

Draft Doncaster direction:

**DIRECTION UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999 AND SECTION 497A (4B) OF THE EDUCATION ACT 1996
TO DONCASTER METROPOLITAN BOROUGH COUNCIL**

WHEREAS

1. The Secretary of State for Communities and Local Government and the Secretary of State for Education (“the Secretaries of State”), have carefully considered the following reports in respect of the Metropolitan Borough Council of Doncaster (“the authority”):
 - a. the Audit Commission’s Corporate Governance Report of 19 April 2010,
 - b. The Edlington Case - A Review by Lord Carlile of Berriew CBE QC at the request of the Secretary of State for Education of 16 November 2012,
 - c. Ofsted’s inspection of local authority arrangements for the protection of children in Doncaster Metropolitan Borough Council dated 16 November 2012, and
 - d. Doncaster Recovery Board’s Recovery Plan Annual Stocktake Report: Assessment of the State of Intervention 2012 of 8 January 2013.
2. The Secretaries of State are satisfied that the authority is failing to comply with the requirements of Part 1 of the Local Government Act 1999 (“the 1999 Act”) and is failing to perform to an adequate standard or at all, 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, 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 local authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (a) above); and the functions conferred on the authority under section 10, 12, 12C, 12D and 17A of the Children Act 2004 (“children’s social care functions”).
3. The Secretary of State for Communities and Local Government, having considered the representations made by the authority as required by section 15(9) of the 1999 Act, and the Secretary of State for Education, having considered the representations made by the authority, consider it necessary or expedient in accordance with their powers under section 15(5) and (6) of the 1999 Act and also in accordance with their powers under section 497A of the 1996 Act, to direct the authority as set out below in order to ensure:
 - a. the authority’s compliance with the requirements of Part 1 of the 1999 Act, and
 - b. that the authority’s children’s social care functions are performed to an adequate standard.

NOW THEREFORE

4. Pursuant to their powers under section 15(5) and (6) of the 1999 Act and section 497A(4B) of the 1996 Act, the Secretaries of State direct:
 - i. the authority to take the actions set out in Annex A to this Direction;
 - ii. that the functions of the authority specified in Part 1 of Annex B to this Direction shall be exercised by the Secretary of State for Communities and Local Government from the date of this direction to 31 July 2015;
 - iii. that the functions of the authority specified in Part 2 of Annex B to this Direction shall be exercised from the date of this direction to 31 July 2015 by “the Commissioners”, acting jointly and severally, the commissioners being persons nominated by the Secretary of State for Communities and Local Government and/or the Secretary of State for Education, for the purposes of this paragraph, as long as those nominations are in force;
 - iv. that the authority shall comply with any instructions of the Secretary of State for Communities and Local Government or the Commissioners, as appropriate, in relation to the exercise of the functions specified in Annex B, and shall provide such assistance as the Secretary of State or the Commissioners, as appropriate, may require for the purpose of exercising the functions;
 - v. that the authority shall provide such assistance as the Secretary of State for Education or persons nominated by him may require for the purposes set out in paragraph 5 of Annex A below, the nominees being Julian Le Grand and Alan Wood.
5. This direction substitutes previous directions issued to the authority by the Secretary of State for Communities and Local Government in June 2010 and by the Secretary of State for Education in March 2009 and December 2009. Any action taken under the previous directions is deemed to be taken under this direction (so far as appropriate).

Signed on behalf of the Secretary of State for Communities and Local Government and the Secretary of State for Education

Graham Archer
A Senior Civil Servant in the Department for Education

Paul Rowsell
A Senior Civil Servant in the Department for Communities and Local Government

Date:

DRAFT

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings-

“statutory officers” means the head of paid service (section 4 of the Local Government and Housing Act 1989), the chief finance officer (section 151 of the Local Government Act 1972) and the monitoring officer (section 5 of the Local Government and Housing Act 1989);

“the authority” includes the Mayor, the Cabinet Members, any committee or sub-committee and any other person who has responsibility for the matter in question;

The actions to be taken by the authority are –

- 1) Refer to the Commissioners, together with any recommendation the authority wishes to make, any matter in respect of which the authority does not agree with any recommendation made to it by a statutory officer or does not implement or otherwise comply with any such recommendation within the period specified by the statutory officer in the recommendation
- 2) Comply with and implement any decision or recommendation of the Commissioners following such a referral or where the Commissioners have made recommendations, having regard to the authority’s securing continuous improvement in the way in which its functions are exercised, and that functions are performed to an adequate standard;
- 3) Comply with and implement any decision or recommendation of the Commissioners following a referral to them by any statutory officer of a matter in respect of which the authority has not complied with or implemented a recommendation by the statutory officer within the period specified by the statutory officer in the recommendation and the authority itself has not complied with the obligation set out in (1) above to refer the matter to the Commissioners;
- 4) Refer to the Commissioners any proposed change to the authority’s Constitution and Scheme of Delegation that relates to the functions of appointment, dismissal and disciplinary procedures of members of staff where those functions are delegated to any officer or officers of the authority and not to effect any such change unless approved by the Commissioners;
- 5) Co-operate with a review established by the Secretary of State for Education into the most appropriate structure and governance arrangements for delivering improvements to children’s social care services in Doncaster, to be carried out by Julian le Grand and Alan Wood in accordance with the terms of reference at Appendix A of this Annex, and providing officers’ time and support for that review where required.
- 6) Contract the provision of immediate external support to improve the standard of child protection practice, pending the decision of the review described in

