

STATUTORY DIRECTION TO NORTHAMPTONSHIRE COUNTY 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 Northamptonshire County Council ("the Council") that performance of children's social care services has significantly deteriorated, as detailed in Ofsted's letter dated 13 November 2018 following a focussed visit carried out on 17 and 18 October 2018 ("The 2018 Ofsted letter").
2. On 10 May 2018, the Secretary of State for Housing, Communities and Local Government issued Directions to the Council ("The MHCLG Directions") under section 15(5) and (6) of the Local Government Act 1999 ("the 1999 Act"). These Directions followed the report dated 15 March 2018 of the Best Value Inspection of the Council by Max Caller CBE, published and given to the Council on 15 March 2018. The MHCLG Directions provided for Commissioners appointed by the Secretary of State for Housing, Communities and Local Government ("The MHCLG Commissioners") to exercise functions of the Council associated with governance and scrutiny, appointment of statutory officers and strategic financial management.
3. The Secretary of State has carefully considered:
 - a. The 2018 Ofsted letter, which found that children's social care services have significantly deteriorated since inspection in 2016 and issued two areas for priority action around workforce capacity and case allocation and progression;
 - b. The history of children's social care performance in Northamptonshire, including:
 - i. Ofsted's report of April 2016 following inspection under the single inspection framework on 8 February to 10 March 2016, which found children's social care services to be 'requires improvement' overall, and across every category;
 - ii. Ofsted's report of August 2013 following inspection of services for looked after children on 15 July 2013, which found that services for looked after children were 'inadequate' overall, and 'inadequate' across every category;
 - iii. Ofsted's report of May 2013 following inspection of adoption services on 22 March 2013, which found that adoption services were 'inadequate' overall. Outcomes for children and young people were 'inadequate'. The quality of the service was 'inadequate'. Leadership and management was 'inadequate'. Safeguarding children and young people was 'adequate'.
 - iv. Ofsted's report of March 2013 following inspection of the arrangements for the protection of children on 25 to 29 February 2013, which found that arrangements to protect children in

Northamptonshire were inadequate overall, and across every category.

- v. The decision following these 2013 reports to issue a statutory direction on 2 October 2013 requiring the council to take various actions to secure improvement of children's services.
 - c. The letter of 2 November 2018 from the MHCLG Commissioners, which set out a number of concerns about the performance of children's services and requested additional capacity for the Commissioner team to provide oversight of the operation of children's services.
 - d. The subsequent direction of 30 November 2018 appointing Malcolm Newsam CBE as Commissioner for Children's Services in Northamptonshire ("the Children's Services Commissioner").
 - e. The decision by the Secretary of State for Housing, Communities and Local Government to implement the proposal to create two unitary district councils to replace current local government arrangements.
 - f. The report by the Children's Services Commissioner dated 20 February 2019 on current performance in Children's Social Care and the optimum delivery and governance arrangements for children's services in the event of a reorganisation of local government in Northamptonshire.
4. The Secretary of State is therefore satisfied that the Council continues to fail 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 replaced Malcolm Newsam with Andrew Christie as Commissioner and Clare Chamberlain as Support Commissioner for Children's Services in Northamptonshire ("the Children's Services Commissioner" and "the Children's Services Support Commissioner" respectively and jointly "the Children's Services Commissioner Team") 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. Lincolnshire County Council continue to act as the Department for Education's improvement adviser.
7. The Secretary of State, having considered representations made by the Council, considers it expedient, in accordance with his 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.
8. NOW THEREFORE:

9. Pursuant to his 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 Team 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 Team may require;
 - b. To co-operate with the Children's Services Commissioner Team, including on request allowing the Children's Services Commissioner Team at all reasonable times access to:
 - i. any premises of the Council;
 - ii. any document of, or relating to, the Council; and
 - iii. any employee or member of the Council,which appear to them 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 Team with such amenities, services and administrative support as they may reasonably require from time to time for the carrying out of their responsibilities in accordance with the Terms of Reference, including:
 - i. providing officers' time or support; and
 - ii. providing office space, meeting rooms or computer facilities; and
10. To work with the Secretary of State for Education and/or the Children's Services Commissioner Team towards the establishment of a wholly-owned council company for the delivery of children's social care services (the children's services trust) in Northamptonshire, transferring operational control for children's social care services from the Council to the company from July 2020, with provision to transfer commissioning arrangements to any new unitary councils at the point they become fully operational.
11. To work with Children's Services Commissioner Team on a long-term improvement plan to address the improvement priorities he has identified within children's social care.
12. In consequence of this direction, the Secretary of State for Education revokes the direction of 10 June 2019.
13. 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

Emily Whitehead - A Senior Civil Servant in the Department for Education

Dated: October 2019

ANNEX

Non-Executive Commissioner Team for Children's Services

Northamptonshire County Council

Terms of Reference

The Children's Services Commissioner and Children's Services Support Commissioner are expected to take the following steps.

1. To issue any necessary instructions to the Council for the purpose of securing immediate improvement in the Council's delivery of children's social care services; to identify ongoing improvement requirements; and to recommend any additional support required to deliver those improvements, working with and taking account of the views of the Department's appointed improvement adviser, Lincolnshire County Council.
2. To oversee work towards the establishment of a wholly-owned council company for the delivery of children's social care services (the children's services trust) in Northamptonshire, transferring operational control for children's social care services from the Council to the company, from July 2020, with provision to transfer commissioning arrangements to any new unitary councils at the point they become fully operational.
3. To work in partnership with the MHCLG Commissioners to contribute to the work to rebuild the governance capacity of the authority and to secure its compliance with the best value duty under Part I of the 1999 Act, in so far as it relates to the governance of children's services, including that the authority's financial management in respect of children's services is exercised in conformity with the best value duty.
4. To report regularly to the Secretary of State for Education and the Secretary of State for Housing, Communities and Local Government on progress on stabilising and improving children's services and on establishing the children's services trust.