

Final Internal Audit Report

Alternative School Provisioning

August 2019

Distribution: Executive Director Children Families and Education
Director of Education & Youth Engagement
Head of Learning Access
Education Commissioning and Quality Assurance Manager

Assurance Level	Identified Issues	
Limited Assurance	Priority 1	2
	Priority 2	4
	Priority 3	0

Confidentiality and Disclosure Clause

This report ("Report") was prepared by Mazars LLP at the request of London Borough of Croydon and terms for the preparation and scope of the Report have been agreed with them. The matters raised in this Report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this Report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this Report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

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Please refer to the Statement of Responsibility in Appendix 3 of this report for further information about responsibilities, limitations and confidentiality.

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1. Introduction

- 1.1 The Council has a statutory duty to provide appropriate education for all children and young people, as well as supporting their health, safety and welfare. This duty is generally discharged through those schools maintained by the Local Authority, but may also be through free schools and academies.
- 1.2 Local Authorities are also 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 education outside of mainstream schools is generally known as “alternative provision” and as part of this most local authorities establish and maintain schools, or units, for educating pupils who cannot be educated in mainstream or special schools, normally called pupil referral units. However, there is no requirement on local authorities to have or establish a pupil referral unit, and they may discharge their duties by other means.
- 1.3 This audit focused on the processes in place on alternative school provisioning for permanently excluded pupils.
- 1.4 The objectives, methodology and scope are contained in the Audit Terms of Reference at Appendix 1.

2. Key Issues

Priority 1 Issue

The ‘notification of exclusion forms’ in use did not include a privacy notice in line with the requirements of the General Data Protection Regulation (GDPR) and the Data Protection Act (DPA) 2018 **(Issue 2)**.

Pupils’ personalised plans and objectives were not set out in writing in accordance with statutory guidance **(Issue 4)**.

Priority 2 Issues

Guidance for Education Providers details that written policy and procedures should be reviewed annually. This, however, was last updated in March 2017 **(Issue 1)**.

Testing of a sample of ten pupils found that there were delays on notifications and arrangement of alternative provision **(Issue 3)**.

A copy of the formal agreements with one of the alternative school providers used by the Council could not be located **(Issue 5)**.

Pupil reintegration plans were not documented and the pre-Fair Access Panel (FAP) process could not be verified **(Issue 6)**.

3. Actions and Key Findings/Rationale

Control Area 2: Referral and Admission Policies						
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 1				
2	CME guidance to be updated to reflect current legislation and the ongoing annual review of guidance will be incorporated into annual service planning. This will be distributed to schools in September 2019.	<p>The Croydon 'Children Missing from Education and Pupils Leaving Roll - Guidance for Education Providers' is intended to inform Local Authority (LA) staff, head teachers, governing bodies of schools and other involved agencies about the policy and procedures to be followed in order to prevent children becoming Children Missing Education.</p> <p>Examination of the 'Children Missing from Education and Pupils Leaving Roll - Guidance for Education Providers' found that this was last updated in March 2017 and made reference to the Data Protection Act (DPA) 1998, which is now superseded by the DPA 2018.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Attendance and Exclusion Manager</td> <td>August 2019</td> </tr> </tbody> </table>	Responsible officer	Deadline	Attendance and Exclusion Manager	August 2019	Where procedure notes and guidance are not regularly reviewed, there is a risk that this is not up to date and that schools and staff will not comply with the requirements expected by the organisation or legislation for important processes.
Responsible officer	Deadline					
Attendance and Exclusion Manager	August 2019					

