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10th March 2014
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WLGA • CLILC

Mr Huw Vaughan Thomas
Auditor General for Wales
Wales Audit Office
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Dear Huw

We refer to your letter dated 11th February 2014 – **Covering Teachers Absence: PAC Inquiry** sent to Mr Darren Miller AM following the Public Accounts Committee (PAC) inquiry session on 21st January 2014. As you will be aware, this letter is now the public domain.

Your letter refers to providing additional information in relation to three matters that were discussed during the session. The second of these is:

'the inadequacy of HR advice provided to schools by local authorities, leading to the education consortia needing to set up their own HR advice service.'

We consider this statement to be a matter of concern, for the reasons set out below:

The establishment of the regional School Improvement Services (SIS) was founded on the principle of providing expert advice and support to schools and teachers to improve performance. To make best use of skills and resources a regional approach was recommended. In those areas where concerns about a teacher's performance were identified the concept was that HR specialists from within the SIS would work alongside Improvement Advisers in supporting a school to deal with matters which could include capability, grievance and/or conduct issues i.e. discipline. The model proposed would in fact have seen existing HR advisers move into SIS. This does not equate to the idea that HR advice was inadequate, rather it was perhaps not in the right place.

However, since the establishment of the Regional School Improvement Services HR Directors from the local authorities have been engaged with Welsh Government officials to develop an alternative and more effective model to support the aims of the SIS in a way which also takes account of wider critical issues like

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accountability and responsibility under employment law (as the local authority is the employer in law and not the SIS).

Agreement is progressing on providing a dedicated unified region-wide HR support service within each regional Consortium. This again supports the view that the move to regional consortia was always about making best use of the existing HR skills and knowledge and not because HR advice was in any way inadequate.

It is noted that the Hill review is the primary evidential source for your letter.

The HR Directors wrote to Robert Hill in March 2013 regarding the assumptions made by the then Minister who publically criticised HR advice and support to schools in his statement on 20/11/12.

This letter is attached and provides a useful summary of the issues and complexities of the employment relationship in schools, including the rationale behind the move towards corporate working. Again, evidence on this assertion was in short supply and the offer of assistance from the HR Directors was not taken up. We found this perplexing when such evidence would surely have been very helpful in developing the SIS HR services.

It also appears that your views are based largely on a range of comments drawn from 'several **head teachers ... on the lack of support they had received in dealing with long-term absence and poor attendance**' during visits to 23 schools.

There are in the region of 1650 maintained schools in Wales, the vast majority of which have chosen to engage the HR services of the local authority. The comments of a small number of head teachers, who often receive advice that is challenging in terms of the way in which the schools workforce has been managed, does not amount to a robust evidential base for the statement in your letter to the PAC when viewed in context. As previously stated we would wish to see detailed evidence of any failings in order to address any issues.

We also note that specific issues you raise as listed in your letter as areas of concern about the HR service are not the responsibility of the local authority HR service.

Under delegated responsibility school managers – Headteachers and Governors - are responsible for all school-related staffing matters. Crucially, head teachers are responsible for appointing/dismissing and managing all staff, including supply teachers and agency workers. They are responsible for the application of all employment policies within the school - grievance, discipline, sickness absence, performance management etc. They cannot simply rely on the corporate policies of the local authority, although model policies are produced as part of the HR support package for schools. They are also responsible for induction and safeguarding issues at the school. These responsibilities cannot be delegated back to the local authority, albeit support from HR and others (e.g. SIS) can and should be sought by head teachers to support them in discharging these responsibilities.

Therefore, all the specific issues you list in your letter are the primary responsibility of the head teachers and governing bodies, and not the HR service.

There is a very real danger in failing to carefully distinguish between (a) head teachers' and governing bodies' responsibilities for managing and developing their schools workforce and (b) the specialist support which is provided by local authority teams. We have noted that "workforce" and "HR" are terms which are too often used interchangeably, leading to a lack of clarity about accountability.

