



# Department for Communities and Local Government

Jan Ormondroyd  
Interim Chief Executive  
Riverside House  
Main Street  
Rotherham  
S60 1AE

4 February 2015

Dear Ms Ormondroyd,

## **ROTHERHAM METROPOLITAN BOROUGH COUNCIL: PROPOSED INTERVENTION**

Louise Casey CB, having undertaken an inspection of your Authority's compliance with its Best Value duty, has today sent to your Authority a report setting out her findings. I am now writing to invite your Authority, if it wishes, to make to the Secretary of State **representations** about the report and about an intervention package that he is proposing.

The Secretary of State has carefully considered the report. He is satisfied on the basis of the matters set out in the report that your Authority is failing to comply with the requirements of Part 1 of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the best value duty. On that basis, he is considering exercising his 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 explained in that Annex, the proposed intervention package also includes a proposal to make an Order under section 86 of the Local Government Act 2000 providing for Rotherham to hold whole council elections in 2016 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 [Gemma.Penn@communities.gsi.gov.uk](mailto:Gemma.Penn@communities.gsi.gov.uk), copied to [Paul.Rowsell@communities.gsi.gov.uk](mailto:Paul.Rowsell@communities.gsi.gov.uk), or in hard copy to the address below marked for the attention of Gemma Penn, so as to be received on or before Wednesday 18 February 2015. They will then be carefully considered by the Secretary of State in making a decision as to whether to make any and if so what Directions and to make any Order under the 2000 Act.

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

Yours sincerely

**Paul Rowsell**

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## 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 Rotherham Metropolitan Borough Council (“the Authority”) to secure its compliance with the best value duty. He is doing so in circumstances in which Louise Casey CB has conducted a thorough investigation and has produced a detailed report (“the Report”), which under cover of a letter of 27 January 2015 she has submitted to the Secretary of State. The Report provides a picture of the Authority of the utmost seriousness, concluding that the Authority is not fit for purpose, and that in the discharge of its functions is failing to comply with its best value duty. In her covering letter Louise Casey proposes that the Secretary of State should exercise his powers of direction. Whilst recognising that the form and content of any directions will be a matter for the Secretary of State, she also in that letter proposes that the Secretary of State should consider certain suggestions that she makes for an intervention package.
2. In the light of the conclusions and evidence in the Report, and the proposals that as Inspector, Louise Casey has made, the Secretary of State is minded to implement the intervention package set out below. Implementation would involve both making an Order under section 86 of the Local Government Act 2000 and making appropriate directions under the 1999 Act. The Secretary of State sets out his proposals in order to assist in the formulation of any representations the Authority may choose to make. He acknowledges that, save in cases of urgency, the Authority has a statutory right to make representations if the Secretary of State is considering making a direction. He will carefully consider those representations in deciding whether to make any and if so what Directions, and any Order. He specifically reserves his ability to make further or revised Directions after implementing the, or any, intervention package (if that is what he decides to do).

#### *Overall purpose and approach*

3. The starting point is the conclusion of the Report that the Authority, failing in its best value duty, is not fit for purpose, and that it needs a new start. The evidence that they have obtained has led the Inspectors to conclude, as set out in the Report that the Authority has a deep seated culture of poor governance and leadership, including ineffective political leadership, ineffective officer leadership, and ineffective liaisons with partners. The Inspectors concluded that the Authority does not have strong enough political and managerial leadership to guide the Authority out of its present difficulties and put it back on a path to success. In particular, the Report includes the following.
  - **On governance**, the Inspectors concluded that, “The Council has many issues to address but lacks the necessary skills, abilities, experience and tenacity within either the Member or senior Officer leadership teams”. The Inspectors further judged that, “Whilst competence might be enough to do a reasonable job in a stable authority, Rotherham needs outstandingly talented and determined managers to drive the changes required.” and “The council is

currently incapable of tackling its weaknesses, without a sustained intervention.”.

