

DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999 AND SECTION 497A(4B) OF THE EDUCATION ACT 1996 TO ROTHERHAM METROPOLITAN BOROUGH COUNCIL, 2015

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 in respect of Rotherham Metropolitan Borough Council ("the Authority"):

- a. the Report of Inspection of Rotherham Metropolitan Borough Council by Louise Casey CB of 27 January 2015 ("the Report") published and given to the Authority on 4 February 2015;
- b. the letters from Louise Casey CB to the Secretary of State for Communities and Local Government, received 27 January 2015 and 3 February 2015, and published on 4 February 2015;
- c. the representations made on 4 February 2015, 5 February 2015, 9 February 2015 and 10 February 2015 by the Authority on the Report and on the proposed Directions;
- d. the Advice note from Her Majesty's Chief Inspector of Education, Children's Services and Skills, Sir Michael Wilshaw, to the Secretary of State for Education on 30 September 2014, published on 7 October 2014.

2. The Secretary of State for Education was satisfied that the Authority was 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, being ("children's social care functions"):

- a. functions conferred on or exercisable by the Authority which are 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 sub-paragraph a. above); and
- c. the functions conferred on the Authority under section 10, 12, 12C, 12D and 17A of the Children Act 2004;

and issued a Direction to the Authority on 10 October 2014 in exercise of her powers under section 497A(4B) of the 1996 Act.

3. The Secretary of State for Communities and Local Government is satisfied that the Authority is failing to comply with the requirements of Part I of the Local

Government Act 1999 (“the 1999 Act”) and the Secretary of State for Education remains satisfied that the Authority is failing to perform to an adequate standard, or at all, some or all of its children’s social care functions.

4. 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, considers it necessary and expedient in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority’s compliance with the requirements of Part I of the 1999 Act, in particular;

- to rebuild the governance capacity of the Authority, addressing the deep seated culture of poor governance and leadership – both political leadership and officer/managerial leadership; this is a pre-requisite for the fresh start where compliance with the best value duty is secured;
- to restore public trust and confidence in Rotherham by putting an end to any of the Authority’s activities, practices, and omissions which are, or risk being, not compatible with the best value duty; and
- to secure as soon as practicable that all the Authority’s functions are exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Rotherham.

5. The Secretary of State for Education 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 secure that the Authority’s children’s social care functions are performed to the required standard.

NOW THEREFORE

6. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State for Communities and Local Government directs:

- i. the Authority to take the actions set out in Annex A to these Directions;
- ii. that the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions by the Commissioners acting jointly or severally; the Commissioners being persons nominated by the Secretary of State for Communities and Local Government for the purposes of these Directions as long as those nominations are in force;
- iii. that, from the date of these Directions, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as

the Commissioners may require for the purpose of exercising the functions specified in Annex B.

7. Insofar as the Directions at paragraph 6.i. relate to children's social care functions, they are also directed by the Secretary of State for Education pursuant to her powers under section 497A(4B) of the 1996 Act, as applied by section 50 of the Children Act 2004. Otherwise, and including the Directions in paragraph 6 which do not relate to children's social care functions, the Secretary of State for Education endorses the Directions made by the Secretary of State for Communities and Local Government.

8. In consequence of these Directions, the Secretary of State for Education revokes the Direction issued to the Authority dated 10 October 2014.

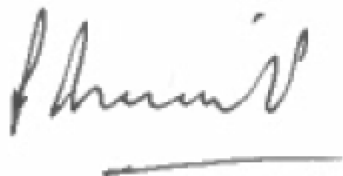
9. These Directions shall remain in force until 31 March 2019 unless the Secretaries of State, or, as the case may be, either one of them, consider it appropriate to amend or revoke them at an earlier date.

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

A handwritten signature in black ink, appearing to read 'P. Rowsell', with a horizontal line underneath.

Paul Rowsell

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

A handwritten signature in black ink, appearing to read 'Paul Kissack', with a horizontal line underneath.

