

STATUTORY DIRECTION TO WEST SUSSEX 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 West Sussex County Council ("the Council") that performance in respect of children's social care services is 'inadequate' as detailed in Ofsted's inspection report of 8 May 2019 ("the 2019 Ofsted report").
2. The Council's failure led the Secretary of State to issue a statutory direction on 4 June 2019 ("the first direction"), requiring the Council to take a number of steps to improve the quality of services, including to work with John Coughlan CBE, as the appointed Commissioner for Children's Services in West Sussex.
3. The Secretary of State has carefully considered:
 - a) The 2019 Ofsted report, which found that children's services are 'inadequate'. The sub-judgements for children who need help and protection, children looked after and achieving permanence and leadership, management and governance were all rated as 'inadequate'; and
 - b) The Children's Services Commissioner's report of October 2019 ("the 2019 report"), which concluded that in order to provide sustainable improvements to children's social care services the Council should move to set up a company to deliver children's services functions on behalf of the Council.
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 re-appointed John Coughlan CBE as Commissioner for Children's Services in West Sussex ("the Children's Services Commissioner") 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 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.

NOW THEREFORE:

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

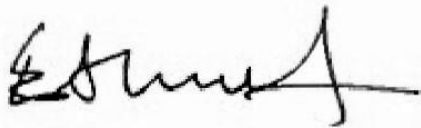
- a. To comply with any instructions of the Secretary of State or the Children's Services Commissioner in relation to the improvement of the Council's exercise of its children's social care functions and provide such assistance as either the Secretary of State or the Children's Services Commissioner 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 co-operate with the Commissioner towards the establishment of a company for the delivery of children's social care services in West Sussex.
- e. To co-operate with the Secretary of State and his 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.
- f. In consequence of this direction, the Secretary of State for Education revokes the first direction.
- g. 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 black ink, appearing to read 'Emily Whitehead', with a long horizontal stroke at the end.

Emily Whitehead
A Senior Civil Servant in the Department for Education
Dated this day of 7 November 2019

ANNEX

Non-Executive Commissioner for Children's Services

West Sussex Council

Terms of Reference

1. West Sussex County Council has systemically failed, its children's social care services were found to be 'inadequate' across all of the key judgements in an Ofsted inspection report (published 8 May 2019). 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.
2. The Commissioner carried out a comprehensive review and concluded that conditions required to support the essential and sustainable improvement in West Sussex children's services do not currently exist within the Council. In October 2019 the Commissioner recommended that the Council should commence steps to set up a company to deliver children's services.
3. John Coughlan CBE has been re-appointed as Commissioner to work with West Sussex County Council to oversee the establishment of a company and to provide ongoing direction and assurance of service improvements ahead of the transition to the company. Specifically, the Commissioner will:
 - a) Work with the Council to support the establishment of a company to deliver high quality children's social care services and oversee the transition to those new arrangements;
 - b) Support the Council in shaping the company's strategic vision for the transformed service, including organisational design, governance and its scope of delivery;
 - c) Identify key deliverables, 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.
 - d) Provide guidance, advice and challenge on plans for creating the company, and associated budgets for both set-up and delivery of services;
 - e) Advise on any senior appointments to the company and lead on behalf of the Secretary of State, and in cooperation with the Council, the recruitment for the Chair and Chief Executive of the company;
 - f) Guide, monitor and report on the progress towards the establishment of the company, and the transfer of operational control from the Council to the company; deliver six-weekly evidence based highlight reports on the Council's improvement progress to the DfE Contract Manager; and
 - g) Deliver quarterly written updates (or more frequently if requested) on the Council's progress to the Parliamentary Under Secretary of State for Children and Families, the first update to be delivered in January 2020.

4. The 2019 Commissioner report also set out the need for urgent work to improve services for children ahead of the establishment of the company. As well as oversight of progress towards moving services into a company, the Commissioner is expected to provide independent strategic oversight and direction to the Council on immediate improvements to services and ongoing monitoring and assurance of progress against implementation of the improvement plan. The Commissioner shall:
 - a) Chair West Sussex Children's Services Improvement Board;
 - b) Ensure the improvement plan continues to be delivered and robustly monitored. Progress will be reported by the Council to each meeting of the West Sussex Children's Services Improvement Board;
 - c) Oversee progress against key areas for action identified in the Commissioner report, including the development and roll out of a children's services management training programme; the introduction of staff engagement processes; and the redesign and relaunch of the Corporate Parenting Board;
 - d) 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, and to recommend any additional support/resources required to deliver those improvements;
 - e) Oversee the work of the appointed improvement partner;
 - f) Support and challenge senior members, corporate senior management and senior partners to work together to create the culture and leadership necessary to bring about and sustain improvements in children's services; and
 - g) Deliver quarterly written updates (or more frequently if requested) on the Council's progress to the Parliamentary Under Secretary of State for Children and Families, the first update to be delivered in January 2020.