties as soon as possible
- to be positive and encouraging but not afraid to ask challenging questions

1.2. Suspension of delegated powers:

Hackney Education has the power to suspend the governing body's right to spend the school budget. If the LA decides to take this course of action, the related staffing powers are also restricted.

Hackney Education will consider using these powers of intervention in any circumstances where:

- the school has received a formal warning notice but the matter has not been remedied to the satisfaction of the Director of Education;
- the school has been found by Ofsted to require special measures or have require improvement;
- the governors have failed to comply with any requirements under the LA's scheme for the financing of its schools, or are not managing the delegated budget satisfactorily.

Suspension of delegation is a temporary and transitional measure, not a permanent state. Hackney Education will work with the school during the period of suspension to ensure that the school's capacity to take its own decisions is strengthened; before suspending a school's budget, the Director will give the governing body at least one month's notice in writing of any suspension, except in the case of gross incompetence or mismanagement or other emergency; the notice will specify the grounds on which the LA proposes to suspend delegation.

Hackney Education will be selective and consider devolving back to the governing body such decision-making powers as it considers appropriate. In the case of a school in special measures, a period of 10 calendar days will have elapsed after the Secretary of State has acknowledged the receipt of the Hackney Education's post-inspection statement of action and before Hackney Education suspends delegation.

If the budget is to be suspended because the school has not taken the required actions with the notice of compliance or formal notice, there will be a six week period before the budget is suspended; the school has no right of appeal unless Hackney Education is in contravention of the LA-School Relations Code.

1.3. Specified direction:

For example, if the behaviour of pupils is such that their education is, or is likely in the immediate future, to be severely prejudiced, Hackney Education may give directions to the governing body or Headteacher to prevent or put right a breakdown of discipline.

Hackney Education will observe the following principles in such a case:

- the power will be viewed as a reserve power of last resort and will only be used in exceptional circumstance
- Hackney Education will inform the governing body, in writing, before it acts, unless pupils or staff may be at risk, in which case it will act urgently
- the power will be used to create the opportunity for constructive action to be taken to resolve the immediate problem and ensure that it cannot recur.

The relevant authority may give the governing body of the school a notice requiring the governing body to:

- enter into a contract or other arrangement with a specified person, who may be the governing body of another school, for the provision to the governing body of specified services of an advisory nature;
- make arrangements to collaborate with the governing body of another school;
- make arrangement to collaborate with further education bodies; or
- take specified steps for the purpose of creating or joining a federation.

Before exercising this power, the relevant authority must consult:

- The governing body of the school.
- In the case of a foundation or voluntary school which is a Church of England School or a Roman Catholic Church school, the appropriate diocesan authority, and
- In the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.

1.4. Performance standards and safety warning:

Section 60 of the 2006 Act sets out the provisions relating to performance, standards and safety warning notices. A performance standards and safety warning notice should be used where there is evidence to justify both the relevant authority's concerns and the school's reluctance or inability to address those concerns successfully within a reasonable time frame. Before deciding to give such a warning notice, relevant authorities must draw on a suitable range of quantitative and qualitative information to form a complete picture of a school's performance.

Hackney Education will issue a performance standards and safety warning notice in writing to the governing body of the school. In this situation, there must be:

- a well-founded belief that standards of attainment, management or governance of the school significantly inhibit progress towards providing a good standard of education;
- an evidence trail showing that the programme of support, other tools and strategies, including previous interventions, have failed to remedy the specified concerns;
- evidence that the school meets the Ofsted criteria to be deemed 'serious weaknesses' or 'special measures'.

Hackney Education may issue a performance standards and safety warning notice either before, after, or in combination with other interventions, such as the appointment of additional governors or suspension of the school's delegated budget.

A performance standards and safety warning notice must be given in writing to the governing body of the school and must set out:

1. The matters on which the relevant authority's concerns are based. These should be set out in some detail and explain the facts that exist in that particular school and the circumstances which are giving the relevant authority cause for concern;
2. The action which the governing body is required to take in order to address the concerns raised;
3. The initial compliance period beginning with the day when the warning notice is given and ending 15 working days following that day, during which time the governing body is to address the concerns set out in the warning notice, or make representations to Ofsted against the warning notice; and
4. The action which the relevant authority is minded to take (under one or more of sections 63 to 66A and 70C of the 2006 Act or otherwise) if the governing body does not take the required action.

In addition to giving the governing body a warning notice, the relevant authority must also give a copy to the Headteacher; and in the case of a Church of England Church school or a Roman Catholic Church school, the appropriate diocesan authority, and in the case of a foundation or voluntary school, the person who appoints the foundation governors.

All warning notices must be copied to Ofsted at the same time using the email address: **warningnotices@ofsted.gov.uk**.

Where a performance standards and safety warning notice has been given which has not been complied with to the satisfaction of the relevant authority within the compliance period, the relevant authority must also give the school reasonable notice in writing that they propose to exercise one or more of their powers under Part 4 of the 2006 Act. When a school has failed to comply with a warning notice and the relevant authority has also given a further written notice, the school is eligible for intervention.

Each notice will include:

- a statement of the actions the governing body is asked to take and the deadlines for compliance
- a statement of the improved outcomes sought (measurable targets within defined periods)

1.4.1 Making representations against the warning notice

The warning notice must state that the governing body of a school can make representations in writing to Ofsted. The 2006 Act does not specify the grounds for making representations, but it could be that the school believes that the local authority has:

1. Given the warning notice without sufficient objective evidence
2. Proposed action that is disproportionate to the scale of the issues facing the school.

The representations must be made in writing within 15 working days of receipt of the warning notice. It should be sent to **warningnotices@ofsted.gov.uk** and copied to the local authority. Ofsted must consider any representations and may confirm the warning notice or not. This will usually be within a period of 10 working days after receipt of the representations, although this is not set out in legislation.

If Ofsted confirms the warning notice, the school is eligible for intervention after 15 working days beginning with the day on which Ofsted confirms the warning notice.

Irrespective of whether the governing body has made representations to Ofsted, the governing body may make a complaint to the Secretary of State under section 496 and/or 497 of the Education Act 1996. This enables the Secretary of State to make a direction, if expedient to do so. Where s/he is satisfied that a local authority has acted, or is proposing to act, unreasonably with respect to the exercising of a power or performance of a duty under the 1996 Act, or certain other Acts which are read together with the 1996 Act (including the 2006 Act), or where the local authority has failed to discharge a duty.

1.4.2 Power of the Secretary of State to direct the local authority to consider giving and to give a warning notice

The Secretary of State has the power to direct a local authority to first consider giving a warning notice in specified terms and then, to direct the local authority to give a warning notice in those terms where a local authority has decided not to do so.