



Ministry of Housing,
Communities &
Local Government

Catherine Frances

Director General, Local Government, Strategy &
Analysis

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Government

2 Marsham Street
London SW1P 4DF

Tony Reeves
Chief Executive, Liverpool City Council
BY EMAIL

24 March 2021

Dear Mr Reeves,

Max Caller CBE, having undertaken an inspection of your Authority's compliance with its Best Value duty, has sent your Authority a report setting out his findings. I am now writing to invite your Authority, if it wishes, to make representations to the Secretary of State about the report and about an intervention package that he is proposing. This letter will be published on www.gov.uk.

The Secretary of State has carefully considered the report. He is satisfied on the basis of matters set out in the report that your Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the Best Value duty in the areas of highways, regeneration and property management functions together with the associated audit and governance arrangements. On that basis, he is considering exercising the powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the Best Value duty. The package of measures which he is proposing to implement through appropriate Directions is set out in the attached Annex. As is explained in the Annex, the package of intervention measures also includes proposals for the Secretary of State to make an Order under section 86 of the Local Government Act 2000 providing for Liverpool to hold whole council elections from 2023 and every fourth year thereafter.

Your Authority is now invited to make such representations as it wishes about the report and the Secretary of State's proposals. All such representations should be sent by email to me, or in hard copy to the address above marked for my attention, so as to be received on or before Monday 24 May 2021. They will then be carefully considered by the Secretary of State in coming to a decision as to whether to make any and, if so, what Directions.

I am copying this letter to your Authority's Section 151 Officer and Monitoring Officer.

Yours sincerely,

Catherine Frances
Director General
Local Government, Strategy and Analysis

ANNEX

PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering exercising his powers of direction under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Liverpool City Council (“the Authority”) to secure its compliance with the best value duty. He is doing so in circumstances in which Max Caller CBE has conducted a thorough investigation and has produced a detailed report (“the Report”), which was submitted to the Secretary of State under cover of a letter on 19 March 2021. The Report sets out a picture of serious failings by the Authority, particularly focussed in the areas of highways, regeneration and property management functions together with their interaction with planning functions and associated audit and governance arrangements in the exercise of those specified functions, leading to the conclusion that the Authority has failed in compliance with its best value duty over a number of years.
2. The Inspection Team has noted the recent improvements made at the Authority. However, they take the view that, notwithstanding the progress made, Best Value failure continues:

“The Inspection Team conclude, on the basis of the documentary and oral evidence considered, that LCC have failed to demonstrate compliance with the statutory requirements with respect to best value in the areas of the Inspection.”
(para 10.8)
3. The package outlined below builds on the early work at the Authority whilst acknowledging the views, outlined above and set out in the report in more detail, that more is needed to respond to past failings and, in particular, to actively support the Authority and executive team as they make improvements.
4. In the Report, the Inspector proposes that Commissioners be appointed for an initial period of three years to oversee and approve or otherwise, the Authority’s and its statutory officers’ work in preparing and delivering the Authority’s improvement journey.
5. In the light of the conclusions and evidence in the Report, including the proposals made by the Inspector, the Secretary of State is minded to put in place the intervention package set out below.

Overall purpose and approach

6. The Secretary of State’s proposals reflect the main finding of the Report set out in the Inspector’s covering letter that:

“Liverpool City Council itself, under the officer leadership of Tony Reeves, has started to make some of the improvements necessary. However, the burden of the police investigation, the pandemic, and the legacy of past actions by the Council has prevented speedy progress. At political level, the Council needs a reset, until

that happens and the work that is currently being undertaken is continued at pace and embedded, I cannot be confident about continued progress.”

