

Public Interest Report

October 2005



# Public Interest Report

**Manchester City Council**

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# Contents

Introduction	4
Background	4
Approach	5
Overall conclusions	5
The way forward	11

### Introduction

- 1 I am the auditor appointed by the Audit Commission under Part II of the Audit Commission Act 1998 ('the 1998 Act') to audit the accounts of Manchester City Council ('the Council'). Section 8 of the 1998 Act requires me to consider whether, in the public interest, I should report on any matter coming to my notice in the course of the audit in order for it to be considered by the body concerned or brought to the attention of the public. This is an immediate report issued under section 8(b) of the 1998 Act.

### Background

- 2 Towards the end of 2002, a number of allegations under the protection of the Public Interest Disclosure Act 1998 ('PIDA 1998') were made to the Audit Commission in respect of Whalley Range High School. Those allegations were passed to my predecessor and subsequently to me to investigate as the appointed auditor to the Council. The principal allegations were that:
  - substantial payments were made to a number of members of staff on termination of their employment;
  - several social events were held at the School with a lack of clarity regarding funding;
  - there were inappropriate personal relationships between contractors employed by the School and the Headteacher; and
  - there was a history of nepotism in appointments at the School.
- 3 At the time the allegations were made, work was also being undertaken by the Council's Internal Audit to investigate payments made to senior staff at the School in respect of the Excellence in Cities (EiC) initiative, the governance arrangements relating to EiC and the overall remuneration package of certain senior staff. It was agreed with the Council that my investigation would include consideration of these issues.

## Approach

- 4 In November 2002, my predecessor informed the Headteacher and the then Chair of Governors that several allegations of financial mismanagement and lack of probity had been made. In addition to Audit Commission staff visiting the School, my predecessor provided the Headteacher with details of the allegations in December 2002. Following an inconclusive initial response from solicitors representing 'the School' (which was stated as representing the response of the Headteacher and Governors) I set out, in August 2003, a series of statements requesting either confirmation or correction and I asked a series of further detailed questions. In February 2004, a detailed response was received from solicitors acting for 'the School' which included a significant number of supporting documents for me to consider, alongside further information obtained from the Council.
- 5 In November 2004, I issued a draft report to the Council, the Governing Body of the School and the individuals affected or criticised in my report. Since that time I have been considering a significant volume of comments, representations and additional material in respect of my report from a number of people.
- 6 This report sets out the key findings from my investigations in a summarised form for the benefit of the wider public. I am aware of a considerable amount of speculation in the media as to the scope of my investigation and the content of my report. This public interest report is designed to make clear to the public what I have been examining and what my conclusions are.

## Overall conclusions

- 7 Whalley Range High School represents an educational success story, having been transformed from being a school in significant difficulty ten years ago to now being a thriving and successful school. I wish to make it clear that my report makes no adverse comments about the educational effectiveness of the School.
- 8 Whilst a number of the allegations made to the Audit Commission are not proven or supported by the available evidence, my conclusion is nevertheless that there has been a significant breakdown in appropriate standards of governance and accountability at the School.

## 6 Public Interest Report

- 9 In my view, the Governing Body of the School has, until recently, failed to properly perform its role. The Headteacher has made serious errors of judgement in her dealings with a number of staffing matters, particularly in relation to the role and remuneration of her sister. Insufficient consideration has been paid to the high relative cost of school management. The culture within the School has been lacking in openness and accountability and in my view it is not surprising that allegations of nepotism have been made. Payments to staff on termination of employment outlined below are in my view contrary to law. The lack of intervention by the Local Education Authority (LEA) raises questions about the level and effectiveness of LEA support to the Governing Body and the effectiveness of LEA monitoring of expenditure incurred by the School. Improvements in governance, openness and accountability need to be made to ensure the continued success of the School and to restore confidence in the School's stewardship of public money. Since the start of my investigation a number of substantial steps to improve governance and accountability have already been taken by the LEA and the Governing Body which are reflected later in this report.
- 10 The following sections of this report set out the reasons for my overall conclusions along with my view of the way forward.

