



Department for Levelling Up,
Housing & Communities

Max Soule

Deputy Director, Local Government Stewardship

**Department for Levelling Up, Housing and
Communities**

2 Marsham Street London SW1P 4DF

Anne-Marie Lubanski,
Acting Head of Paid Service, Liverpool City Council

By email only

19 August 2022

Dear Anne-Marie,

LIVERPOOL CITY COUNCIL – PROPOSED FURTHER DIRECTIONS

The commissioners wrote to the Secretary of State on 10 June 2022 with their second report on the progress on the best value intervention in Liverpool as required by the Directions issued to the Council on 10 June 2021. The report lays bare the scale of the challenges in Liverpool, particularly regarding financial management, capacity and capability at senior levels and a lack of urgency and prioritisation to bring about change.

Commissioners are clear that further action is required and have recommended that, based on their assessment of the ongoing challenges in Liverpool, the Secretary of State may wish to consider adding to the existing Directions.

Having carefully considered the report, the Secretary of State still assesses Liverpool City Council to be failing in its best value duty. On this basis, he is considering further exercising the powers of direction in the Local Government Act 1999 in relation to your Authority to secure its compliance with the best value duty, based on the recommendations of the commissioners. I am now writing to invite your Authority, if it wishes, to make representations about proposed additional Directions to the commissioners and the Council. These can be found at Annex A. This letter, alongside the commissioners' report and the Secretary of State's response, will be published on www.gov.uk.

The Secretary of State is minded to appoint an additional commissioner with finance expertise to oversee improvements in the Council's approach to managing its financial resources and exercise the statutory requirement to make arrangements for the proper administration of the Authority's financial affairs, and functions associated with the strategic financial management of the Authority.

The Secretary of State is also minded to decide that due to concerns over workforce capacity and capability, it is necessary to issue a further Direction to transfer all executive powers regarding the appointment, suspension and dismissal of senior positions to commissioners. Alongside this, all non-executive powers with regards to HR functions and policy at the Council would be transferred to commissioners. Senior positions are defined as direct reports to the Chief Executive and their direct reports (tiers two & three). Commissioners must also be permitted to take part in the performance appraisal for the Chief Executive and any direct reports to the Chief Executive (tier two).

Furthermore, the Secretary of State is also minded to transfer functions associated with the governance and scrutiny of strategic decision making by the Authority to commissioners. This is in response to the concerns expressed in the commissioner's report on the pace of change at the Authority, the senior capacity to drive it and issues with decision making processes.

In addition to transferring these powers, the Secretary of State is minded to direct the Authority to undertake the specific actions outlined by the commissioners in their report and detailed in Annex A.

Your Authority is now invited to make such representations as it wishes about the report and the Secretary of State's proposals. All such representations should be sent by email to interventions@levellingup.gov.uk, or in hard copy to the address above marked for my attention, to be received on or before 2 September. They will then be carefully considered by the Secretary of State in deciding as to whether or not to make the proposed Directions.

Alongside this, the Secretary of State is also establishing a Liverpool Strategic Futures Panel to guide the city through its present difficulties to the bright future it deserves. The Panel will complement the work commissioners are undertaking at the Council and be chaired by Mayor Steve Rotheram with Baroness Blake of Leeds CBE and Sir Howard Bernstein joining him. The Secretary of State will invite the three panellists to nominate a practising businessman or woman to join them.

The Panel will report directly to the Secretary of State, alongside commissioners, and craft a plan for Liverpool's revival as a city. They will be asked to meet regularly with the City Mayor, Joanne Anderson, and her cabinet, and with commissioners. The Secretary of State expects their work to be complementary, and for them to work closely together to help the Council make the right decisions and give the people of Liverpool the local Council they deserve.

I am copying this letter to your Authority's Acting Section 151 Officer, Monitoring Officer and the Commissioner's Office.

Yours sincerely,

Max Soule
Deputy Director, Local Government Stewardship

ANNEX A – PROPOSED FURTHER INTERVENTION

CONTEXT

1. Following the receipt of the second report from the Liverpool City Council commissioners (“the commissioners”), as required by the Directions issued on 10 June 2021, the Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State”) is considering issuing further directions under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Liverpool City Council (“the Authority”) to secure its compliance with the best value duty.
2. The Directions set out on 10 June 2021 remain in place and are not subject to this period of representations.