<u>Control Area 3: Monitoring and Management of Exclusions</u>						
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 2				
1	A suitable statement of intent reflecting GDPR and information sharing will be included within the form.	<p>Guidance on the Information Commissioners Office (ICO) website details that, <i>'Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the GDPR.</i></p> <p><i>You must provide individuals with information including: your purposes for processing their personal data, your retention periods for that personal data, and who it will be shared with. We call this 'privacy information'.</i></p> <p><i>You must provide privacy information to individuals at the time you collect their personal data from them.'</i></p> <p>Examination of 'notification of exclusion forms', which ask for pupil information, found that these did not include a privacy notice as required by the Data Protection Act (DPA) 2018 and GDPR.</p> <p>As some of the information required to be provided in the form can relate to pupil's special education needs, the personal information being provided is considered sensitive personal data and is therefore subject to more rigorous requirements under the DPA 2018.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Attendance and Exclusion Manager</td> <td style="text-align: center;">August 2019</td> </tr> </tbody> </table>	Responsible officer	Deadline	Attendance and Exclusion Manager	August 2019	Where the local authority is not transparent with data processing, data subjects could subsequently challenge whether data collection was on a lawful basis and best fits the purpose, and if the Council does not have records to support their processing a Data Protection breach would occur.
Responsible officer	Deadline					
Attendance and Exclusion Manager	August 2019					

Control Area 3: Monitoring and Management of Exclusions						
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 3				
2	<p>Communications with our Croydon schools reiterating the importance of informing of PEX and the submission of a fully completed notification form.</p> <p>Discussions already been held with SVC to change their admission arrangements and ensure pupils are placed on roll.</p>	<p>The Department for Education’s (DfE) statutory guidance on ‘Alternative Provision’ dated January 2013 details that, ‘<i>Local authorities are responsible for arranging suitable full-time education for permanently excluded pupils, and for other pupils who – because of illness or other reasons – would not receive suitable education without such provision . This applies to all children of compulsory school age resident in the local authority area, whether or not they are on the roll of a school, and whatever type of school they attend. Full-time education for excluded pupils must begin no later than the sixth day of the exclusion.</i>’</p> <p>Examination of the documentation and records relating to a sample of ten pupils found that:</p> <ul style="list-style-type: none"> • In three instances, there were delays in notifications of exclusions from schools, as follows: Student A excluded on 20 September 2018 only notified on 5 October 2018, Student B excluded on 3 December 2018 only notified on 10 December 2018 and Student C excluded on 17 January 2019 only notified on 23 January 2018. • In one instance, the notification was overlooked by the Council, namely for Student D excluded on 28 November 2018, notified on the same day, but only referred by the Council on 14 January 2019. • In the case of student E, the pupil excluded on 18 March 2019 had at the time of audit in June, still not been placed in full time education as it was explained that transport for the child to school was still being arranged. <p>Discussion established that the cause of delays in placement were mainly due to information either not being received from the schools or it being incomplete requiring follow up action by the Council.</p> <p>Where full-time education for excluded pupils begins later than the sixth day of the exclusion, the Council is in breach of the DfE statutory guidance and there is a risk that Council failing in its duty to ensure all children receive an education.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Principal Officer Exclusion Prevention</td> <td>August 2019</td> </tr> </tbody> </table>	Responsible officer	Deadline	Principal Officer Exclusion Prevention	August 2019	
Responsible officer	Deadline					
Principal Officer Exclusion Prevention	August 2019					

Control Area 4: Personalised Intervention Plans						
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 4				
1	<p>Newly developed SLA including the introduction of KPI with both our commissioned APs and our LA maintained PRU meeting. This will be checked as part of the LA's QA process for AP.</p> <p>Considering the introduction of a proposed reintegration plan in our FAP documentation to further support our current practices.</p>	<p>The Department for Education's (DfE) statutory guidance on 'Alternative Provision' dated January 2013 details that, '<i>Responsibility for the alternative provision used rests with the commissioner. The nature of the intervention, its objectives and the timeline to achieve these objectives should be agreed and clearly defined. Progress against these objectives should be frequently monitored, appropriate reviews should be built in and continuity into the next stage in the child's life should be considered. Where reintegration to the school is an objective, there should be agreement on how to assess when the pupil is ready to return and the school should provide an appropriate package of support to assist their reintegration. These objectives and plans should be agreed with providers, set out in writing and regularly monitored, including through frequent visits to the provider.</i>'</p> <p>Plans were not available for the 10 excluded pupils sampled. Discussion established that, whilst there is no formal documentation, each pupil's personalised plan is personally discussed between the Council and the provider, setting clear objectives for improvement and attainment, including the pupil's support arrangements. Communication with providers is on a regular basis, including frequent visits.</p> <p>Where the objectives and plans are not documented and formally agreed, the Council is in breach of the DfE statutory guidance and there is risk that providers do not provide most appropriate or effective means of meeting the student needs. Furthermore, the Council may not be able to demonstrate due diligence.</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Education Commissioning and Quality Assurance Manager / Fair Access Manager</td> <td>August 2019</td> </tr> </tbody> </table>	Responsible officer	Deadline	Education Commissioning and Quality Assurance Manager / Fair Access Manager	August 2019	
Responsible officer	Deadline					
Education Commissioning and Quality Assurance Manager / Fair Access Manager	August 2019					