### **Payments to staff on termination of employment**

- 11 Allegations relating to payments made on termination of employment to teaching staff were not proven. Adequate reasons were evident and documented for such payments. But in my view, three payments made to non-teaching staff were unwise and not properly justified.
- A caretaker resigned in 2000 and was paid an honorarium of £8,900 (equivalent to six months salary). The school states that this was following recognition by the Headteacher and governors of services over ten years 'far over and above the terms of his employment'. We found no reference to the payment being formally reported in the minutes of the Governing Body. The calculation of the amount of the payment has not been explained. The school's document which constitutes its scheme of delegation states that pay discretions are delegated to the Headteacher.
  - The same caretaker received £1,300 as a temporary ex-gratia award (in the form of a loan) in order to secure reliable transport for his subsequent employment. Only £300 has been repaid and the balance has been written-off. In our view there is no justification for public funds to be used this way.
  - Another caretaker resigned in 2001 and was paid £2,000 in respect of three months pay in lieu of notice. The school states that the payment followed advice from the LEA. Neither has a written record as to any advice given by the LEA.

- 12 In my view, the payments set out above are not reasonable and are an inappropriate use of public funds. The written evidence to support the payments is unsatisfactory and the proposal to make such payments should have been reported to Governors given their unusual nature. In my view, the Headteacher should not have exercised her delegated authority to make these payments. I further consider the above payments to be contrary to law within the meaning of section 17 of the Audit Commission Act 1998. However, I have decided not to make an application to the court for a declaration that the items are contrary to law on the grounds that the cost of doing so would outweigh the benefit and that no other useful purpose would be served by such action. This public interest report is considered a more useful means of addressing the issue than legal proceedings.

### **Social events at the School**

- 13 Following allegations made it was found that the following celebrations were held at the School:
- two events to celebrate the Headteacher's award of a knighthood (2 February 2001 and 9 March 2001); and
  - celebration for the completion of the Council's internal audit (approximately 150 people).
- 14 The catering and other costs of the celebrations for the Headteacher's award totalled approximately £3,300 and were paid for from the School's bank account. The catering cost of the celebration for 'passing' the internal audit was £700.
- 15 The School states that 'these were social occasions to celebrate particular achievements' and that they were funded out of unofficial funds and not public money delegated to the School. The money was said to be raised through voluntary work undertaken at the School in order to raise funds, eg Manchester City FC (supporters) car parking. If the School is treating income from car parking as unofficial funds it is in breach of LEA guidance which states that income from car parking should be treated as official income due to VAT implications.
- 16 The latest response from solicitors representing the Headteacher states that 'regardless of official or non-official, all funds are paid into and administered through the School's bank account and that since 1999 Whalley Range High School has only managed a single bank account via the LEA bank scheme'. The LEA has stated that there is a PTA fund at the School but solicitors representing the Headteacher state that this account is dormant.
- 17 There is a clear lack of understanding of the distinction between official and unofficial funds at the School and how these should be managed. Unofficial funds should be held and accounted for separately and LEA guidance on what is or is not official or unofficial funds should be followed. All expenditure incurred by the School should be for a proper purpose, should represent value for money and best value. The cost of celebrations in respect of the above two events is, in my opinion, excessive and it should not have been met from funds raised or provided for the benefit of the School.

