

## **STATUTORY DIRECTION TO MIDDLESBROUGH 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 Middlesbrough Council ("the Council") that performance of children's social care services is inadequate as detailed in Ofsted's report of its inspection carried out between 25 November to 6 December 2019 published 24 January 2020 ("The 2020 Ofsted report").
2. The Council's failure led the Secretary of State to issue a Direction on 12 March 2020 ("the first direction"), requiring the Council to take a number of steps to improve the quality of services, including to cooperate with a Commissioner for Children's Services in Middlesbrough ("The Children's Services Commissioner").
3. The Secretary of State has carefully considered:
  - a. The 2020 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'.
  - b. The Children's Services Commissioner's report of May 2020, which found that the Council has the capability and capacity to drive improvement in its children's social care services, and that the children's social care services can remain with the Council. However, the report recommended that on-going monitoring and support is provided to ensure longer-term improvement and sustainability. This is due to Covid-19 pressures and the new, interim leadership arrangements.
4. The Secretary of State is therefore satisfied that while there has been some improvement, 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 Peter Dwyer as Commissioner for Children's Services in Middlesbrough ("the Children's Services Commissioner")

for a period of up to a further 12 months 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 Children’s Services Commissioner in his assessments at six and twelve months after the date of this direction, in accordance with the Terms of Reference in the Annex to this statutory direction; and

- e. To ensure that the Chair of the Improvement Board reports to the Secretary of State on progress in delivering the improvement plan, on a quarterly basis, the first report being within 3 months of the date of this direction.

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

9. In consequence of this direction, the Secretary of State revokes the first direction.

Signed on behalf of the Secretary of State for Education

A handwritten signature in black ink, consisting of a series of connected loops and curves, resembling the letters 'M' and 'E'.

MATTHEW EDWARDS

A Senior Civil Servant in the Department for Education

Dated this day of 4 June 2020

## **ANNEX**

### **Non-Executive Commissioner for Children's Services**

#### **Middlesbrough Council**

##### **Terms of Reference**

Middlesbrough Council has systemically failed as its children's social care services have been found to be 'inadequate' across all of the key judgements in the recent Ofsted inspection report. There is a presumption in cases of persistent or systemic failure that children's social care services will be removed from local authority control, for a period of time, in order to bring about sustainable improvement, unless there are compelling reasons not to do so.

After his initial review in May 2020, the Children's Services Commissioner has determined that the Council has the capability and capacity to drive improvement in children's social care services. The Commissioner recommended the Council retain control of its children's social care services, but this is to be subject to ongoing monitoring and support to determine long term sustainability and improvement. This is because improvement activity is adversely affected due to Covid-19. Leadership arrangements are both new and interim and therefore the Secretary of State requires more assurance of longer term, sustainable leadership arrangements.

Therefore, the Secretary of State has extended the Children's Services Commissioner contract for a period of up to 12 months. The Children's Services Commissioner for Middlesbrough is expected to take the following steps:

1. Up to October 2020 the Commissioner is expected to:
  - a. support, guide and challenge the Council and issue any necessary instructions to the Council for the purpose of securing immediate and longer-term improvement in the authority's delivery of children's social care;
  - b. identify ongoing improvement requirements; and to recommend any additional support required to deliver those improvements.
2. After six months (November 2020), the Children's Services Commissioner will provide a checkpoint review to update the Minister of State for Children and Families on the Council's pace and progress of its improvement journey. The review will also consider his original recommendation (May 2020 report) that the Council has capacity and capability to improve itself.
3. At 12 months (May 2021- subject to review), the Children's Services Commissioner will bring together evidence to assess the pace, progress and his original recommendation and further review the Council's capacity and capability to improve itself. The report will recommend whether evidence is sufficiently strong to suggest that long-term sustainable improvement to children's social care can be achieved should operational service control continue to remain with the Council.
4. A final report to the Minister of State for Children and Families in May 2021.