



Department for Levelling Up,
Housing & Communities

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The Secretary of State has today published an external assurance review of your Authority's financial position and the strength of its wider governance arrangements. I am sending to your Authority a copy of this review and I am writing to invite your Authority, if it wishes, to make to the Secretary of State representations about the assurance review and about an intervention package that he is proposing. This letter will be published on www.gov.uk.

The Secretary of State has carefully considered both elements of the assurance review. He is satisfied on the basis of matters set out in the reports that your Authority is failing to comply with the requirements of Part I 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 the 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.

Your Authority is now invited to make such representations as it wishes about the reports and the Secretary of State's proposals. All such representations should be sent by email to maxwell.soule@communities.gov.uk or in hard copy to the address above marked for my attention, so as to be received on or before Friday 5 November 2021. 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.

I would also be grateful for your views on the conclusion of the review that "Improvement for Slough BC will rely on stability in political leadership and it would be advisable that the council moves towards a four yearly election cycle at the earliest opportunity." I welcome your views on how best to achieve this.

Your Authority remains under intervention for children's social care functions, under section 497(A) and (4B) of the Education Act 1996. It is important that statutory services for vulnerable children and families continue to be delivered to an acceptable standard. However, I am only seeking representations about the intervention proposed in the annex of this letter in relation to the best value duty. Officials from the Department for Education will continue to liaise with you through established arrangements on improvements to children's social care functions, including to those

delivered by the Slough Children First company, and on dedicated schools grant (DSG) funding.

I am copying this letter to the Authority's Section 151 Officer and Monitoring Officer.

Yours sincerely,

Max Soule

Deputy Director, Local Government Stewardship

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 Slough Borough Council (“the Authority”) to secure its compliance with the Best Value duty. He is doing so in circumstances in which he is satisfied that the Authority are failing to comply with their best value duty, having had regard to a range of evidence, including the reports produced by the Chartered Institute for Public Finance Authority (CIPFA) and Jim Taylor for the external assurance review commissioned by the then Secretary of State as a condition for an in-principle agreement to exceptional financial support.
2. The report of the governance review (“the Report”) was submitted on 9 September 2021. The Report sets out a picture of serious failings by the Authority, particularly focussed in the three areas of administration of financial affairs and corporate governance, democratic services and scrutiny, and service reform, encompassing service transformation, IT, HR, procurement, internal audit and the revenues and benefits service, leading to the conclusion that the Authority has failed in compliance with its best value duty over a number of years.
3. The Report notes the concerted efforts from the Authority over recent months following the issuing of statutory recommendations by the external auditor in May and July, and the issuing of a Section 114 notice by the Interim Section 151 Officer in July. The significant indicators of poor culture and weak governance, however, are such that the Report concludes that the Authority has failed its best value duty and is “unable to respond to the difficulties on its own”. The financial review undertaken by CIPFA confirms a budget shortfall identified for 2021-22 of £111m against a budget of £134m and concludes there is a need for ongoing oversight of SBC’s financial plans.
4. The package outlined below is intended to oversee and support the Authority to deliver the significant rapid change that is required. This includes securing as soon as practicable that the Authority’s financial management is exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Slough. The Secretary of State has also considered that the Authority will soon be seeking considerable exceptional financial support from the Government.
5. In the light of the conclusions and evidence in the Report, including the recommendations made by Jim Taylor and CIPFA, the Secretary of State is minded to put in place the intervention package set out below.

6. The Report identifies three key areas where the Authority needs support, as the Authority is failing to deliver and which, together, have led to its failure to comply with its best value duty. Examples of the ways in which the Authority is failing to deliver in each of these areas are included, but not limited to, below:

a. Administration of financial affairs and corporate governance

The Authority's financial reporting and governance arrangements do not provide the overview and scrutiny or assurance necessary for the Authority leadership, both officers and members, to fulfil their responsibilities or have confidence in the evidence presented to them to support decision making.

This culminated on 2 July 2021 with a Section 114 notice being issued on the basis that the Authority could not meet its immediate liabilities. The Authority's "outstanding past liabilities of approximately £52.8m exceeded the usable reserves" and if the use of capital reserves to offset Minimum Revenue Provision had been known at the time, the Authority "would have had difficulty in setting a legal budget in the three financial years of 2019-20, 2020-21 and 2021-22" (1.9).

The Report states: "The Council's financial accounts for 2018-19 had not been completed and signed off by external auditors. The Council has yet to prepare financial accounts for 2019-20 and 2020-21" (1.8) and "The auditors identified substantial weaknesses in the arrangements for preparing accounts and the financial information contained within them. This has resulted in Grant Thornton issuing four Section 24 statutory recommendations concerning the Council's arrangements for financial reporting and the management of its reserves. This was followed by two further Section 24 statutory recommendations in July 2021, due to inadequate arrangements in financial management and the capacity of the Council to manage its finances" (1.8).