paragraph 5 above and any period during which recommendations from the review are being implemented, but not yet in place.

- 7) Agree the terms of the contract specified at 6) above with the Secretary of State for Education's officials.
- 8) Dissolve the Children's Board that was established under the direction issued by the Secretary of State for Education on 14 December 2009;
- 9) Co-operate with the Recovery Board, a Board comprising of persons appointed by the Secretary of State for Communities and Local Government and/or the Secretary of State for Education whose role is to advise and make recommendations to the authority and to monitor and challenge the authority's progress in achieving good governance and continuous improvement in the exercise of the authority's functions;
- 10) Agree with the Recovery Board a recovery plan which will set out –
 - (i) the approach to corporate governance recovery, and
 - (ii) arrangements to secure continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness, including how progress will be assessed;
- 11) Have regard to the advice and recommendations of the Recovery Board in putting the recovery plan into practice;
- 12) Allow the Commissioners and other members of the Recovery Board at all reasonable times, access -
 - (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,which appears to them to be necessary for the purposes of providing support to the authority and assisting it on the development and delivery of arrangements to secure continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- 13) Provide the Commissioners and members of the Recovery Board, at the expense of the authority, with such reasonable amenities and services and administrative support as they may reasonably require from time to time to carry out their functions; and
- 14) Co-operate with government officials in relation to implementing the terms of this Direction.

Doncaster: Review of Children's Services Structure and Governance, Terms of Reference

1. The Secretary of State has appointed Professor Julian Le Grand (LSE) to undertake an investigation into the most appropriate structure and governance arrangements for delivering improvements to children's social care services in Doncaster. To support him, the Secretary of State has appointed Alan Wood, Director of Children's Services in Hackney, as a member of the Review Team.
2. The investigation will: examine the evidence around Doncaster Metropolitan Borough Council's improvement history, capacity to sustain future improvement, the role of its partners and the alternative approaches to driving improvement. The Review team will discuss the issues with the Mayor, Councillors and Officers in Doncaster and with key stakeholders in children's services locally.
3. Professor Le Grand will then report to the Secretary of State, before the end of May 2013 with:
 - An assessment of Doncaster's progress in improving child protection services, since the Ofsted report of 16 November 2012;
 - An assessment of the likelihood of Doncaster MBC delivering a sustainable and significant improvement in services under current governance arrangements;
 - Recommendations as to the best structural and governance arrangements for securing a decisive and long term improvement in Doncaster's children's social care services. In particular:
 - Whether an independent organisation or other arrangement for delivering children's social care services and/or functions outside the Council provides the greatest likelihood of securing such improvement, as compared to the Council retaining such responsibilities;
 - If a solution outside of the Council were to provide the best chance of improvement, which children's services might most effectively be transferred – for the benefit of those services and for those which remained with the Council.
 - In any event, to make recommendations as to the governance arrangements most likely to drive sustainable improvement;
 - To make any recommendations which seem appropriate as to the processes and arrangements for implementing any structural recommendations and any particular governance or support arrangements needed.

ANNEX B

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY OTHERS

Part 1

The function of appointing and determining the terms and conditions of employment of officers, under section 112 of the Local Government Act 1972, for the purpose only of appointing officers to act as head of paid service, monitoring officer and chief finance officer;

The function of designating an officer of the authority as the head of paid service under section 4 of the Local Government and Housing Act 1989;

The function of designating an officer of the authority as the monitoring officer under section 5 of the Local Government and Housing Act 1989;

The function of securing that one of the authority's officers has responsibility for administration of the financial affairs of the authority in accordance with section 151 of the Local Government Act 1972.

Part 2

The function under section 112 of the Local Government Act 1972, of appointing and determining the terms and conditions of employment (including procedures for their dismissal) of those officers (other than the appointment of officers where the function is exercisable by the Secretary of State under Part 1 above) in respect of whom, under the Constitution of the authority, the function is the responsibility of the full council or of the mayor, the Executive, the Cabinet or any other member (whether acting individually or together) committee or sub-committee of the authority.