7. The Secretary of State’s proposals for intervention are designed to ensure that the Authority has made sufficient improvement within the next three years to be able to comply with its Best Value duty on a sustainable basis.
8. In the Report, the Inspector identified six key areas where he considers that the Authority is failing to deliver and which, together, have led to its failure to comply with its best value duty. Examples of the ways in which the Authority is failing to deliver in each of these areas are included, but not limited to, below:
 - a. **Highways:** The Report expresses serious concern over the relationship between the core services team and Liverpool Streetscene Services Ltd (LSSL), a wholly owned subsidiary of the Authority. The gradual move of services over to LSSL “appeared to proceed without plan or foresight as to how they would be managed and delivered in future years” (para 5.3). These services remained the responsibility of the Regeneration Directorate and yet “There is no evidence that senior managers understood the risks to the service or what resources, structures, processes or procedures should be put in place to ensure a good service could be delivered” (para 5.53) and the service “continues to operate without a coherent business plan, direction or forward vision” (para 5.4). Evidence shows that Highways management were “reluctant to make use of the professional expertise of the central procurement team” (para 5.6) and that compliance with the Authority’s Contract Standing Orders was poor. Concerns were also expressed over how some of the maintenance contracts were awarded.
 - b. **Regeneration:** The Report outlines how “Many individuals described the style in Regeneration as intimidating” (para 4.1). Others felt “pressure to behave in a certain way with certain people” and that they “could not speak out as they would have wished” (para 4.2). The Report also noted that there was “no coherent property-based filing system, nor even a project-based case file” (para 4.4). In a number of instances, the Inspection Team noted Delegated Action Reports “being created to retrospectively authorise deals that were now being finalised, sometimes with the valuation supporting the deal appearing on the file for the first time at this point” (para 4.5).
 - c. **Property:** The Report details the poor record keeping in relation to property disposals and many issues were found in the cases the Inspection Team reviewed, including in many instances where “it has been hard to establish what deal actually was approved and who authorised it. There is evidence of retrofitting an approval to the final contract” (para 6.16). Under the management of the Regeneration and Employment directorate, the Property Asset Management Services team “lacked senior direction and support to use property assets strategically to deliver sustainable regeneration projects” (para 6.23) and have “low capacity available” (para 6.26). The Inspection Team has seen evidence that “in many instances, the valuations provided by external expert surveyors was dismissed or ignored by the regeneration team” (para 6.27).

- d. **Procurement:** The Report does note that the Authority has made “significant changes to how it procures good and services for the departments subject to this inspection” (para 7.1). However, there are still a number of important issues that remain, including the completion of the restructure of the Highways and Transport departments to support the continuation of positive change.
 - e. **Legal Services:** The Report highlights the need for the Authority to invest in their legal services for the areas under inspection to increase capacity as well as increase “oversight of outsourcing and reduce reliance on firms for non-specialist matters” (para 8.10).
 - f. **Governance and Scrutiny:** The Report expresses very serious concerns around the capability of the Authority in this area, especially in regard to the Regeneration Directorate who treated the scrutiny of decisions by cabinet as “unnecessary red tape that slowed the process down” (para 9.9). The Inspection Team heard that “it could be difficult for members to challenge at meetings and often the challenging behaviour came from the mayor and prominent councillors” (para 9.1). Linked to this “there was a lack of understanding in how complaints against members were handled” (para 9.2) and the Authority was found to have “no regular meeting of an ethics or standards committee” (para 9.2). There was a “lack of appreciation of the Nolan principles and the requirements of the Members Code of Conduct” (para 9.2). There is also “confusion over the appropriate role of Members and officers” (para 9.4). It is also clear that the “Mayor sought to undertake a much more active and direct role in the running of the Authority than the arrangements as set out in the Constitution provide for” (para 9.4). Scrutiny committee chairs have been “prevented from accessing information they had requested” (para 9.6) and examples where councillors have not been “informed of decisions effecting their ward” (para 9.6).
9. In light of the conclusions and evidence in the Report, the Secretary of State is minded to implement an intervention package with a particular focus on the above areas to address the circumstances of the Authority.
10. The Inspection Report also proposes a move to change the Authority’s electoral cycle to whole council elections together with a reduced number of Councillors elected on a single Member per Ward basis. The Secretary of State proposes to make an Order under section 86 of the Local Government Act 2000 to provide whole council elections in 2023 and every fourth year thereafter. The proposed Commissioners will support the Authority throughout the process of change. The proposal to move to single Member Wards is covered in the proposed Directions to the Authority in paragraph 16 below.

Commissioners

11. The proposed intervention package accordingly involves putting in place Commissioners who between them will have experience to work closely with the Authority on the functions within scope of the inspection report’s recommendations.

12. The Secretary of State does not propose a wholesale transfer of functions at this stage. Nevertheless, he does propose that some functions, reflecting the failings outlined above, should be transferred to the Commissioners. Where functions have been transferred, the Secretary of State proposes that the Commissioners will act jointly or severally and that the Authority is to provide the Commissioners with such assistance and information, including any views of the Authority's Members on the matter in question as the Commissioners may request. It is envisaged that, in exercising any function, the Commissioners will have regard to any views of the Authority's Members and officers arrived at through their normal processes of consideration.
13. The Secretary of State proposes that his Directions to the Authority should be in place for an initial period of 3 years. If the Secretary of State considers at any time that it would be appropriate to change the Directions or withdraw them, then he will do so. His concern will be to ensure that the Directions operate for as long, but only as long, and only in the form, as he considers they should operate in order to secure stability for the Authority.