Corporate governance processes are inadequate and poorly understood by officers and members. The Report states: "It has not been clear how capital projects have been prioritised or where the decision-making sits with these capital decisions" (6.31); "There are recent instances where the correct financial approvals have not been sought by officers and significant decisions have been taken with a confidential report, which has not aided transparency" (6.41); and "Some members feel let down by the information given to them by officers...some members now have limited confidence in officer reports due to the current situation" (5.2).

b. Democratic services and scrutiny

The necessary administrative functions to support a healthy democracy are not functioning in this Authority: reports to support decision making do not contain

key information, decisions are taken in the wrong meetings and decisions are not properly scrutinised. The interim Head of Democratic services left the organisation in July 2021 and the current Monitoring Officer has been available one day per week from the shared legal service “which is insufficient resource, considering the challenges” (4.24). “Some cabinet reports, often when the project is led by consultants, have not had comprehensive internal legal advice.” (4.59) “There are also vacancies for Scrutiny officers, democratic services officers and a new role of elected member business partner. In addition, service heads for finance and legal have left.” (4.26); “The scrutiny function is under resourced and there is no permanent statutory scrutiny officer. All seven meetings of Scrutiny Committees were cancelled in June and July of 2021.” (4.56); “Elected Members indicate they require additional scrutiny resource to carry out their function effectively... It is acknowledged that some reports have not been given enough scrutiny.” (4.56) “There is no scrutiny forward plan.” (4.56)

c. Service Reform

The transformation programme embarked on by the Authority in 2019, which was necessary to modernise service delivery, was executed poorly and has resulted in an Authority operating at a sub-optimal level as essential components necessary for effective service delivery are not present, and some services showing clear signs of failure: “The new structure has approximately 300 agency staff, many in critical areas such as social work and environment and approximately 300 substantive vacancies (4.11); “A phone system was not funded and there was no adequate digital solution in place” (4.12); “The Wifi and in some cases, phone signal, do not work effectively in the new council HQ; children’s social workers have been unable to work from the new building for many months”. “Whilst SBC are aware of most, if not all issues facing its Council Tax and Business Rates services, there is a considerable lack of resource, accountability and ownership required to address these issues. Resource issues are not limited to revenues services but include other internal departments such as IT or Logistics that revenues services are heavily reliant upon and who should be held more accountable for key activities and ensuring appropriate service delivery.” (7.17)

7. In light of the conclusions and evidence in the Report and the finance review the Secretary of State is minded to implement an intervention package with a particular focus on the above areas to address the circumstances of the Authority.

Overall purpose and approach

8. The Secretary of State’s proposals reflect the main findings of the Report: that there have been “years of inadequate corporate governance and action” and

“sustained and systematic failure across some functional processes, governance and certain services”.

9. The Secretary of State’s proposals for intervention are designed to make sure that the Authority has made sufficient improvement within the next three years to be able to comply with its best value duty on a sustainable basis. The Secretary of State is mindful of the scale of the financial challenge facing the Authority and considers it likely that financial sustainability will not be possible without more fundamental changes.

Commissioners

10. The proposed intervention package accordingly involves putting in place Commissioners who between them will have experience to work closely with the Authority on the functions within scope of the Report’s recommendations. The Secretary of State will also seek advice from the Commissioners to help determine whether financial sustainability is possible or if more fundamental changes will need to be considered.

11. The Secretary of State does not propose a wholesale transfer of functions at this stage. Nevertheless, he does propose that some functions, reflecting the failings outlined above, should be transferred to the Commissioners. Where functions have been transferred, the Secretary of State proposes that the Commissioners 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. In particular, the Secretary of State is mindful that the Interim Section 151 Officer and his team have taken considerable steps to improve the finance functions and envisages that the Commissioners would be building on the work they have started.

12. The Secretary of State is also mindful of the arrangements that are already in place in relation to the Authority’s children’s social care functions, and the Children’s Services Commissioner whom the Education Secretary has appointed to oversee improvements in the delivery of children’s social care functions and to work with Slough Children First, the Children’s Trust that transferred into the ownership of the Authority in April 2021. The Secretary of State intends the Commissioners to work as a team to oversee and support the Authority.

13. The Secretary of State proposes that his Directions to the Authority should be in place for an initial period of 3 years. If the Secretary of State considers at any time that it would be appropriate to change the Directions or withdraw them, then he will do so. His concern will be to make sure that the Directions operate for as long,

but only as long, and only in the form, as he considers they should operate in order to secure stability for the Authority.