## **Personal relationships between contractors engaged by the School and the Headteacher**

- 18 It is clear that in some instances the School entered into contracts with individuals with whom the Headteacher had close personal relationships. Consultancy fees valued at approximately £13,200 were paid to a personal friend of the Headteacher between February 2000 and the autumn of 2001. There is no evidence that the Governing Body was informed in respect of approximately £9,000 of this work. The Headteacher, through her solicitor, states that her friend had expertise which was recognised nationally and that tenders were not required because the extent of the work was not known and the work was paid on an hourly basis. The absence of a transparent decision-making process in respect of these contracts demonstrates a clear lack of understanding or awareness on the part of the Headteacher of the Nolan Committee's seven principles of public life (as set out in the Nolan Committee's first report into Standards in Public Life).
- 19 In my view, the Headteacher should have taken greater steps to implement and follow proper procedures for the letting of contracts. If she had done it would have protected the School from allegations of impropriety and nepotism. Details of the contracts should have been placed before the Governing Body prior to them being entered into together with a clear declaration of the personal relationship that existed between the contractors and the Headteacher. Whilst the Headteacher believes that competitive and effective services were obtained it is equally important that the School is able to demonstrate fairness and openness in the letting of such contracts.

## **Payments to Dame Jean Else (Headteacher)**

- 20 Dame Jean Else has been employed as Headteacher of Whalley Range High School since 1994. I have reviewed her remuneration arising from employment with the School as a result of allegations made to Internal Audit about irregular and excessive payments. My review has considered the period since 1999/2000 because this was the first year that her remuneration as Headteacher was supplemented by a significant amount of additional income from external work. During this period, her remuneration increased from £76,193 to £138,413 in 2003/04 having peaked at £141,653 in 2002/03 with the addition of income relating to EiC and other external work such as work for the Department of Education and Skills relating to the National College of Leadership and the Headteachers focus group.

- 21 Overall, the Headteacher's remuneration is high compared to other Headteachers in the LEA. The view of governors, as recorded in Governing Body minutes, is that Dame Jean was working far in excess of that required in her terms and conditions and that she has an exceptional range of duties beyond those described in the Teachers Pay and Conditions Document. However, the decision-making process in relation to the Headteacher's honorarium and EiC income has been poorly managed by the Headteacher and the former Chair of Governors. Specifically, there have been weaknesses in the following aspects.
- Reporting and openness. No written reports were presented to the meetings at which key decisions were taken to enable governors to challenge and evaluate the proposals in an objective manner. This is particularly the case in relation to a decision in February 2001 to award Dame Jean an honorarium equivalent to 20 per cent of gross annual salary for the period 1 April 2001 to 31 March 2002. The full picture regarding the Headteacher's remuneration package, including the amount of external work undertaken, was not presented to the whole Governing Body to ensure openness and accountability in the arrangements. No attempt appears to have been made to assess the potential negative impact this might have on the School, eg that the Headteacher was released from 9.00am to 3.00pm each day she was involved in externally remunerated EiC work without any reduction in her salary to recognise her reduced services to the School during that period. The LEA takes the view that the Headteacher should have considered the extra workload and reported fully to the Governing Body so that they could have taken a view on this. The LEA states that it is entitled to assume a Headteacher would do this.
  - Value for money. No comparison was made with other schools in respect of either elements of or the whole remuneration package. In addition, the remuneration and size of the senior management team at the School was not taken into account. It is not clear to me that the decision to allow Dame Jean to receive 100 per cent of all income from external work was soundly-based. In addition, the decision to award Dame Jean 100 per cent of the income from external work and the effect on the running of the School should have been subject to regular review in the light of changing circumstances.
  - Financial health. There is no evidence that the decision to consolidate the honorarium into basic pay took account of the School's financial position, as required by the agreed pay policy.
- 22 I have recommended that the LEA should review the value for money of all the remuneration currently paid to the Headteacher and the senior management team.

