Part 4
The Kershaw Report: Recommendations and BCASE comments


There are four general comments which apply to almost all the recommendations:

1. The recommendations are for all Birmingham schools, or at least all LA schools, but in fact the problems identified lie in only a very small number of schools, some of which are academies. It would be much more realistic and practicable to focus on those schools and not impose unnecessary requirements on schools where they are superfluous.

2. Many of the recommendations apply to academies as well as LA schools – and some of the most serious problems identified by Kershaw apply to the academies inspected - but the LA has no powers over academies, they are the responsibility of the DfE.

3. Many of the recommendations require action by the local authority. The reality is that there are 437 schools but a BCC School Improvement Team of 12 and a School and Governor Support Team of 8 (para 35). In other words the LA simply doesn’t have the capacity to carry out many of the recommendations, as a result of the huge budget cuts.

4. The report makes virtually no mention of parents and community. (There is in fact only one reference, in Recommendation 1.) This is a serious error in how the whole issue is framed in the report. The involvement of parents and community is necessary if many of the recommendations are to succeed.

Comments below in italics.

Strategy and leadership

Recommendation 1

BCC should work with its schools, academies and partners to agree and establish a vision, strategic direction and policy for working together to provide high standards of education in Birmingham and which explicitly sets out BCC’s statutory responsibilities in respect of all schools, including academies and free schools (See Section 13 of the Education Act 1996). Such a strategy should:

• address governor and headteacher relationship issues;
• demonstrate how BCC complies with statutory obligations in respect of school improvement for maintained schools;
• include information sharing agreements with other stakeholders, including academy trusts, academy sponsors and the Education Funding Agency;
• be built on soft as well as hard intelligence – not just Ofsted inspections and performance data.
• be owned by the school’s community to maximise buy-in; and
• be underpinned by a systematic gathering and analysis of relevant data and information from a range of sources in order that an accurate risk assessment can be made around each school and academy.

We agree. But some chains don’t want to engage with the LA. This raises several questions: What is meant by ‘community’ here? Each individual school’s, or the whole community? It should be ‘owned’ by the community not just to ensure ‘buy-in’ but also
because the strategy needs the input of knowledge and priorities from the community. What structures will enable the involvement of the community?

Recommendation 2

BCC must provide its senior corporate team with the support and capacity to create a climate and culture in which all staff working with schools are encouraged and supported in the process of securing good governance for all its schools. All staff should be expected to confront any malpractice by individual governors, groups of governors or a board of governors, and be held accountable when they fail to do so.

Only applies to LA schools, not academies.

Recommendation 3

BCC should establish a strategic position on cultural issues affecting curriculum, for example, insisting on access to the teaching of music and sports, and access to comprehensive sex and relationship education, and address existing concerns of failure to deliver the curriculum. The strategy should recognise the need for such issues to be addressed, and seek to implement a change of culture to ensure that instances of bad practice are not misinterpreted as race / faith issues. To achieve this BCC needs to have a strong understanding of the difference between issues of culture / tradition, and those of faith / race.

The LA can develop a ‘strategic position’, but how will it be implemented and monitored?
Most LA schools already do this.

Recommendation 4

BCC should take urgent action to ensure that all governing bodies and head teachers are provided with the training and guidance needed to be able to undertake impact assessments of curriculum plans and provision upon access to equal opportunities and fair access to the full range of learning opportunities required for girls and boys in the city. The guidance should be unambiguous about the rights of young people no matter their gender, race, faith, sexual orientation or ability.

Most LA schools already do this, so it should say ‘have the opportunity to...’.
There could be an annual update by the LA with all schools invited to send a representative to a meeting.

Training

Recommendation 5

The training of governors needs to be rigorous; governors need to be clear on their strategic role and duties, the operational role of the head teacher and the role of BCC. The training should ensure governors understand and respect the Nolan principles of public life. Whilst recognising that governors may bring their own sense of tradition and priorities to a governing body, the principles of good governance must remain paramount. BCC should take urgent action to ensure that all governing bodies are offered consistent, suitable and high quality training on their roles and duties, to include the Nolan principles and the requirements of the National Curriculum. Governors should be expected to attend the training and confirm their understanding and acceptance of the need to abide by the Nolan principles in exercising their role as governors. Decisive action should be taken by
BCC or chairs of governing bodies where any governors act in breach of these principles. A local code of conduct for governors would be of great assistance and BCC should give consideration to this.

