

## **STATUTORY DIRECTION TO DEVON 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 Devon County Council ("the Council") that performance in respect of children's social care services is 'inadequate' as detailed in Ofsted's inspection report of 17 March 2020 (the 2020 Ofsted report).
2. The Council's inadequate performance of some of its children's social care functions led the Secretary of State to issue a statutory direction on 17 March 2020 ("the first direction"), requiring the Council to comply with any instructions of the Secretary of State in relation to improvement of children's social care functions; to continue improvement activity; to submit an improvement plan; and to co-operate with a Commissioner to be appointed. A revised statutory direction was issued on 2 July 2020 ("the second direction") which required the Council to work with Eleanor Brazil OBE as the Commissioner for Children's Services ("the Children's Services Commissioner").
3. The Secretary of State has carefully considered
  - a. Ofsted's report of 17 March 2020 which found that children's services are 'inadequate' overall. The sub-judgement for the experiences and progress of children who need help and protections was rated as 'requires improvement to be good'. The sub-judgements for the impact of leaders on social work practice with children and families and experiences and progress of children in care and care leavers were both rated 'inadequate'.
  - b. The Children's Services Commissioner's report of September 2020 which recommended that there was no need to commission an additional Commissioner review, or to consider any alternative delivery and governance arrangements for children's social care.
  - c. The Children's Services Commissioner's report of March 2021 which concluded that the Commissioner work should be replaced by an Improvement Adviser, and that the Council should enter into a partnership with a Sector Led Improvement Partner (SLIP).
4. In light of this, the Secretary of State has withdrawn the Children's Services Commissioner from the Council with effect from 1 April 2021 and will appoint an Improvement Adviser in accordance with, and for the purposes of, the terms of reference ("the Terms of Reference") set out in Annex A to this direction.
5. However, the Secretary of State is 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.
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 and/or the Improvement Adviser 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 Improvement Adviser may require;
  - b. To co-operate with the Improvement Adviser and any SLIP, including on request allowing the Improvement Adviser and SLIP 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 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 Improvement Adviser and any SLIP with such amenities, services and administrative support as s/he 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;

ii. providing office space, meeting rooms or computer facilities.

8. In consequence of this direction, the Secretary of State revokes the second direction.
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 black ink, appearing to read 'Emily Whitehead', with a long horizontal stroke extending to the right.

EMILY WHITEHEAD

A Senior Civil Servant in the Department for Education  
Dated this day of 7 May 2021

## **ANNEX**

### **Children's Services Improvement Adviser Terms of Reference – March 2021**

The Improvement Adviser will support the Council in continuing to develop and implement robust, realistic and achievable plans to improve its children's social care services, in particular those areas which have been judged by Ofsted to be inadequate or where other serious concerns have been identified by the Children's Services Commissioner. In particular s/he will:

- provide effective oversight to ensure the pace of improvement is appropriate and that improvements to children's social care are sustainable;
- provide support and advice as necessary when assessing and driving progress, taking account of the weaknesses identified by Ofsted and of other diagnostic work;
- apply his/her expertise and experience to support the DCS and service management team in addressing areas of weakness; this may also include working with practitioners of different levels to:
  - develop competence and improve performance; and
  - help foster a culture of reflection, challenge and support;
- make use of wider contacts to support and advise the council on potential solutions to issues and signpost examples of good practice where possible;
- work closely with the independent chair of the Improvement Board to provide oversight of and advise on the Improvement plan, attend Improvement Boards and engage with the wider partnership
- work closely with any other local authority improvement partners to maximise impact of work and avoid unnecessary duplication;
- engage with the wider partnership;
- identify key deliverables and produce a plan detailing the outputs and KPIs which the adviser will meet over the duration of the project, and agree this with the Department for Education ("DfE") within 6 weeks of appointment;
- participate in DfE's formal reviews of the council's progress and make a recommendation to the DfE on whether progress has been sufficient; and
- provide six-weekly written reports on the council's progress to the Parliamentary Under Secretary of State for Children and Families, and more frequently if the pace of progress is not sufficient or if the Minister requires it.