Control Area 5: Alternative School Provisioning		
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 5
2	This concern will be shared with the relevant contract and commissioning colleagues to ensure that moving forward all contractual documentation is available.	<p>The ‘Commissioning Alternative Provision Guidance for Local Authorities and Schools’ issued by the DfE details that, ‘Commissioners of alternative provision must ensure that pupils placed with external providers are assured a suitable education that fully meets their needs, and that there are secure and robust systems and safeguards in place to improve their wider well-being including health, safety and academic progress. Contracts should set out how providers will ensure that pupils have appropriate swift and easy access to other services including advice on sexual health and substance misuse. Contracts should also set out how providers will ensure that pupils have appropriate swift and easy access to other services including advice on sexual health and substance misuse. The contract should set out expectations for information transfer between schools and the provider.</p> <p><i>The contract should also set out what the provider must do to comply with each pupil’s personal learning plan and how they will achieve each step outlined in the plan, including expected academic progress at key points and at the end of the placement. Commissioners should ensure that staff employed by providers are appropriately trained and qualified and have received relevant clearance to work with children.’</i></p> <p>It was established that, in addition to the pupil referral units, the Council works with four different alternative school providers, namely Jus’T’Learn, RISE, The Write Time and CACFO. However, while call off agreements were in place with three of these providers, the agreement with RISE could not be located. Discussion established that, along with the other providers, the service was agreed in March 2016 and covers the three academic years ending August 2019.</p> <p>Where a contract is not in place, the service standards are not formally agreed and documented and there is a risk that the needs of the Service and the Council are not met.</p>
	Responsible officer	Deadline
	Education Commissioning and Quality Assurance Manager	August 2019

<u>Control Area 6: Reintegration</u>						
Priority	Action Proposed by Management	Detailed Finding/Rationale – Issue 6				
2	<p>Development, in conjunction with SVC, a FAP reintegration strategy procedure.</p> <p>Introduction of minutes taking for the Pre-FAP meeting for the 19/20 academic year.</p>	<p>The Department for Education’s Guidance on Alternative Provision dated January 2013 states that ‘<i>Provision will differ from pupil to pupil, but there are some common elements that alternative provision should aim to achieve, including: • clearly defined objectives, including the next steps following the placement such as reintegration into mainstream education, further education, training or employment.</i>’</p> <p>We were informed that reintegration to mainstream school is an objective for all pupils under alternative provisioning, however reintegration plans are not documented. The Education Commissioning and Quality Assurance Manager and Head of Provision explained that the Council and PRU ensure that reintegration is successful through continuous monitoring and proper provision of support.</p> <p>Furthermore, we were informed that pre-Fair Access Panel (FAP) is conducted to provide quality assurance on the referral ensuring that requirements are complete and appropriate. However, this is not documented therefore the process could not be verified.</p> <p>Examination of the records for a sample of four reintegrated pupils, found that three of these were not successfully reintegrated, with them being sent back to pupil referral unit during the 12 week reintegration period, (one of these was sent back for respite and two were not officially admitted by the mainstream school.)</p>				
	<table border="1"> <thead> <tr> <th>Responsible officer</th> <th>Deadline</th> </tr> </thead> <tbody> <tr> <td>Head of Learning Access</td> <td>September 2019</td> </tr> </tbody> </table>	Responsible officer	Deadline	Head of Learning Access	September 2019	<p>Where the reintegration objectives and plans are not documented and clearly agreed, there is a risk that provision does not offer quality education and not suitable for the pupil’s individual needs which may not lead to reintegration into mainstream education, further education, training or employment.</p>
Responsible officer	Deadline					
Head of Learning Access	September 2019					

TERMS OF REFERENCE

Alternative School Provisioning

1. INTRODUCTION

The Council has a statutory duty to provide appropriate education for all children and young people, as well as supporting their health, safety and welfare. This duty is generally discharged through those schools maintained by the Local Authority, but may also be through free schools and academies.