Functions to be exercised by the Commissioners

14. For the reasons set out above, the Secretary of State considers that the proposed intervention includes the transfer to the Commissioners of the following functions:
- a. All executive functions associated with regeneration, highways and property management at the Authority.
 - b. All non-executive functions relating to the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers. For this purpose –
 - i. "statutory officer" means any of: the head of paid service designated under section 4(1) of the Local Government and Housing Act 1989; the chief financial officer designated as having responsibility for the administration of the Authority's financial affairs under section 151 of the Local Government Act 1972; the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989, (and the expressions "statutory officer" and "statutory office" are to be construed accordingly); and
 - ii. for the avoidance of doubt, the following are included: the functions of (a) designating a person as a statutory officer and removing a person from a statutory office; (b) the functions under section 112 of the Local Government Act 1972 of (a) appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and (b) dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.

15. The Secretary of State proposes that most decisions continue to be made by the Authority. His intention is that the powers that he proposes to provide to the Commissioners should only be used as a last resort should the Authority not satisfy the Commissioners in their improvement processes. This approach reflects the good work commenced by the Authority and current executive team and the confidence the Secretary of State has in the continuation of this work with the support of the Commissioners.

Directions to the Authority

16. The proposed Directions also set out actions which the Authority must undertake in order to effect the changes which are needed as well as supporting and facilitating the work of the Commissioners.

- a. Prepare and implement an Improvement Plan, to the satisfaction of the Commissioners with, as a minimum, the following components. In the first 12 months review and implement changes to the Council's constitution which will:
 - i. Improve the ethical governance framework to best practice incorporating the Local Government Association model code and a fully functioning Standards Committee.
 - ii. Constitute the Audit Committee as a stand-alone committee with a direct reporting line to Council and a right to have its recommendations considered by the Executive Mayor and Cabinet, with either an independent Chair or an Independent Technical Advisor.
 - iii. To re-establish Scrutiny activity in line with Statutory Guidance ensuring that Councillor leadership of the activity is on a cross party basis and with appropriate officer support.
 - iv. Introduce best practice Standing Orders and Regulations for contracts and property disposals.
 - v. Review the scope, content and reporting of all delegated powers.
 - vi. Establish a specific code of conduct for all Members in connection with dealing with Planning and Licencing matters.
 - vii. Require mandatory training of members in key activities, including behaviours, before participation in Council activities other than full Council.
 - viii. Improve the content and updating of declarations of interests and gifts and hospitality, for both Members and Officers.
- b. Consider and consult upon a new submission to the Local Government Boundary Commission for England as part of the current boundary review. The submission should include consideration of a proposal to reduce the number of Councillors to those consistent with elections on a single member ward basis and be approved by the Commissioners.
- c. Require the consent of Commissioners before the authority at either Member or Officer level agree Heads of Terms for any property transaction

and subsequent consent before any legally binding commitment is entered into.

- d. In the first 24 months, review the roles and case for continuing with each subsidiary company of the Authority. For those companies that it is agreed to continue, ensuring that the Directors appointed by the Authority are appropriately skilled in either technical or company governance matters to ensure each Board functions effectively under the terms of an explicit shareholder agreement and a nominated shareholder representative. For those companies which it is determined not to continue with in this form, to establish a plan to internalise, close or sell as appropriate.
- e. To consider and approve a suitable officer structure for the authority which provides sufficient resources to deliver the Authority's functions in an effective way, including the Improvement Plan and its monitoring and reporting within 6 months.
- f. To oversee a detailed structure and strategy for the Highways function in short and medium-term as set out in the Highways section of this report.
- g. Establish a plan to deliver an effective file management system so that the Authority can more easily comply with its statutory and managerial responsibilities.
- h. Devise and implement a programme of cultural change which ensure both Members and Officers understand their respective roles and the way in which the Authority and its activities are regulated and governed and the way in which this is monitored, and breaches rectified.
- i. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
 - i. to any premises of the Authority;
 - ii. to any document relating to the Authority; and
 - iii. to any employee or member of the Authority,
- j. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions;
- k. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them;
- l. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request; and
- m. To co-operate with the Secretary of State for Housing, Communities and Local Government in relation to implementing the terms of this Direction.

Duration of intervention

17. The Secretary of State proposes that the Commissioners will be in place for an initial period of three years, only be extended if the Authority fails to make satisfactory progress in implementing and embedding the changes necessary to deliver Best Value in its governance and operations.