

## **STATUTORY DIRECTION TO WORCESTERSHIRE COUNTY 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 Worcestershire County Council ("the Council") that following earlier 'inadequate' judgements, performance in respect of services for children who need help and protection has remained 'inadequate' as detailed in Ofsted's inspection report of 24 January 2017 ("the 2017 Ofsted report").
2. The Council's failure led the Secretary of State to issue a statutory direction on 8 March 2017 ("the first direction") requiring the Council to take a number of steps to improve the quality of services, including to work with Trevor Doughty, as the appointed Commissioner of Children's Services in Worcestershire. A revised direction issued on 19 September 2017 ("the second direction"), required the development of an options analysis and business case for an alternative delivery model.
3. The Secretary of State has carefully considered:
  - a. The 2017 Ofsted report, which found that children's services were 'inadequate'. The sub-judgements for children who need help and protection, children looked after and achieving permanence, and leadership, management and governance were all rated as 'inadequate';
  - b. The Children's Services Commissioner's report, of 9 June 2017 ("the Commissioner's report"), which highlighted a lack of evidence to that date that the improvement plan was delivering genuine benefits for children, young people and their families beyond process and structural change, and that the Council should develop an alternative model of delivery for children's services;
  - c. The findings of Ofsted's monitoring visits since June 2017, and the progress made to date in service improvements; and
  - d. The Council's business case for the establishment of a wholly-owned council company for Worcestershire's Children's Social Care Services.
4. The Secretary of State is satisfied that the Council is still failing to perform to an adequate standard, 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 24D 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, 12D and 17A of the Children Act 2004.
5. The Secretary of State appointed Trevor Doughty as Commissioner for Children's Services in Worcestershire ("the Children's Services Commissioner"). An updated terms of reference ("the Terms of Reference") are set out in the Annex to this direction.

6. The Secretary of State, having considered representations made by the Council, considers it expedient, in accordance with his 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:

7. Pursuant to his powers under section 497A(4B) of the Education Act 1996 Act, the Secretary of State directs the Council as follows:
  - a. To 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 provide such assistance as either the Secretary of State or the Children's Services Commissioner may require;
  - b. To 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 him to be necessary for achieving the purposes of, and carrying out the responsibilities set out in, the Terms of Reference;

- c. To provide the Children's Services 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:
  - i. providing officers' time or support;
  - ii. providing office space, meeting rooms or computer facilities;
- d. To work with the Commissioner towards the establishment of a wholly-owned council company for the delivery of children's social care services in Worcestershire, including:
  - i) Establishment of the company board to operate alongside existing arrangements in shadow form from December 2018; prior to
  - ii) Transfer of operational control for children's social care services from the Council to the company, from April 2019.
- e. To continue to work with Children's Services Commissioner on a long-term improvement plan to address the findings of the Commissioner's report of 9 June 2017, monitoring progress and reviewing the improvement plan as appropriate;
- f. To co-operate with the Secretary of State and the Commissioner, including by:
  - i. Attending and participating in reviews of progress on dates to be notified to the Council;
  - ii. Preparing and making available to the Secretary of State's advisers, when requested, up to date improvement plans and assessments of progress evidenced by performance data;
  - iii. Reporting to the Secretary of State on the nature and rate of improvement of children's services when instructed to do so.

8. In consequence of this direction, the Secretary of State for Education revokes the second direction.

9. 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

A handwritten signature in black ink, appearing to read 'Suzanne Lunn'. The signature is written in a cursive style with a large, looping initial 'S'.

SUZANNE LUNN

A Senior Civil Servant in the Department for Education  
Dated the 21 day of May 2018

## **Annex**

### **Non-Executive Commissioner for Children's Services -**

#### **Worcestershire County Council**

#### **Terms of Reference – May 2018**

In all cases where a Council has persistently or systemically 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. The Secretary of State believes that children's social care services should be removed from Worcestershire County Council for a period of time, and that the best model to achieve improvement is for the Council to transfer functions to a wholly-owned council company (the "Company"), set up for the purpose of delivering children's services.

The Children's Services Commissioner for Worcestershire is expected to take the following steps:

- work with the Council to support the establishment of a new body to deliver high quality children's social care services and oversee the transition to those new arrangements;
- shape the Council's and, in due course, the Company's strategic vision for the transformed service and its scope of delivery;
- advise on any senior appointments to the Company and lead or participate in recruitment assessment processes as required;
- issue any necessary instructions to the local authority for the purpose of securing immediate improvement in the authority's delivery of children's social care, to identify ongoing improvement requirements, and to recommend any additional support required to deliver those improvements;
- provide quarterly progress reports to the Parliamentary Under Secretary of State for Children and Families, and more frequently if delivery of children's services is at risk, if progress towards new arrangements is not being achieved, or if otherwise requested; and
- identify key deliverables, and produce a plan detailing the outputs and key performance indicators the Commissioner will meet over the duration of the project, agreeing this with the DfE.

Specifically, the Commissioner shall:

1. Work with the Council to support the establishment of a wholly-owned council company to deliver high quality children's social care services by April 2019 and oversee the transition to those new arrangements;
2. Support the Council in shaping the Company's strategic vision for the transformed service, including organisational design, governance and its scope of delivery;

3. Provide guidance, advice and challenge on plans for implementation of the Company, and associated budgets for both set-up and implementation;
4. Advise on any senior appointments to the body and lead on behalf of the Secretary of State, and in cooperation with the Council, the recruitment for the Chair and Chief Executive of the Company.
5. Guide, monitor and report on the progress towards the establishment of the shadow Company by December 2018, and the transfer of operational control from the Council to the Company by April 2019;
6. Provide advice and direction to the Council and its improvement partner and ongoing monitoring and assurance of progress against implementation of the improvement plan;
7. Support and challenge senior members, corporate senior management and senior partners to work together to create the culture and leadership necessary to bring about and sustain improvements in children's services;
8. Lead, on behalf of the DfE, a formal review of the Council's progress towards improvement on a six monthly basis, making a recommendation to the DfE on whether progress has been sufficient;
9. Deliver six-weekly evidence based highlight reports on the Council's improvement progress to the DfE Contract Manager; and
10. Deliver quarterly written updates on the Council's progress to the Parliamentary Under Secretary of State for Children and Families, and more frequently if the pace of progress is not sufficient or if required.