

STATUTORY DIRECTION TO NORTH AND WEST NORTHAMPTONSHIRE UNITARY COUNCILS 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") noted in respect of Northamptonshire County Council that performance of children's social care services has significantly deteriorated, as detailed in Ofsted's letter dated 13 November 2018 following a focussed visit carried out on 17 and 18 October 2018 ("The 2018 Ofsted letter").
2. On 10 May 2018, the Secretary of State for Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities) issued Directions to the Council ("The MHCLG Directions") under section 15(5) and (6) of the Local Government Act 1999 ("the 1999 Act"). These Directions followed the report dated 15 March 2018 of the Best Value Inspection of the Council by Max Caller CBE, published and given to the Council on 15 March 2018. The MHCLG Directions provided for Commissioners appointed by the Secretary of State for Housing, Communities and Local Government ("The MHCLG Commissioners") to exercise functions of the Council associated with governance and scrutiny, appointment of statutory officers and strategic financial management. The MHCLG Directions expired on 31 March 2021 and the intervention under the 1999 Act was brought to an end.
3. The Secretary of State has carefully considered:
 - a. The 2018 Ofsted letter, which found that children's social care services in Northamptonshire County Council significantly deteriorated since inspection in 2016 and issued two areas for priority action around workforce capacity and case allocation and progression;
 - b. The history of children's social care performance in Northamptonshire, including:
 - i) Ofsted's report of April 2016 following inspection of Northamptonshire County Council under the single inspection framework on 8 February to 10 March 2016, which found children's social care services to be 'requires improvement' overall, and across every category
 - ii) Ofsted's report of August 2013 following inspection of Northamptonshire County Council of services for looked after children on 15 July 2013, which found that services for looked after children were 'inadequate' overall, and 'inadequate' across every category;
 - iii) Ofsted's report of May 2013 following inspection of adoption services of Northamptonshire County Council on

March 2013, which found that adoption services were 'inadequate' overall. Outcomes for children and young people were 'inadequate'. The quality of the service was 'inadequate'. Leadership and management was 'inadequate'. Safeguarding children and young people was 'adequate'.

- iv) Ofsted's report of March 2013 following inspection of Northamptonshire County Council's arrangements for the protection of children on 25 to 29 February 2013, which found that arrangements to protect children in Northamptonshire were inadequate overall, and across every category.
- v) The decision following these 2013 reports to issue a statutory direction on 2 October 2013 requiring Northamptonshire County Council to take various actions to secure improvement of children's services.

c. The letter of 2 November 2018 from the MHCLG Commissioners, which set out a number of concerns about the performance of children's services and requested additional capacity for the Commissioner team to provide oversight of the operation of children's services.

d. The subsequent direction of 30 November 2018 appointing Malcolm Newsam CBE as Commissioner for Children's Services in Northamptonshire ("the Children's Services Commissioner").

e. The decision of 14 May 2019 by the Secretary of State for Housing, Communities and Local Government to implement the proposal to create two unitary district councils to replace Northamptonshire County Council.

f. The report by the Children's Services Commissioner dated 20 February 2019 on current performance in Children's Social Care in Northamptonshire County Council and the optimum delivery and governance arrangements for children's services in the event of a reorganisation of local government in Northamptonshire.

g. The full Ofsted inspection report of June 2019 which found services in Northamptonshire County Council to be inadequate, and the subsequent focussed visit report of October 2020.

h. The Children's Services Commissioner reports of February and June 2020, March 2021 their advice on Trust operation and service performance and their final advice of November 2021.

i. The direction of 1 November 2020 reflecting the launch of the Northamptonshire Children's Trust children's services trust ("the Trust").

- j. The direction of 1 April 2021 reflecting the fact that on 1 April 2021 Northamptonshire County Council was replaced by the two unitary councils of North Northamptonshire and West Northamptonshire; and statutory responsibility for those children's services discharged by the Trust transferred to these new bodies from this date.
 - k. The Commissioner's advice to the Minister in November 2021 recommending the appointment of an independent chair at the end of the Commissioner's tenure on 31 January 2022.
4. On 1 April 2021 Northamptonshire County Council was replaced by the two unitary councils of North Northamptonshire and West Northamptonshire (the Councils), and statutory responsibility for those children's services discharged by the Trust transferred to the Councils from this date.
 5. Northamptonshire County Council's past performance in respect of its children's services has effect as if done by the Councils – under regulation 4(3) of The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008.
 6. The Secretary of State is therefore satisfied that the Councils have assumed responsibility from Northamptonshire County Council for the historic and continuing failure 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 Councils 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 Councils under sections 10, 12, 12C, 12D and 17A of the Children Act 2004.
 7. Andrew Christie CBE's tenure as Children's Services Commissioner ended on 31 January 2022, and Jenny Coles CBE has been appointed as an independent chair of the Councils' Children's Services Improvement Board ("the Improvement Board Chair") from that date.
 8. Lincolnshire County Council continue to act as the Department for Education's improvement adviser.
 9. The Secretary of State, having considered representations made by the Councils, considers it expedient, in accordance with his powers under section 497A(4B) of the Education Act 1996, to direct the Councils as set out below in order to ensure that all of the Councils' children's social care functions are performed to an adequate standard.

NOW THEREFORE:

10. Pursuant to his powers under section 497A(4B) of the Education Act 1996 Act, the Secretary of State directs the Councils as follows:

- a. Engage with the Trust, in joint commissioning arrangements for the Trust, and with the Councils' partners whose work impacts the delivery of the Councils' children's social care functions, in a way likely to facilitate improvement in the exercise of those functions
- b. To comply with any instructions of the Secretary of State or the Improvement Board Chair in relation to the improvement of the exercise of the Councils' children's social care functions, and provide such assistance as the Secretary of State or the Improvement Board Chair may require; and
- c. To cooperate with and provide the Improvement Board Chair with such amenities, services and administrative support as they may reasonably require from time to time for the carrying out of 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; and
 - iii. complying with such reporting and review arrangements as the Improvement Board Chair feels necessary to meet the Terms of Reference.

11. In consequence of this direction, the Secretary of State for Education revokes the direction of 1 April 2021.

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

Helen Brayley-Morris - A Senior Civil Servant in the Department for Education

Dated:

Carolán Goggin – A Senior Civil Servant in the Department of Education

Dated:

ANNEX

Independent Chair of the Councils' Children's Services Improvement Board - Terms of Reference

- Chair the Improvement Board and provide assurance to the Department for Education on current service arrangements, including leadership, governance, commissioning and quality assurance;
- Identify and recommend to the Councils any additional support required to deliver improvements
- Support the continued focus to deliver a Children's Services Improvement Plan with clear targets and measurable outcomes;
- Support continued improvement in engagement across the Trust, with the Councils' partners and with Department for Education officials;
- Strengthen the Councils' safeguarding partnership arrangements at a strategic level; and
- Provide regular reports on progress to the Department for Education