



Department for Levelling Up,
Housing & Communities

Kim Bromley-Derry CBE DL
Interim Chief Executive
Sandwell Metropolitan Borough Council
By email

Max Soule
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Dear Mr Bromley-Derry,

I am writing to invite your Authority, if it wishes, to make to the Secretary of State representations about the intervention he is proposing, and the Value for Money Government Review your external auditor, Grant Thornton, sent on 3 December, which has led the Secretary of State to propose this intervention. This letter will be published on www.gov.uk.

I would also like to take this opportunity to formally recognise the hard work of many of the staff at your Authority, including yourself. The Secretary of State is mindful that the new Leadership Team have taken considerable steps in recent months to stabilise the Authority and begin its improvement journey. It is essential that the proposed intervention does not distract the Authority from the improvements that are starting to be made. In particular, it is essential that the Authority effectively engage with the Corporate Peer Challenge that is scheduled to take place at the end of the month.

The Secretary of State has carefully considered the findings and recommendations of the Governance Review. He is satisfied on the basis of matters set out in the Review 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 Review 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 11 February. 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.

The Review concluded that “maintaining continuity and stability of the wider leadership team” will be essential to firmly embed recent changes and to maintain momentum with reforms. I would therefore also be grateful for your views on the Authority moving to a four yearly election cycle at the earliest opportunity and 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 Sandwell Children’s Trust, 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 Sandwell Metropolitan Borough Council (“the Authority”) to secure its compliance with the best value duty. He is doing so in circumstances in which the external auditor, Grant Thornton, has conducted a thorough Value for Money Governance Review and has produced a detailed report (“the Report”), which under cover of a letter of 6 December 2021 has been submitted to the Secretary of State.
2. The Report provides a picture of the Authority of the utmost seriousness. Whilst the conclusion of the external auditor is that the Authority is now on an improvement journey, there is considerable evidence of significant and systemic best value failure. In light of the evidence in the Report the Secretary of State is minded to implement the intervention package set out below. Whilst the Secretary of State is fully supportive of the actions of the Interim Chief Executive and encouraged by the progress that has been made since his appointment in August 2021, in his view the risk of progress stalling or slowing is significant and, in his view, the proposed intervention is both necessary and expedient to secure compliance with the best value duty.
3. 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. He specifically reserves his ability to make further or revised Directions after implementing this, or any, intervention package (if that is what he decides to do).

Overall purpose and approach

4. The starting point is the evidence, as set out in the Report, that a breakdown in trust, respect and confidence between those holding governance roles at the Authority over a number of years has significantly limited the Authority’s ability to look forward and manage the challenges and opportunities it faces. The Secretary of State has concluded that there are significant risks around whether the Authority has the long term political and managerial leadership to guide the Authority out of its present difficulties and keep it on a path to success. In particular, the Report includes the following:
 - a) On governance, until recently the Authority has failed to take an effective grip of key issues facing the Authority. A lack of a clear performance management framework and agreed key corporate indicators impacted on the ability of the Leadership Team and Cabinet to have a single line of sight, and the Leadership Team had not effectively engaged strategic financial planning and budget monitoring (p.8). There has been no structured or effective “early warning” system in place for the Leadership Team to identify key risks and issues (p.17) and, whilst a Corporate Plan (Vision 2030) has been in place, there has been

a lack of clarity about how the Plan's ambitions, priorities and outcomes should be delivered (p.16). The scheme of delegation and the involvement of senior members in key decision-making has resulted in a lack of empowerment of officers and has limited the agility of the Authority to make prompt decisions (p.9, 34). The effectiveness of the Scrutiny Boards and the Audit and Risk Assurance Committee need improvement (p.18). The risk to the Authority of having no Enterprise and Resource Planning (ERP) business system (which provides a range of key functions that support various service areas, including Finance, Human Resources, Payroll, and Procurement) available from January 2022 is significant (p.42).

