

## **STATUTORY DIRECTION TO TORBAY 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 Torbay Council ("the Council") that, performance in respect of children who need help and protection has declined from 'adequate' in April 2013 to 'inadequate' as detailed in Ofsted's inspection report of 5 January 2016 ("the 2016 Ofsted report").
2. An improvement notice was issued to the Council on 31 January 2011 following the findings of poor performance in safeguarding services for children and young people contained in the inspection report carried out by Ofsted and the Care Quality Commission (published October 2010). A further improvement notice was issued on 19 April 2012 to revise the targets contained in the first improvement notice; clarify the focus of the targets set out in the first improvement notice going into the second year of improvement; and to reflect progress made under the first improvement notice. The second notice was lifted on 4 February 2014 as a result of progress.
3. A Direction was issued to the Council on 11 May 2016 (the first direction) requiring the Council to comply with the instructions of a Commissioner appointed by the Secretary of State; and to co-operate with the Commissioner-led review of services, including the Council's intention to transfer children's services into an 'Integrated Care Organisation'.
4. The Secretary of State appointed John Coughlan CBE, Chief Executive of Hampshire County Council, as Commissioner for Children's Services in Torbay ("the Children's Services Commissioner"); and Hampshire County Council as expert advisers.
5. The Children's Services Commissioner carried out a comprehensive review and concluded that the Council should not retain control of its services. Following a thorough options appraisal of alternative delivery models, the Children's Services Commissioner recommended in April 2017 that the Council should enter into a contractual arrangement with Plymouth City Council, which will deliver children's services on the Council's behalf.
6. The Secretary of State has carefully considered:
  - a. The 2016 Ofsted report, which found the Council's delivery of children's social care services, particularly in relation to children who need help and protection, to be 'inadequate'. Leadership, management and governance in the Council were also judged to be 'inadequate';
  - b. The Children's Services Commissioner's report of April 2017 ("the 2017 report"), which concluded that in order to provide sustainable improvements to children's social care services the council should form enter into a contractual arrangement with Plymouth City Council; and

- c. Ofsted's feedback as part of its quarterly monitoring visits to the Council, which acknowledge some progress made by senior leadership in children's services from a low starting point.
7. The Secretary of State remains satisfied that the Council is not yet performing 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 Council under sections 23C to 240 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, 120 and 17A of the Children Act 2004.
8. The Secretary of State has re-appointed John Coughlan CBE as the Children's Services Commissioner and Hampshire County Council as expert advisers in accordance with, and for the purposes of, the terms of reference ("the Terms of Reference") set out in the Annex to this direction.
9. The Secretary of State, having considered representations made by the Council, considers it expedient, in accordance with her 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:

10. Pursuant to section 497A(4B) of the Education Act 1996, the Secretary of State directs the Council as follows:
  - a. Comply with any instructions of the Secretary of State or the Children's Services Commissioner in relation to the improvement of the Council's exercise of its children's social care functions and to provide such assistance as may be required;
  - b. Co-operate with the Children's Services Commissioner, including on request allowing the Commissioner 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 the Commissioner to be necessary for achieving the purposes of, and carrying out the responsibilities set out in the Terms of Reference;

- c. Provide the Children's Services Commissioner with such amenities, services and administrative support as they may reasonably require

from time to time for carrying out their responsibilities in accordance with the Terms of Reference, including:

- i. providing officers' time or support; and
- ii. providing office space, meeting rooms or computer facilities;

d. To co-operate with the development of a contractual arrangement with Plymouth City Council, which will deliver children's services on the Council's behalf.

11. In consequence of this direction, the Secretary of State for Education revokes the first direction.

12. 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

SUZANNE LUNN

A Senior Civil Servant in the Department for Education

Dated this     day of

## **ANNEX**

### **Relevant functions**

#### **Commissioner for Children's Services and expert advisers**

##### **Terms of Reference**

1. Torbay Council has persistently failed in its delivery of children's social care services. Ofsted's inspection report, published in January 2016, found the service to be 'inadequate' overall. The Council was previously found 'inadequate' in 2010 and remained so until April 2013 when the Council was judged 'adequate'. In all cases where a council has persistently or systematically failed to discharge its children's social care functions there is a presumption that service control will be removed from the council unless there are good reasons not to do so.
2. The Commissioner carried out a comprehensive review and concluded that Torbay cannot retain unilateral control of its services. Following a thorough options appraisal of alternative delivery models, the Commissioner recommended in April 2017 that Torbay should enter a contractual arrangement with Plymouth City Council, which will deliver children's services on Torbay's behalf.
3. The Commissioner is expected to provide independent strategic oversight of Torbay Council's progress towards a contract with Plymouth City Council, with support from Hampshire County Council as expert advisers, under the updated Direction issued to Torbay Council by the Secretary of State under section 497A of the Education Act 1996 in October 2017. The Commissioner and expert advisers shall:
  - a. Jointly chair Torbay's Children's Services Improvement Board;
  - b. Ensure the improvement plan, which spans children's services, continues to be delivered and robustly monitored. Progress will be reported by the Council to each meeting of the Torbay Children's Services Improvement Board;
  - c. Ensure that the improvement plan continues to include clear and specific actions which reflect the journey of the child and which are designed to improve the quality of services for children in need of help and protection;
  - d. Oversee the implementation of a robust monitoring and audit framework, which supports practice improvement and the effective delivery of the service;
  - e. Strengthen leadership capacity within children's social care services ensuring that there are dedicated mentoring arrangements for the Head of Children's Social Services; and matching up key personnel throughout the organisation for peer to peer mentoring and support;
  - f. Support the improvement of partnership working;
  - g. Support practice improvement through the re-design of systems and processes;
  - h. Steer the development of a contractual arrangement between Torbay Council and Plymouth City Council; and
  - i. Deliver quarterly written updates on the Council's progress to the Minister for Children and Families, and more frequently if the pace of progress is not sufficient or if the Minister requires it.