- **On overview and scrutiny**, the Inspectors concluded that “The council does not use inspection to learn and improve. Members are overly-reliant on officers and do not challenge tenaciously enough to ensure improvements. Meetings and action plans are numerous but unproductive, with a tendency towards inertia.”
  - **On the Authority’s functions relating to children and young people**, the Inspectors concluded that the circumstances of Rotherham are that “past and present failures to accept, understand and combat the issue of Child Sexual Exploitation, resulting in a lack of support for victims and insufficient action against known perpetrators.”. They also concluded that “RMBC’s Children’s Services are failing, with a lack of clarity over priorities, repeatedly missed deadlines for the assessment of children in need of care and protection, poor decision-making, drift and delay. The dedicated CSE team is poorly directed, suffers from excessive case loads, and an inability to share information between agencies.”
  - **On the Authority’s functions relating to taxi and private hire licensing**, the inspection uncovered “serious weaknesses and concerns”. The Inspectors concluded that the Authority “has not taken, and does not take, sufficient steps to ensure only fit and proper persons are permitted to hold a taxi licence. As a result, it cannot provide assurances that the public, including vulnerable people, are safe.” They also reported concerns that “the services’ refusal to accept a link with CSE is hampering its ability to take effective action, investigate complaints properly, share intelligence appropriately or contribute to building a composite picture enabling others to take action.”
4. The Secretary of State considers that given the conclusions that the Inspectors have reached on the basis of the evidence they have obtained from their inquiries and investigations, as revealed by the Report, a broad and wide ranging intervention package would be necessary and expedient to address the circumstances of the Authority. This is because whilst much of the evidence obtained relates to matters connected to Child Sexual Exploitation, the focus of the inspection, it reveals such serious failings on some of the most important functions of the Authority - protecting vulnerable children - that it is reasonable and proportionate to conclude, as do the Inspectors themselves, that there are serious failings in the best value duty pervading throughout the Authority, unless there is manifest and compelling evidence to the contrary, which there is currently not.
5. The proposed intervention package would need to, and is designed to, facilitate that fresh start – seen as a necessity by the Inspectors - where the Authority’s compliance with its best value duty is secured, and to ensure forthwith that all the Authority’s functions will be, and will be seen to be, exercised in conformity with the best value duty. Such an intervention package would need 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 an essential pre-requisite for the fresh start where compliance with the best value duty is secured;
  - 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
  - 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.
6. In order to achieve these objectives the proposed intervention package involves an Order under the 2000 Act providing for full council elections to be held in Rotherham in 2016 (key to achieving the fresh start) and every fourth year thereafter, and Directions under the 1999 Act putting in place Commissioners, providing for them to exercise for a time certain of the Authority's functions and giving them certain responsibilities, and requiring the Authority to take certain actions. In this way it is envisaged that the foundations would be laid for the fresh start, the issues of ineffective political and officer/managerial leadership and poor governance would be addressed, and where and until there could be confidence that the Authority would exercise any function in compliance with its best value duty, that function would be exercised by Commissioners.

### *Commissioners*

7. The proposed intervention package accordingly involves putting in place five Commissioners: a Lead Commissioner and four other Commissioners, one of whom would have a full time "managing director" role, primarily to address the issues of ineffective officer/managerial leadership, until the new chief executive was appointed, and one of whom would be the Children's Services Commissioner appointed by the Secretary of State for Education in exercise of her powers of direction under section 497A(4B) of the Education Act 1996 and having particular responsibilities to secure improvement in the Council's children's social care responsibilities.
8. The following Directions are proposed in relation to the Commissioners and are in addition to any Directions issued by the Secretary of State for Education. **The Secretary of State proposes to direct that the Authority's functions listed below are to be exercised by the Commissioners, who 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.
9. The Secretary of State proposes that this Direction to the Authority should be in place for up to four years. If the Secretary of State considers at any time that it would be appropriate to change the Direction or withdraw it, then he will do so. His concern will be to ensure that the Direction operates for as long, but only as long,

and only in the form, as he considers it should operate in order to secure the objectives set out above.

