



Department for Levelling Up, Housing & Communities

Lyn Carpenter
Chief Executive
Thurrock Council

Max Soule
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**Department for Levelling up, Housing
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By email

2 September 2022

Dear Ms. Carpenter,

I am writing to inform you that the Secretary of State for Levelling Up, Communities and Housing has today made Directions, under section 15(5) and (6) of the Local Government Act 1999 (“the Act”), in relation to your Authority. I enclose a copy of the Directions, together with an Explanatory Memorandum, which will also be published on gov.uk, together with this letter.

The Directions implement an intervention package which is described below. In this case, the Secretary of State is exercising his powers under section 15(11) of the Act to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considers the failures of the Council’s compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This is because of the following:

- the scale of the financial and commercial risks potentially facing your Authority, which are compounded by the Authority’s approach to financial management and the seriousness of the allegations that have been made by third parties about the processes that have been applied to the operation of the Authority’s commercial strategy, and;
- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they are taking to address the issues, taking account of the scale and pace of the response required.

Taken together, the Secretary of State considers that there is a pressing case for urgent government action to protect the interests of the residents and taxpayers of Thurrock, as well as to provide assurance to the sector that action is being taken. The scale and nature of the issues is emerging rapidly, and the Secretary of State is concerned that further evidence of failure could come to light very quickly and require prompt action.

You will see that the Directions and Explanatory Memorandum provide for the Secretary of State to nominate Essex County Council in the role of Commissioner. It is the Secretary of State’s view that local authorities are often best placed to address

local and regional issues and that sectoral intervention is most effective when it is built on foundations of local knowledge, strong relationships and existing collaboration between civic and business leaders. That is the approach that the Secretary of State has implemented in Liverpool. Building on the strong collaboration and existing partnership across Greater Essex and the Association of South Essex Local Authorities (ASELA), the Secretary of State is nominating Essex County Council to the role of Commissioner. This recognises the expertise and capability of Essex County Council in making this appointment; and our shared intention of correcting as quickly and as effectively as possible the basis for this intervention and acting in the interests of local taxpayers in Thurrock and Greater Essex.

The intervention package is formed of two complementary parts: the first is that your Authority's functions over managing its financial resources, exercise of the statutory requirement to arrange for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority will be overseen by Essex County Council, in the role of Commissioner. This is using the Secretary of States powers under Section 15(5) and 6 of the Act, in order to address the financial risk and debt concerns at Thurrock Council.

The second part is that the Secretary of State is also exercising his powers under Section 10 of the same Act to also appoint Essex County Council as a Best Value inspector, to inspect the governance, audit (internal and external), risk management, overview and scrutiny functions of the Council, and consider their impact on service delivery. This is in order to assess the extent of the failure to comply with the Best Value duty by your Authority, beyond the management of financial resources, and to mitigate the risk to service delivery that any further failure may have. Both parts share a common goal, which is to protect the interests and services of the people of Thurrock.

The Secretary of State has made provisions in the Directions in relation to the Commissioner, including for them to perform certain functions and roles overseeing actions which the Authority is to perform. The Commissioner is accountable to the Secretary of State in that it has been nominated by him and can have its nomination withdrawn by him.

The Directions set out the following functions to be exercised by the Commissioner:

- All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority.
- The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority, to include:
 - providing advice and challenge to the Authority on the preparation and implementation of a detailed plan to close any short and long-term budget gaps, including a robust multi-year savings plan;

- providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority, strictly limiting future borrowing;
- scrutiny of all in-year amendments to annual budgets;
- the power to amend budgets where the Commissioner considers that those budgets constitute a risk to the Authority's ability to fulfil its Best Value duty;
- providing advice and challenge to the Authority on the preparation of sustainable and affordable capital, investment and treasury management strategies; a strict debt reduction plan; and a revised minimum revenue provision (MRP) policy;
- providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making; and
- ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.

The exercise of these functions should enable the Commissioner to oversee the changes that are needed and to make sure that the work currently being started is continued at pace and embedded. It is envisaged that, in exercising any function, the Commissioner will have regard to any views of the Authority's Members and officers arrived at through their normal processes of consideration.

The Directions require your Authority to take certain actions:

1. Prepare and agree an Improvement Plan to the satisfaction of the Commissioner (which may include or draw upon improvement or action plans prepared before the date of these Directions) within three months, with resource allocated accordingly, to include at a minimum:
 - a. an action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;
 - b. an action plan to ensure the Authority's capital, investment and treasury management strategies are sustainable and affordable;
 - c. a strict debt reduction plan and an updated minimum revenue provision (MRP) policy;
 - d. an action plan to ensure the Authority is complying with all relevant rules and guidelines relating to the financial management of the Authority; and
 - e. a suitable scheme of delegations for financial decision-making.
2. To report to the Commissioner on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as the Commissioner may direct.

3. To undertake in the exercise of any of its functions any action that the Commissioner may reasonably require to avoid so far as practicable incidents of poor financial governance or financial mismanagement that would, in the reasonable opinion of the Commissioner, give rise to the risk of further failures by the Authority to comply with the Best Value duty.
4. To allow the Commissioner at all reasonable times, such access as appears to the Commissioner to be necessary:
 - a. to any premises of the Authority;
 - b. to any document relating to the Authority; and
 - c. to any employee or Member of the Authority.
5. To provide the Commissioner, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioner may reasonably require from time to time to carry out their functions and responsibilities under these Directions.
6. To pay the Commissioner reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
7. To provide the Commissioner with such assistance and information, including any views of the Authority on any matter, as the Commissioner may reasonably request.
8. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

I appreciate that the Authority has already started taking some steps in relation to these actions and thank you for the detail you have already provided. The Directions also require your Authority to take certain actions, including providing the Commissioner with such reasonable amenities, services and administrative support as the Commissioner may reasonably require to undertake their functions and responsibilities under these Directions. They also require your Authority to allow the Commissioner at all reasonable times access to any premises of your Authority, to any document relating to your Authority, and to any employee or member of your Authority.

The Directions also require your Authority to pay the Commissioner reasonable expenses and such fees as the Secretary of State determines to be paid to them. The Secretary of State is mindful of the need for Commissioner remuneration to represent value for money for local taxpayers. In recognition of the nature and scale of the intervention, he has determined fees of £1,100 per day and Essex County Council will be paid the equivalent up to a maximum of 150 days per annum for each year. The Secretary of State also expects the Commissioner to be paid reasonable expenses in accordance with the rules for senior officers set out in your Authority's staff handbook. However, in light of the Commissioner role being given to the Council as an individual entity, rather than to a person acting as an individual, the Secretary of State appreciates that a different approach may be required and is committed to keeping this under review. The guiding principle is ensuring value for the taxpayer and transparency.

The Directions will remain in force until 1 September 2025 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Finally, you will wish to note that the Secretary of State has asked for six monthly reports from the Commissioner, or at such other times as he might agree with the Commissioner, which allows for a process for regular review of whether it would be appropriate for any function exercisable by the Commissioner to be returned to the Authority. The Secretary of State has not ruled out the possibility that further functions might be brought under the control of the Commissioner. The first report is expected as soon as is practicable after the date of the intervention, within the first three months.

I am copying this letter to your Authority's acting section 151 Officer, and to its Monitoring Officer. In light of this urgent action and the requirements of section 15(12) of the Act, I will also be writing to the Local Government Association as a representative body of Best Value authorities.

Yours sincerely,

Maxwell Soule
Deputy Director, Local Government Stewardship