## Payments to Maureen Rochford

- 23 Maureen Rochford is the sister of the Headteacher. I have reviewed her remuneration arising from her employment at the School from 1995, when she commenced work as a part-time Clerical Assistant. Since that time her salary has increased substantially to £60,772 in 2003/04 having peaked at £79,003 in 2002/03, with the addition of income relating to the EiC function and the EiC conference. She is currently Assistant Headteacher at the School.
- 24 Maureen Rochford has at a minimum had three step changes in responsibility since 1995 and four distinct posts, namely, Clerical Assistant; Administration Manager; Finance Manager and Assistant Headteacher.
- 25 I have reviewed the process by which Maureen Rochford was appointed to successive posts as set out above, bringing with them significant increases in remuneration. I have found defects in the documentation relating to application forms, interview notes, reasons for appointments and the authorisation process. Solicitors representing the Headteacher state that there have never been any 'new appointments' since the initial employment as clerical assistant to the present time and that the changes were re-grades. However, I consider that given the scale and nature of the changes this fails to recognise the true position.
- 26 Solicitors representing the Headteacher state that the decision to appoint Maureen Rochford to the senior management team in November 2001 was made by the Headteacher under her delegated powers and that the former Chair of Governors had full knowledge of the appointment.
- 27 Notwithstanding the arguments put forward to justify the increases in responsibility and remuneration of Maureen Rochford, the Headteacher has, on several occasions, exercised her delegated authority in relation to the appointment process for her sister and the remuneration of her sister at the School. In my view, the Headteacher's delegated powers should not have been exercised in view of the conflict of interest arising from her immediate family relationship with Maureen Rochford. It was incumbent on the Headteacher to seek professional advice on this clear conflict of interest and to follow it. I regard it as a serious and continuing lapse of judgement on the part of the Headteacher that this did not happen. The Headteacher should not have taken any part in the appointments, promotions and re-grades and the Governing Body should have been aware, and if not they should have been made aware, of the conflict of interest from the outset.
- 28 The value for money of the remuneration paid to Maureen Rochford in respect of her substantive roles since 1995 is questionable given the rate of increase, the lack of objective comparison with other schools and the overlap of responsibility relating to financial administration with Stewart Scott, also a senior and highly remunerated employee who has also received significant increases in remuneration since his appointment at the School in 1999. I have recommended that the LEA and Governors should review and evaluate the current roles and remuneration of Maureen Rochford and Stewart Scott given the disproportionately high cost of the finance function in comparison with other schools.

## Governance and value for money

- 29 The previous sections of this report raise concerns about key aspects of governance at the School.
- 30 My review of matters considered in this report indicates that the responsibilities of the Governing Body in these areas have not been fully discharged. There has been a failure to place all appropriate information before Governors to enable them to rigorously challenge, evaluate and assess the effect of issues being considered. The response from solicitors representing 'the School' is that there was no custom and practice and the arrangements were unique, or that the arrangements were the subject of widespread and public knowledge, including the LEA. The former makes it all the more important that there is full disclosure and challenge. The latter takes no account of the principles of governance and demonstrates a lack of awareness of the principles of good conduct in public life.
- 31 I conclude that the Governing Body has not, until recently, adequately discharged its duty to provide a strategic view, act as a critical friend and ensure proper accountability.
- 32 I also have concerns about value for money. A comparison of current senior management salary costs with other secondary schools in the LEA indicates a need to review the value for money of the comparatively high senior management costs in the School. I recommend that the LEA and Governors carry out such a review.

## The way forward

- 33 It is clear that action needs to be taken to achieve the improvements that need to be made in the School's stewardship of public money. I have made a number of detailed recommendations and I am aware that these are already being implemented both by the School and the Governing Body.
- 34 I note that LEA officers have been working closely with the current Chair and Deputy Chair of Governors and that significant progress has already been made as follows:
- a new pay policy has been determined;
  - the scheme of delegation and the constitution of committees at the School has been reviewed and amended;
  - the Council is undertaking, during the current year (2005/06), a review of its support to schools and its monitoring arrangements of schools' compliance with best practice governance arrangements; and
  - the membership of the Governing Body has changed considerably since many of the events covered in this report.

## 12 Public Interest Report

- 35 The Council has welcomed the Governors' willingness to accept the Audit Commission recommendations and to work with the LEA in implementing the action plan which is now being monitored. The LEA and the Governors have taken an active and positive role in progressing my recommendations. The important task now is to build upon and embed the improvements necessary in governance and accountability.

Clive Portman  
District Auditor  
October 2005