The National Curriculum only applies to LA schools. There must be around 4,500 governors. The Governors Support Unit has 8 staff. The key task for them is to focus on the handful of rogue governors.

Recommendation 6

Chairs of governors are responsible for leading and managing the governing body. Chairs must be effective leaders, ensuring collaboration across governors and the senior management team. BCC should offer specialist training opportunities for chairs of governors, vice chairs of governors and prospective chairs of governors in relation to leadership and ensuring the application of the Nolan standards.

BCC must facilitate interaction between all chairs of governors in the city and beyond, so that best practice is shared. BCC should also encourage and facilitate chairs to attend national training and to ensure that all chairs are trained by experts who have experience of acting in this role. Chairs should also be offered a mentor with relevant experience and a good track record, ideally external to BCC. Chairs should consistently be assisted by high quality clerks, who are themselves experts in their role.

The LA already offers this.

Recommendation 7

BCC should review the way in which it can work with schools to provide expert clerking because this is a vital role in assuring adherence to the conduct of governor business which is compliant with the law. This is best done by an independent professional trained to a high standard in school clerking. BCC may consider that this is best done with a small cadre of experts trained and accredited by BCC, whose services are offered to governing bodies.

We agree. But clerks are currently paid a pittance.

Recommendation 8

Newly appointed head teachers should be provided with access to an induction programme that ensures they understand their role in supporting good governance and the processes needed to ensure that governors are provided with timely information and guidance that enables them to make strategic decisions in the interests of students. Head teachers should also be provided with an induction in relation to the BCC services available to support head teachers, governors, and members of the leadership team.

BCC has already agreed to revive its induction programme (June 9 Briefing statement).

Monitoring governance

Recommendation 9

BCC should review its systems and capacity for monitoring and auditing its schools and their governing bodies effectively. There is a need to find the means to separate the service level
agreement provided by school and governor services to schools and the management and oversight of compliance of governing bodies’ conduct in relation to their legal obligations.

Yes, but (a) the problem is academies, not LA schools, and (b) the LA doesn’t have the capacity.

Recommendation 10

BCC should consider how it may work with representatives of governing bodies in Birmingham to devise a model for assuring the work of governors through an audit and risk process that can be replicated. Consideration may be given to the appointment of governors who sit as ‘non-executives’ with responsibility for internally scrutinising processes to ensure compliance with regulations and agreed procedures. This would need to be introduced in line with appropriate legislation or statutory guidance.

In the meantime, BCC should review the role of local authority governors to ensure the governing bodies they sit on are operating properly and that the local authority governors ask BCC to intervene when necessary. At present, the role of the local authority governor is the same as other governors – involved with decision-making. There is scope for this to be widened and for local authority governors to adopt a specific monitoring role on governing bodies.

It’s a sledgehammer to crack a nut – there is no problem in most schools. This implies that LA governors are rigorously selected, whereas in reality anyone is allocated. Increasing the powers of governors in this way would play into the hands of rogue governors.

Recommendation 11

BCC should also consider its process for proposing local authority governors. For example, the current composition of a governing body should be a factor (i.e. are there any gaps in the skill set), as should taking into account any current governance issues at the school. References/previous experience of the proposed governor should also be considered.

More generally, BCC should improve its provision of governors; this should mean not just appointing volunteers, but using the pool of contacts available to secure talent, for example, experienced former head teachers, or people from the business community.

Schools are already meant to do annual audits of governing body skills. But would doing so solve the problem of rogue governors?

Recommendation 12

BCC should locate its service staff from School and Governor Support, Audit, School Improvement, Legal Services, Human Resources and Employee Relations in the localities contingent with the social care teams in order to increase its access to soft intelligence about leadership, governance and performance in schools.

