

DIRECTION UNDER SECTION 497A(4B) OF THE EDUCATION ACT 1996 TO ROTHERHAM METROPOLITAN BOROUGH COUNCIL

WHEREAS

1. The Secretary of State for Education (“the Secretary of State”) has carefully considered the following in respect of Rotherham Metropolitan Borough Council (“the Authority”):
 - a. the letter from Her Majesty’s Chief Inspector, Sir Michael Wilshaw, to the Secretary of State on 30 September 2014, providing advice about the Authority’s performance of their functions in relation to children in need of help and protection, looked after children and care leavers;
 - b. the report of Alexis Jay’s Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013).
2. The Secretary of State is satisfied that the Authority are 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 (“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 Authority 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 Authority under sections 10, 12, 12C, 12D and 17A of the Children Act 2004.
3. The Secretary of State intends to appoint Malcolm Newsam as Children’s Social Care Commissioner (“the 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.
4. The Secretary of State, having considered representations made by the Authority, considers it expedient, in accordance with her powers under section 497A(4B) of the 1996 Act, to direct the Authority as set out below in order to ensure that the Authority’s children’s social care functions are performed to the required standard.

NOW THEREFORE

5. Pursuant to her powers under section 497A(4B) of the 1996 Act, the Secretary of State directs that the Authority shall, in particular, do the following in order that the Commissioner can carry out the responsibilities set out in the Terms of Reference:
 - a. provide such assistance as the Secretary of State or the Commissioner may require;
 - b. comply with any instructions of the Secretary of State or the Commissioner in relation to ensuring that the Authority’s children’s social care functions are performed to the required standard;

- c. cooperate with the Commissioner, including, on request, allowing the Commissioner at all reasonable times access to any premises, document or employee/member of the Authority which appears to him to be necessary for achieving the purposes of, and carrying out the responsibilities set out in, the Terms of Reference;
- d. provide the 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 providing officers' time or support, and providing office space, meeting rooms or computer and telephone facilities;
- e. cooperate with the Secretary of State, her officials and the Commissioner in relation to implementing this direction.

Signed on behalf of the Secretary of State for Education

A handwritten signature in black ink, appearing to read 'G.A.', is written above a horizontal line.

Graham Archer

A Senior Civil Servant in the Department for Education

Date: 10 October 2014

ANNEX

Children's Social Care Commissioner's Terms of Reference

1. The Children's Social Care Commissioner's role will be to:
 - a. examine the nature and scale of the problems in respect of Rotherham Metropolitan Borough Council's ('the Council') exercise of their children's social care functions which led to Her Majesty's Chief Inspector's letter to the Secretary of State of 30 September 2014, taking into account feedback from the full inspection undertaken by Ofsted;
 - b. ensure the Council takes the immediate steps necessary to stabilise and secure the Council's performance of their children's social care functions;
 - c. ensure that the Council's response to the issues raised by the Commissioner and by Ofsted is of the required standard and proportionate to the scale of the problem(s), and enables the Council as quickly as possible to safeguard and promote the welfare of children in their area; and
 - d. review the Council's leadership capability and capacity to drive forward the changes required in order for the Council to provide effective leadership in relation to their children's social care functions.
2. The Commissioner should report to the Secretary of State on his findings, and on the Council's progress with improvement, one month after appointment and three months after appointment.
3. The Commissioner may, at any time, require action of the Council to secure improvement and may recommend further action to the Secretary of State.
4. The appointment will last for three months in the first instance. What happens thereafter will be dependent on the Commissioner's findings, the published Ofsted report into the Council's services for children in need of help and protection and children looked after services and Louise Casey's Review under section 10 of the Local Government Act 1999.
5. The Commissioner should ensure his work benefits from a full understanding of how Louise Casey's Review is proceeding. He should also agree how his work will need to interact with any police investigation into historic criminal acts related to child sexual exploitation that may be undertaken following the publication of the Jay enquiry into child sexual exploitation in Rotherham between 1997 and 2013.
6. It is anticipated that the Commissioner will spend an average of two days a week working on these issues, subject to any further agreement between the Commissioner and the Secretary of State.