THE COMMISSIONERS’ SECOND REPORT

3. On 10 June 2022, the commissioners submitted their Second Report to the Secretary of State. The Report identified ‘systematic and whole-council weaknesses’ meaning that it is the commissioners’ assessment that the Council continues to fail its best value duty and that ‘immediate further intervention is required’ to tackle this continued failure.
4. In particular, the commissioners have reported concerns about the financial position of the Council and the ‘structural weaknesses’ in the system that supports the management of public money. They raise specific concerns about the Council’s procurement function and state that ‘the absence of the Director of Finance and Resources is a major risk in terms of capacity, leadership and control’.
5. Regarding the capacity and capability of the Council, it is clear from the Report that there has been no whole organisation approach to tackle resource gaps and the lack of effective leadership of functions. Therefore, steps need to be taken to improve recruitment practices and the management of existing staff.
6. It is also the commissioners’ view that ‘key aspects of the corporate core of the Council - the services that support the running of the organisation - are failing and require urgent reform’. The commissioners have cited specific examples of failure, notably the lapsing of the Council’s electricity contract and its lack of substantial progress in adopting the recommendations made by the Chartered Institute of Public Finance and Accountability (CIPFA). This is clearly a barrier to improvement which needs to be addressed.
7. The commissioners have also set out a series of actions they believe the Council should undertake during the next stage of the intervention.

PROPOSED ADDITIONAL COMMISSIONER POWERS

8. Having carefully considered the commissioners report, the Secretary of State still assesses Liverpool City Council to be failing in its best value duty. In light of concerns raised by commissioners, he is considering further exercising the powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the best value duty.
9. The Secretary of State is minded to appoint an additional commissioner with finance expertise to oversee improvements in the Council’s approach to managing its financial

resources and to exercise 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. This includes 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 providing advice and challenge to the Authority in the setting of annual budgets and a robust medium term financial strategy (MTFS) for the Authority.

10. The Secretary of State is minded to decide that due to concerns over workforce capacity and capability, it is necessary to issue a further Direction to transfer all executive powers regarding the appointment, suspension and dismissal of senior positions to commissioners. Senior positions are defined as direct reports to the Chief Executive and their direct reports (tiers two and three). Alongside this, all non-executive powers with relation to the organisation of the Authorities staff, their appointment and management. commissioners must also be permitted to take part in the performance appraisal for the Chief Executive and any direct reports to the Chief Executive (tier two).
11. The Secretary of State is also minded to transfer functions associated with the governance and scrutiny of strategic decision making by the Authority to commissioners. This is in response to concerns expressed in the commissioner's report that 'key aspects of the corporate core of the Council – the services that support the running of the organisation – are failing and require urgent reform'.
12. These powers are broad, and it is the Secretary of State's view that should they be transferred, commissioners will be best placed to decide how and when they practically exercise these powers and implement appropriate processes to do so within the Council.

PROPOSED ACTIONS TO BE TAKEN BY THE AUTHORITY

13. In addition to transferring these powers, to ensure the Council is taking the appropriate steps to improve, the Secretary of State is minded to direct the Authority to undertake that:
 - a. In the exercise of any of its functions, any action that the commissioners may reasonably require of them to avoid so far as practicable incidents of poor governance or financial mismanagement that would, in the commissioners' reasonable opinion, give rise to the risk of further failures by the Authority to comply with the best value duty.
 - b. They progress the recommendations set out in the commissioners' Second Report, with a particular focus on:
 - i. Strengthening financial resilience, management, and accountability and drastically improve income collection by October 2022.
 - ii. Finalising a fully costed plan for restructuring the organisation by June 2023.
 - iii. Designing and implementing a new audit model within 12 months, alongside a clear corporate planning process and strong assurance framework, that imbeds a new governance model, if approved.

- iv. Finalising the Council's transformation programme including completing the diagnostic review of the procurement function, taking steps to rebuild trust with residents and improving FOI performance
- v. Implementing the service level recommendations, as outlined by commissioners.

DURATION OF THE DIRECTIONS

14. The Directions set out on 10 June 2021 remain in place and are not subject to this period of representations.
15. The Secretary of State proposes that any new Directions will also be aligned to end on 9 June 2024. The Secretary of State retains the existing power to amend this date at any time, should it be appropriate to do so.