10. Moreover, **the Secretary of State proposes to direct the Authority to undertake as soon as practicable after the date of the intervention, and every three months thereafter, under the direction of the Commissioners, a review of whether it would be appropriate for any function exercisable by the Commissioners to be rolled back to the Authority to exercise, and where the Authority and 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 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.** The Secretary of State will carefully consider any such reports on the basis described in the paragraph above. The Secretary of State's expectation is that following the 2016 elections it is likely that a phased roll back of functions to the Authority would be appropriate, and he recognises that some earlier roll back might be appropriate depending on the circumstances of the Authority.

#### *Functions to be exercised by the Commissioners*

11. For the reasons set out above, the Secretary of State considers the proposed scope of intervention needs to be broad and wide ranging. Accordingly, he is proposing to direct that the following functions are to be exercised by the Commissioners.
  - 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, all "local choice" functions (i.e. functions that may be exercised by either an authority's executive or council) of the Authority that are exercised by the executive at the date of this letter (4 February 2015).
  - 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 -
    - "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
    - for the avoidance of doubt the following are included: The functions of (a) designating persons to and (b) removing persons from the three statutory offices; and 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, only insofar as those functions

are exercised for the purposes of appointing a person as an officer of the Authority principally in order for that person to be designated to the statutory offices and (b) dismissing any persons from being an officer of the Authority who has been appointed to the statutory offices.

- All non-executive functions relating to licensing. For the avoidance of doubt, these would include all related enforcement and regulatory functions.
- Functions under section 101 of the Local Government Act 1972 of arranging for the discharge of any of the Authority's functions by another body or person in relation to functions which are to be exercised by the Commissioners.
- All functions of the Authority relating to the nomination or appointment of persons to other bodies.

#### *Actions for the Authority*

12. To achieve and facilitate the objectives of the intervention, the Secretary of State also proposes **to direct the Authority within 3 months of the start of the intervention to prepare, agree with the Commissioners, and submit to the Secretary of State, an improvement plan setting 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, the Authority's exercise of its overview and scrutiny functions and in its performance of services, thereby securing compliance with the best value duty.** The Secretary of State proposes further **to direct the Authority to undertake the measures set out in the plan and such other measures as the Commissioners require, and to provide the Secretary of State with progress reports, agreed with the Commissioners, at 6 monthly intervals following the start of the intervention.**
13. The Secretary of State also proposes **to direct the Authority to maintain such improvement panel as the Commissioners may agree,** the role of the panel, with a membership accordingly, is to provide challenge and support to the Authority, and to be a public forum where the Authority can transparently be held to account for the progress it is making on its improvement journey to securing future and sustainable compliance with the best value duty.

#### *Other Directions to the Authority*

14. To ensure that the proposed intervention can be efficiently and effectively undertaken the Secretary of State proposes **to direct the Authority**
  - **to cease to pay, or as agreed with the Commissioners, to reduce, commensurately having regard to the functions which the Authority's executive may at that time exercise, any special responsibility allowances which members of the Council's executive receive on account of being executive members;**

- **to pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them;**
- **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 the directions; and**
- **allow the Commissioners 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 appear to the Commissioners to be necessary for the purposes of carrying out their responsibilities under the directions and any future direction.**

*Duration of intervention*

15. As explained above, it is proposed that the Commissioners will exercise some of the Authority's powers for up to four years from the start of the intervention, with the expectation that there would be a phased roll back of powers to the Authority from after the 2016 elections, if not before. Accordingly, the proposed Directions would initially be made having effect for four years until 31 March 2019. However, the Secretary of State makes it clear that these are not immutable periods. If the Secretary of State considers at any time that, in relation to any or all of the Directions proposed, the period should be different, then he will make further Directions accordingly. His concern will be to ensure that the Directions operate for as long, but only as long, as he considers they should operate in order to secure the objectives set out above. The Authority's actions will thus have a direct bearing on the period during which intervention continues to be necessary.