Paul Kissack

A Senior Civil Servant in the Department for Education

Date: 26 February 2015

ANNEX A

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meaning:

“Children’s Social Care Commissioner” means one of the Commissioners referred to in paragraph 6 of the Directions whose responsibilities include, but are not limited to, overseeing the improvements the Authority needs to deliver in relation to its exercise of children’s social care functions;

“improvement plans” means the plans referred to in paragraph 2 below;

“Lead Commissioner” means one of the Commissioners referred to in paragraph 6 of the Directions whose responsibilities include, but are not limited to, giving direction and leadership to the work of the Commissioners and to the delivery of the improvements which the Authority is required to make;

“Managing Director Commissioner” means one of the Commissioners referred to in paragraph 6 of the Directions whose responsibilities include, but are not limited to, overseeing the improvements the Authority needs to deliver in relation to governance, leadership and culture, the exercise of its overview and scrutiny functions, and in its performance of services;

“the Authority” includes the Leader, 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) To undertake as soon as practicable after the date of these Directions, and every 3 months thereafter, under the direction of the Managing Director Commissioner, a review of whether it would be appropriate for any function exercisable by the Commissioners to be returned to the Authority to exercise, and where the Authority and Lead and other Commissioners agree that it would be appropriate for the exercise of a function to be returned to the Authority, to report this to the Secretary of State for Communities and Local Government or, insofar as the functions are children’s social care functions, to the Secretaries of State, setting out reasons, including clear evidence as to why the public could be expected to have confidence in the Authority exercising this function in compliance with the best value duty and, in the case of children’s social care functions, that the function will be performed to the required standard;
- 2) To prepare, under the direction of the Managing Director Commissioner and Children’s Social Care Commissioner, improvement plans (which may include

or draw upon improvement or action plans prepared before the date of these Directions), and within 3 months of the date of these Directions to agree these plans with the Lead and other Commissioners and submit them to the Secretaries of State; the plans are to set out measures to be undertaken, together with milestones and delivery targets against which to measure performance, in order to deliver rapid and sustainable improvements in governance, leadership and culture in the Authority, in the Authority's exercise of its overview and scrutiny functions and in its performance of services, thereby securing compliance with the best value duty and securing the performance of the Authority's children's social care functions to the required standard;

- 3) To undertake the measures set out in the improvement plans and such other measures as the Lead and other Commissioners require to deliver the improvements referred to in paragraph 2 above, and to provide the Secretaries of State with progress reports, agreed with the Lead and other Commissioners, at 6 monthly intervals following the date of these Directions;
- 4) To maintain such improvement panels as the Commissioners may agree to, for the purpose of enabling the Authority to be held to account for the progress it is making on securing future compliance with the best value duty and securing the performance of its children's social care functions to the required standard;
- 5) To cease to pay or, insofar as may be agreed with the Commissioners, to reduce to a level that is commensurate with the extent of the functions that the Authority's executive exercises from time to time, any special responsibility allowances that members of the Authority receive by virtue of them being members of, or otherwise connected with, the Authority's executive;
- 6) 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;
- 7) To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request;
- 8) 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; and

- 9) To pay the Commissioners' reasonable expenses and such fees as the Secretary of State for Communities and Local Government determines are to be paid to them.

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

In this Annex:

“statutory officers” means 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, and 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).

The Commissioners shall exercise:

- 1) All executive functions of the Authority i.e. all functions of the Authority which are the responsibility of the executive, including the delegation of the exercise of such functions under section 9E of the Local Government Act 2000. For the avoidance of doubt, these functions include all “local choice” functions (i.e. functions that may be exercised by either an authority’s executive or council) of the Authority that were exercisable by the executive as of 4 February 2015;
- 2) 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, to include the following functions:
 - (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:
 - (i) 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
 - (ii) removing any person who has been designated as a statutory officer from his or her position as an officer of the Authority;
- 3) All non-executive functions relating to licensing, to include all related enforcement and regulatory functions;
- 4) Functions of arranging, under section 101 of the Local Government Act 1972, for the discharge of any of the Authority’s functions by another body or person

insofar as the latter functions are functions which are to be exercised by the Commissioners under this Annex;

- 5) All functions of the Authority relating to the nomination or appointment of persons to other bodies.