It is noted that, within your own recommendations in your report, are the following:

2. b Schools should apply their attendance management policies rigorously, particularly in the management of long-term absence

2. d Schools should ensure that they provide sufficient information and support to supply teachers (for example, daily timetable, lesson plans, and material, school policies such as approach to behaviour management and access to IT) so that they can work effectively

You also endorse those recommendations of Estyn which say that schools should:

- R1 manage teacher absence more efficiently;
- R2 improve the quality of teaching and learning in covered lessons by making sure that the work is set an appropriate level and staff receive enough information on the individual needs of learners;
- R3 support supply and cover staff to improve their classroom behaviour management techniques
- R5 ensure that supply staff are included in performance management arrangements;
- R6 provide more professional development opportunities for supply staff;
- R7 make sure that supply staff receive essential information on health and safety and safeguarding, including the contact details of the named child-protection officer at the school.

It is important to note that, later in your letter under (3), you fully acknowledge that cover and absence issues are matters for school leaders and managers when you refer to the inspection guidance for secondary school inspections as a means of inspectors picking up on absence and cover issues:

'Inspectors should judge how efficiently and effectively leaders and managers plan and carry out strategies to manage staff and resources. Inspectors may consider whether there are any clear management features that contribute to or detract from the efficient management of resources'.

Given our differing opinions on some of these issues we feel it vital that counter balance is provided.

It might also be useful if you were to meet with HR professionals to seek a fuller picture about the services provided to schools by HR teams, alongside the people management role/s played by School Leaders.

You may then want to reconsider the issues as presented to the PAC since, as our letter hopefully highlights, this is an issue that is essentially contested. We are also copying this letter to Darren Millar AM.



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Robert Hill

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06/03/2013

Dear Mr. Hill

I am writing as Chair of the local government all-Wales HR Directors network which comprises the Directors and Heads of HR from the 22 local authorities in Wales.

We discussed the Education Minister's 20th November statement on 'The Future Delivery of Education Services in Wales' at our meeting in December 2012, and noted his view that *'All too often I am being told that local authorities have failed to provide adequate tailored human resources support to schools.'* While this was the catalyst for our decision to write it brought into focus a range of broader concerns that we believe need to be considered in the context of school performance.

A major issue that is often not well understood is that of the relationships between the Local Education Authority, the Head Teacher and teachers and the Governing body. While the Education authority is nominally the employer, the Director of Education has no power to dismiss a poorly performing Head Teacher or Teachers. Only the Governing body has this power, and in our experience can be reluctant to use it, even where there are the strongest indications that it should. We can provide examples of situations where this has been the case.

Because of the complexity of the relationships, the position of the council and that of individual officers concerned in providing HR support can be very difficult. In our experience again, HR advice may not be welcomed by either the Governing body and / or the unions because it exposes local management weaknesses and / or the failings of a teacher or Head Teacher. We have had a number of instances where HR advice has been complained of because of this factor. That does not mean that the HR advice was wrong or not adequate.

The above issue and the need to address the fragmentation of responsibilities and accountabilities is one which we consider key in this matter. However, the following information may also help clarify the current situation:

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In terms of the *tailoring* of HR support to schools, as with any other service authorities have sought to become more efficient and effective. There has therefore been a move away from separate dedicated departmental teams to a more holistic corporate approach. This has in our experience enabled more of the HR resource to be available to respond to schools issues and the development of a broader range of HR officer skills.

It is worth also highlighting the fact that the local authority has two roles in relation to schools. The one is to provide HR services directly to those schools that choose to buy that service. The second is its statutory role as the employer. In providing the first service to schools the HR function clearly cannot do anything that could impact negatively on its statutory role. The advice and guidance given must be professional, timely, fair and reasonable. Failure to do this could result in the Local Authority as the statutory employer facing an Employment Tribunal and not the Governing Body.

Finally, you will be aware that HR services will be included as part of Phase 2 of the development of Regional Schools Improvement Services. It is important that we base any future models and structures on sound business case and good practice, and it will be important to have concrete examples of any current existing problems in order to ensure that these are resolved and not replicated. With this in mind we would welcome the opportunity to examine the specific problems the Minister has been informed of.

We believe the current review of the delivery of education services in Wales provides a timely opportunity to examine and address the issues we have outlined, and we strongly advise that that of the role of the Governing body and local accountabilities should be included within the terms of reference. The HRD Network is also keen to assist the review in any way possible and we would very much welcome any requests for our involvement on the relevant issues

Yours sincerely



Alwyn E. Jones
Head of Human Resources