Functions to be exercised by the Commissioners

14. For the reasons set out above, the Secretary of State considers that the proposed intervention includes the transfer to the Commissioners of the following functions:

- a. All functions associated with the governance and scrutiny of strategic decision making by the Authority;
- b. The requirement from section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Authority's financial affairs, and all functions associated with the strategic financial management of the Authority, to include:
 - i. providing advice and challenge to the Authority on the preparation and implementation of a detailed plan to close its short and long-term budget gap in response to the section 114 notice;
 - ii. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority, limiting future borrowing and capital spending;
 - iii. scrutiny of all in-year amendments to annual budgets;
 - iv. the power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty; and
 - v. providing advice and challenge to the Authority on the preparation of an outline asset disposal plan.
- c. All functions associated with the oversight of collection of revenues (council tax and business rates) and the distribution of benefits (housing benefit and council tax support) by the Authority; and
- d. 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. For this purpose –
 - i. "statutory officer" means any of: 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; the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989; and the scrutiny officer designated

under section 9FB of the Local Government Act 2000 (and the expressions “statutory officer” and “statutory office” are to be construed accordingly); and

- ii. for the avoidance of doubt, the following are included: the functions of (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 (a) 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 (b) dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.

Directions to the Authority

15. The proposed Directions also set out actions which the Authority must undertake in order to effect the changes which are needed as well as supporting and facilitating the work of the Commissioners.

- a. Within three months from the date of these Directions undertake an assessment of the **functional capability** of all service areas identifying the gaps in capacity and capability, and within six months from the date of these Directions prepare and agree action plans to the satisfaction of the Commissioners.
- b. To undertake in the exercise of **any of its functions** any action that the Commissioners may reasonably require to avoid so far as practicable incidents of poor governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.
- c. Within three months from the date of these Directions prepare and agree an **Improvement Plan** to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), with, resource allocated accordingly, and as a minimum, the following components:
 - i. An action plan to deliver **financial sustainability** and to close the long-term budget gap.
 - ii. An action plan to achieve improvements in relation to the proper functioning of **democratic services**, to include rapid training for council officers, a revised term of reference for the Audit and Corporate Governance Committee, and the agreement of an Annual Governance Statement for 2020-21.

- iii. An action plan to achieve improvements in relation to the proper functioning of the **scrutiny** function, to include a review of the Council strategic risk register to make it fit for purpose.
 - iv. An action plan to achieve improvements in relation to the proper functioning of **internal audit**, which addresses outstanding management actions and includes the commissioning of an independent review of the internal audit contract and a fully costed plan for establishing an internal audit function that reflects best practice.
 - v. An action plan to achieve improvements in relation to the proper functioning of the **procurement and contract management function**, which includes an independent review.
 - vi. An action plan to achieve improvements in relation to the proper functioning of the Authority's **IT**.
 - vii. A suitable **officer structure** and scheme of delegation for the Authority which provides sufficient resources to deliver the Authority's functions in an effective way, including the Improvement Plan and its monitoring and reporting, prioritising permanent recruitment and/or longer term contract status of interim position.
- d. During the Direction Period report to the Commissioners on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as the Commissioners may direct, and adopt any recommendations of the Commissioners with respect to the Improvement Plan and its implementation.
- e. Within six months devise and then implement a programme of cultural change to rebuild trust between officers and members, to the satisfaction of the Commissioners. This should make sure both Members and Officers understand the scale of the challenge and their respective roles in driving improvement and the way in which the Authority and its activities are regulated and governed and the way in which this is monitored, and breaches rectified.
- f. Following the review of Council companies within six months consider the roles and case for continuing with each subsidiary company of the Authority (except Slough Children First through which the Authority delivers functions under Direction, and therefore is outside the scope of this work). For those companies that it is agreed to continue, make sure that the Directors appointed by the Authority are appropriately skilled in either technical or company governance matters to make sure each Board functions effectively under the terms of an explicit shareholder agreement and a nominated shareholder representative. For those companies which it is determined not to continue with in this form, to establish a plan to internalise, close or sell as appropriate.

- g. Within six months take steps to enable better and evidence-based decision making, including enhancing the data and insight functions to enable better evidence-based decision making.
- h. 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.
- i. 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;
- j. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them;
- k. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request; and
- l. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of this Direction

Duration of intervention

16. The Secretary of State proposes that the Commissioners will be in place for an initial period of three years, only be extended if the Authority fails to make satisfactory progress in implementing and embedding the changes necessary to deliver Best Value in its governance and operations.