- b) On culture and leadership, poor behaviour and a lack of trust across the wider organisation continues to exist (p.10). A perceived blame culture has contributed to silo working, which has resulted in a lack of ownership and grip on key challenges, and an absence of intervention and decision-making (p.8, 15). The level of complaints at the Authority has been described as a "mini industry" which takes up valuable time and resource, should the complaints be spurious (p.44). Insularity, along with poor engagement and communication with local residents, businesses, external partners and sub-regional bodies has resulted in a lack of clarity on the Authority's key strategic priorities (p.18).
- c) On financial governance, there has been an ineffective approach to budget monitoring and budget setting where monthly budget reports had not been reported to the Cabinet or the Leadership Team, and Directors and Portfolio Holders not being effectively engaged in budget setting discussions (p.16). There remains no visible consultation on the Council's budget setting priorities (p.17). Until recently, no consistent approach to financial benchmarking to help understand unit costs had existed (p.17), and the Authority does not have a corporate asset management database (p.50).
- d) On services, the significant amount of time the Authority has spent responding to internal allegations and complaints has impacted on its ability to focus on service improvement (p.7). Inadequate procurement and contract management arrangements has led to poor decision-making and has impacted negatively on key services, such as children's services, special needs and disabilities (SEND) transport, waste management and leisure (p.8, 36, 37). Children's social care services have been run by a trust (Sandwell Children's Trust) since April 2018, following an inadequate / requires improvement Ofsted inspection in June 2015. Whilst the recent Ofsted rating of fostering services demonstrates some positive progress, it is clear from the March 2021 Ofsted focus visit that some areas of significant improvement are still required (p.22).
- e) On capacity or capability to improve, while progress under the Interim Chief Executive and recently consolidated Leadership Team is recognised, it is noted that historically senior officers and senior members have been unable to make the changes required to move away from the past (p.7). Failure to take ownership and seek resolution has meant that lessons have not been learned and this has resulted in a number of instances whereby the Authority has repeated actions leading to similar outcomes (p.8). The prevalence of interim and acting up arrangements in senior officer roles has in some places not seen

effective back-fill arrangements put in place, resulting in capacity challenges for some key officers and teams such as Finance (p.9). Crucially, recruitment of a permanent Chief Executive has not yet been achieved. In order that the Authority maintains progress with its improvement journey, the Authority's leadership will need to be relentless in its focus in delivering and embedding sustainable change (p.44).

5. The Secretary of State considers that given the evidence and history, as revealed by the Report, a broad and wide-ranging intervention package would be necessary and expedient to address the circumstances of the Authority.
6. The proposed intervention package would need to, and is designed to, cement the progress that has been seen over recent months. It recognises the building blocks that have been put in place, whilst also appreciating the scale of the challenge and how much improvement is necessary for the Authority to deliver its best value duty. Such an intervention package would need to:
 - a) Continue 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.
 - b) Restore public trust and confidence in Sandwell 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.
 - c) 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 Sandwell.

Commissioners

7. The proposed intervention package involves putting in place a Commissioner to act as Managing Director, supported by an Assistant Commissioner, primarily to provide effective corporate grip of long-standing service issues and change the organisational culture, until they oversee the appointment of a new permanent chief executive in 2023.
8. The following Directions are proposed in relation to the Commissioners. 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. In particular, the Secretary of State is mindful that the Interim Chief Executive and his team have taken considerable steps to stabilise the Authority and start the improvement journey and envisages that the Commissioners would be building on the work they have started and working closely with them.

9. The Secretary of State proposes that this Direction to the Authority should be in place for up to two 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.

Functions to be exercised by the Commissioners

10. 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:
- a) All functions associated with the governance and scrutiny of strategic decision making by the Authority.
 - b) All 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 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
 - ii. 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.

Actions for the Authority

11. 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.
12. To achieve and facilitate the objectives of the intervention, the Secretary of State proposes to direct the Authority within three months of the start of the intervention to prepare, under the direction of the Commissioners and agreed with the Commissioners, and submit to the Secretary of State, an improvement plan 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 improvement plan should set out measures to be undertaken, together with milestones and delivery targets against which to measure performance and may include or draw upon improvement or action plans prepared before the date of these Directions. The improvement plan should include activities to implement all 45 recommendations of the Report.

13. The Secretary of State proposes further to direct the Authority to undertake the measures set out in the plan, under the direction of the Commissioners, 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.
14. In addition, the Secretary of State proposes to direct the Authority 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.
15. Furthermore, the Secretary of State proposes to direct the Authority to:
 - a) 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.
 - b) 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.
 - c) To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
 - d) To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.
 - e) 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 expects the Commissioners will oversee the recruitment of a Permanent Chief Executive before the end of the intervention and proposes that the Commissioners will be in place for an initial period of two 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.