

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") issued directions to Torbay Council ("the Council") pursuant to section 497A (4B) of the Education Act 1996 in May 2016 ("the first direction"), October 2017 ("the second direction"), March 2018 ("the third direction") and December 2019 ("the fourth direction"), in light of inadequate performance by the Council of its children's social care functions as detailed in Ofsted's inspection report of 5 January 2016 ("the 2016 Ofsted report") and Ofsted's inspection report of 24 August 2018 ("the 2018 Ofsted report").
2. The fourth direction required the Council to end, through mutual consent, the strategic partnership with Plymouth City Council and to continue to take steps to improve its children's social care functions by co-operating with a commissioner-led review. The Secretary of State appointed Nigel Richardson CBE as the Children's Services Commissioner.
3. 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, which concluded that in order to provide sustainable improvements to children's social care services the Council should enter into a contractual arrangement with Plymouth City Council;
  - c. The 2018 Ofsted report, which found again that children's services are inadequate. The sub-judgements for children who need help and protection and leadership, management and governance were both rated 'inadequate'. The sub-judgement for children looked after and achieving permanence was rated 'requires improvement to be good'. The sub-judgement for adoption performance was rated as 'good' and the sub-judgement for the experiences and progress of care leavers was rated as 'requires improvement to be good'.
  - d. The Children's Services Commissioner's reports, in particular the report of March 2021 which concluded that Torbay does have the necessary leadership capacity and capability and should therefore retain control of its children's social care services.
4. In light of the Children's Services Commissioner's reports, the Secretary of State has withdrawn the Children's Services Commissioner from the Council with effect from 1 April 2021. The Secretary of State has appointed Claire Burgess as the Children's Services Adviser (Improvement Adviser) in accordance with, and for the purposes of, the

terms of reference (“the Terms of Reference”) set out in the Annex to this direction.

5. Whilst there has been some improvement, the Secretary of State remains 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 of the Children Act 2004.
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, the Secretary of State directs the Council as follows:
  - a. To comply with any instructions of the Secretary of State and any advisers 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 advisers may require;
  - b. To co-operate with the Improvement Adviser, including on request allowing the Improvement Adviser 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 her to be necessary for achieving the purposes of carrying out the responsibilities set out in the Terms of Reference.
  - c. To provide the Improvement Adviser with such amenities, services and administrative support as she may reasonably require from time to time for the carrying out of her 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 ensure a comprehensive progress report is provided by the Director of Children's Services to each meeting of the Improvement Board;
  - e. To co-operate with a Department for Education led review at 6 and 12 months from the date of this direction to assess whether the Council is continuing to make sufficient progress in improving its children's social care services.
8. In consequence of this direction, the Secretary of State for Education revokes the fourth direction dated 6 December 2019.
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 'Emily Whitehead', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

Emily Whitehead

A Senior Civil Servant in the Department for Education

Dated: 7 May 2021

## **ANNEX**

### **Children's Services Adviser Terms of Reference – March 2021**

1. The Improvement Adviser will support the Council in continuing to develop and implement robust, realistic and achievable plans to improve its children's social care functions, in particular those areas which been judged by Ofsted to be inadequate and where other serious concerns have been identified by the Children's Services Commissioner. In particular, she will:
  - Build on the work of the Children's Services Commissioner, Nigel Richardson, to provide effective oversight to ensure the pace of improvement is appropriate and that improvements to children's social care functions are sustainable
  - Support the Council to implement the recommendations and priorities for the next six months identified in the Children's Services Commissioner's March 2021 report
  - Provide support and advice to the Council as necessary when assessing and driving progress, taking account of the weaknesses and areas for improvement identified by Ofsted and of other diagnostic work
  - Apply her expertise and experience to support and challenge the Director of Children's Services, Assistant Directors and senior leadership through regular 1-1 and other meetings
  - Make use of wider contacts to support and advise the Council on potential solutions to issues and signpost examples of good practice where possible
  - Work closely with the independent chair of the Improvement Board to provide oversight of and advise on the Improvement plan, attend Improvement Boards and engage with the wider partnership
  - Work closely with other improvement partners (e.g. Partners in Practice) to maximise the impact of work and avoid unnecessary duplication to ensure support received results in a positive impact and aligns with expectations
  - Assist the Council and its partners to develop its response to new crises and challenges which may have an impact on improvement

- Identify key deliverables and produce a plan detailing the outputs and key performance indicators which the adviser will meet over the duration of her contract, and agree this with the Department for Education (“DfE”) within six weeks of her appointment
- Participate in any DfE-led review of the Council’s progress; and
- Provide six monthly written reports 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 the Minister requires it.