

STATUTORY DIRECTION TO SANDWELL METROPOLITAN BOROUGH COUNCIL IN RELATION TO CHILDREN'S SERVICES UNDER SECTION 497A(4B) OF THE EDUCATION ACT 1996

WHEREAS:

1. The Secretary of State for Education ("the Secretary of State") has noted in respect of Sandwell Metropolitan Borough Council ("the Council") that following earlier 'inadequate' judgements, performance in respect of services for children who need help and protection has remained 'inadequate' as detailed in Ofsted's inspection report of 5 June 2015 ("the 2015 Ofsted report").

2. The Council's failure to put in place effective improvement plans to address the weaknesses identified by Ofsted in 2015 led the Secretary of State to issue a statutory direction on 7 January 2016, requiring the Council to take a number of steps to improve the quality of services, including to work with Eleanor Brazil, the then Commissioner of Children's Services in Sandwell.

3. The Secretary of State has carefully considered:

- a. The 2015 Ofsted report, which found again that children's services are 'inadequate'. The sub-judgements for children who need help and protection, and leadership, management and governance were also rated as 'inadequate';
- b. The former Children's Services Commissioner's report, of 4 July 2016, which highlighted the continued failure to achieve progress, which identified that the Council is unlikely on its own to deliver the improvement needed, and which recommended that services are removed from local authority control for a period of time;
- c. Ofsted's letter of 19 July 2016 to the Council, recording the findings of its monitoring visit of 6-7 June 2016, that *'there has not been sufficient progress since the last inspection to improve services to children in need of help and protection'*; and
- d. Ofsted's letter of 20 September 2016, recording the findings of its monitoring visit of 6-7 September 2016, which concluded that *'the local authority has made positive changes since the last monitoring visit'* but outlines a number of areas where performance remains poor or inconsistent.

4. The Secretary of State is therefore satisfied that the Council is still failing to perform to an adequate standard, some or all of the functions to which section 497A of the Education Act 1996 ("the 1996 Act") is applied by section 50 of the Children Act 2004 ("children's social care functions"), namely;

- a. social services functions, as defined in the Local Authority Social Services Act 1970, so far as those functions relate to children;
- b. the functions conferred on the Council under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph a. above); and

- c. the functions conferred on the Council under sections 10, 12, 12C, 12D and 17A of the Children Act 2004.

5. The Secretary of State has appointed Malcolm Newsam as Commissioner for Children's Services in Sandwell ("the Children's Services Commissioner") in place of Eleanor Brazil, in accordance with, and for the purposes of, the terms of reference ("the Terms of Reference") set out in the Annex to this direction.

6. The Secretary of State, having considered representations made by the Council, considers it expedient, in accordance with her powers under section 497A(4B) of the Education Act 1996, to direct the Council as set out below in order to ensure that all of the Council's children's social care functions are performed to an adequate standard.

NOW THEREFORE:

7. Pursuant to her powers under section 497A(4B) of the Education Act 1996 Act, the Secretary of State directs the Council as follows:

- a. To comply with any instructions of the Secretary of State or the Children's Services Commissioner in relation to the improvement of the Council's exercise of its children's social care functions and provide such assistance as either the Secretary of State or the Children's Services Commissioner may require;
- b. To co-operate with the Children's Services Commissioner, including on request allowing the Commissioner at all reasonable times access:
 - i) to any premises of the Council;
 - ii) to any document of, or relating to, the Council; and
 - iii) to any employee or member of the Council,

which appears to him to be necessary for achieving the purposes of, and carrying out the responsibilities set out in, the Terms of Reference;

- c. To provide the Children's Services Commissioner with such amenities, services and administrative support as he may reasonably require from time to time for the carrying out of his responsibilities in accordance with the Terms of Reference, including:
 - i) providing officers' time or support;
 - ii) providing office space, meeting rooms or computer facilities;
- d. To develop and draft
 - (i) a Memorandum of Understanding in agreement with the Children's Services Commissioner to be signed by the Council and Children's Services Commissioner by 1 December 2016 and which shall include: the Council's proposed arrangements for transferring its children's social care services to a newly-

created body (to be called a children's services trust) set up for this purpose; and

(ii) an improvement plan to include the proposed arrangements for monitoring progress and reviewing the improvement plan as appropriate.

- e. To co-operate with the Secretary of State and her advisers, including by:
 - i. Attending and participating in reviews of progress on dates to be notified to the Council;
 - ii. Preparing and making available to the Secretary of State's advisers, when requested, up to date improvement plans and assessments of progress evidenced by performance data;
 - iii. Reporting to the Secretary of State on the nature and rate of improvement of children's services when instructed to do so.

8. In consequence of this direction, the Secretary of State for Education revokes the direction issued to the Council dated 7 January 2016.

9. This direction will remain in force until it is revoked by the Secretary of State.

Signed on behalf of the Secretary of State for Education

A handwritten signature in cursive script, appearing to read 'Suzanne Lunn', written in black ink.

SUZANNE LUNN

A Senior Civil Servant in the Department for Education

6 October 2016

ANNEX

Commissioner for Children's Services in Sandwell

Terms of Reference

In all cases where a Council has persistently or systemically failed to discharge its children's social care functions there is a presumption that service control will be removed from the council unless there are good reasons not to do so. The Secretary of State believes that children's social care services should be removed from Sandwell Metropolitan Borough Council for a period of time, and that the best model to achieve improvement is for the Council to transfer functions to a new body, set up for the purpose of delivering children's services.

In line with the recommendations set out in the Ofsted report of children's social care published on 5 June 2015, the recommendations of the report of the former Children's Services Commissioner for Sandwell of 4 July 2016, and the Department's intervention policy, the Children's Services Commissioner is expected to take the following steps:

- work with the Council to support its discussions on the establishment of a new body to deliver high quality children's social care services and oversee the transition to those new arrangements;
- shape the Council's strategic vision for the transformed service and its scope of delivery;
- advise on any senior appointments to the body and lead or participate in recruitment assessment processes as required;
- issue any necessary instructions to the local authority for the purpose of securing immediate improvement in the authority's delivery of children's social care; to identify ongoing improvement requirements; and to recommend any additional support required to deliver those improvements;
- provide quarterly progress reports to the Minister of State for Vulnerable Children, and more frequently if delivery of children's services is at risk, if progress towards new arrangements is not being achieved or if the Minister otherwise requests; and
- identify key deliverables within six weeks of appointment and produce a plan detailing the outputs and key performance indicators the Commissioner will meet over the duration of the project, agreeing this with the DfE.