Local Authorities are also 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 education outside of mainstream schools is generally known as “alternative provision” and as part of this most local authorities establish and maintain schools, or units, for educating pupils who cannot be educated in mainstream or special schools, normally called pupil referral units. However, there is no requirement on local authorities to have or establish a pupil referral unit, and they may discharge their duties by other means.

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 audit focused on the processes in place on alternative school provisioning for permanently excluded pupils.

As part of the agreed 2019/20 Internal Audit Plan, an internal audit of the Alternative School Provisioning was identified to be undertaken.

2. OBJECTIVES AND METHOD

The overall audit objective is to provide an objective independent opinion on the adequacy and effectiveness of controls / processes.

The audit will for each controls / process being considered:

- Walkthrough the processes to consider the key controls;
- Conduct sample testing of the identified key controls, and
- Report on these accordingly.

3. SCOPE





This audit examined the Council's arrangements in relation to Alternative School Provisioning, and include the following areas:

Control Areas/Risks	Issues Identified		
	Priority 1 (High)	Priority 2 (Medium)	Priority 3 (Low)
Legislative, Operational, and Management Requirements	0	0	0
Referral and Admission Policies	0	1	0
Monitoring and Management of Exclusions	1	1	0
Personalised Intervention Plans	1	0	0
Alternative School Provisioning	0	1	0
Reintegration	0	1	0
Performance Monitoring and Management Reporting	0	0	0
TOTAL	2	4	0

DEFINITIONS FOR AUDIT OPINIONS AND RECOMMENDATIONS

In order to assist management in using our reports:

We categorise our **audit assurance opinion** according to our overall assessment of the risk management system, effectiveness of the controls in place and the level of compliance with these controls and the action being taken to remedy significant findings or weaknesses.

	Full Assurance	There is a sound system of control designed to achieve the system objectives and the controls are consistently applied.
	Substantial Assurance	While there is basically a sound system of control to achieve the system objectives, there are weaknesses in the design or level of non-compliance which may put this achievement at risk.
	Limited Assurance	There are significant weaknesses in key areas of system controls and/or non-compliance that puts achieving the system objectives at risk.
	No Assurance	Controls are non-existent or weak and/or there are high levels of non-compliance, leaving the system open to the high risk of error or abuse which could result in financial loss and/or reputational damage.

Priorities assigned to recommendations are based on the following criteria:

Priority 1 (High)	Fundamental control weaknesses that require the immediate attention of management to mitigate significant exposure to risk.
Priority 2 (Medium)	Control weakness that represent an exposure to risk and require timely action.
Priority 3 (Low)	Although control weaknesses are considered to be relatively minor and low risk, action to address still provides an opportunity for improvement. May also apply to areas considered to be of best practice.

STATEMENT OF RESPONSIBILITY

We take responsibility to the London Borough of Croydon for this report which is prepared on the basis of the limitations set out below.

The responsibility for designing and maintaining a sound system of internal control and the prevention and detection of fraud and other irregularities rests with management, with internal audit providing a service to management to enable them to achieve this objective. Specifically, we assess the adequacy and effectiveness of the system of internal control arrangements implemented by management and perform sample testing on those controls in the period under review with a view to providing an opinion on the extent to which risks in this area are managed.

We plan our work in order to ensure that we have a reasonable expectation of detecting significant control weaknesses. However, our procedures alone should not be relied upon to identify all strengths and weaknesses in internal controls, nor relied upon to identify any circumstances of fraud or irregularity. Even sound systems of internal control can only provide reasonable and not absolute assurance and may not be proof against collusive fraud.

The matters raised in this report are only those which came to our attention during the course of our work and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Recommendations for improvements should be assessed by you for their full impact before they are implemented. The performance of our work is not and should not be taken as a substitute for management's responsibilities for the application of sound management practices.

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