In theory this might be a good idea, but in practice there are two major problems: (a) locality based integration has been the policy for several years and still isn’t working because the different services still have no common way of working; (b) the number of LA staff is so small that to divide it up makes the numbers in each locality too small to be effective.

Recommendation 13
BCC should design a set of indicators that can be used by its locality teams to enable a risk assessment to be regularly carried out about the health of governance and leadership across its schools. The indicators should be sensitive to issues of staff employment practice, staff complaints about bullying, harassment or discrimination, parental complaints and incidents of bullying, as well as complaints from governors.

This should encompass both quantitative and qualitative (i.e. soft) intelligence. There should be a set of triggers developed so that trends of failure could be identified; for example, a certain number of complaints relating to a school should trigger BCC interest / intervention, as should a high turnover of head teachers, teachers and support staff. Such an information system would also assist to benchmark school performance.

*We agree. But it doesn’t apply to academies.*

**Complaints handling**

**Recommendation 14**

BCC should establish a small ‘task force’ with the necessary skills and experience to undertake investigations into complaints or concerns about the behaviour of governors or leadership in its schools. The team, which should be composed of people with school leadership, audit and governance experience, should have the authority to communicate their findings and recommendations for action directly to the Director of Children’s Services.

*This already happens to some extent, but (a) requires the political will to tackle issues, and (b) needs more LA capacity.*

**Recommendation 15**

BCC should review the effectiveness of the management of its ‘whistleblowing’ complaints policy as a matter of urgency. It should consider how it can ensure a single point of receipt with a clear flow chart system for managing the process within specified and monitored timescales. There should be a senior member of staff allocated responsibility for monitoring and reporting on the efficiency and effectiveness of the system. Clear criteria should be agreed for judging effectiveness of the policy with reports to the Director of Children’s services made at the end of each month. BCC should also review the effectiveness of all its School and Childrens’ Services complaints policies so that all complaints are fully investigated. Complaints should be referred to a cross departmental investigative team that we recommend be established. To ensure independence, this team should be funded by BCC and not the schools.

BCC should ensure that there are effective systems in place to report back on such complaints and also to see what lessons can be learned from them.

*We agree. But will it stop the scapegoating of heads?*

**Recommendation 16**

BCC should take urgent action to resolve serious continuing concerns identified at specific schools, including safeguarding issues, site leasing issues, possible financial impropriety and failure to fully investigate whistleblowing allegations. These would include:
Follow up with whistleblowing allegation XXX
• Possible financial impropriety at Al-Hijrah and Saltley School; and
• Site leasing issues at Al-Furquan.

Agree.

Recommendation 17

BCC and SACRE should review together their respective oversight, monitoring and enforcement roles in respect of SACRE determinations within the local area, and agree and publish the delineation of these roles. This should include reference to how information and intelligence would be shared between BCC and SACRE.

Agree.

Recommendation 18

BCC should develop a dialogue with Ofsted about reviewing their procedures for evaluating the quality of governance and the curriculum in its schools, given that Ofsted no longer bears responsibility for this in the way that it has previously.

We agree. But how will such issues in academies be addressed?

Recommendation 19

BCC, in consultation with the DfE, should review the process of due diligence in determining the suitability and capacity of a multi academy trust as a sponsor of a maintained school converting to academy status.

Does the LA have the power and capacity to do this?

Recommendation 20

BCC, with its partners, should consider leading a debate about the requirements of secular schools to provide a daily act of collective worship in schools which must be “wholly or mainly of a broadly Christian character.”

We agree. Nor ‘consider leading’ but decide to lead. Must have community participation in the debate.

Recommendation 21

BCC should respond to the recommendations in this report by providing clear targets, policies and deadlines for addressing the issues raised. The appropriate Overview and Scrutiny Committee should keep under review progress against the above recommendations. BCC should also consider commissioning a follow-up review in 18 months time to evaluate the impact and effectiveness of its actions.

We agree. Again, does the LA have the capacity?
The Education Scrutiny Committee needs to radically revise its way of working if it is to achieve this. Existing agreed policies have not been implemented (eg the proposed Strategic Board). And it needs to be opened up to inputs from, among others, community representatives and the school unions.