

## **Devon Statutory Direction**

### **REVISED STATUTORY DIRECTION TO DEVON 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") has noted in respect of Devon County Council ("the Council") that performance in respect of children's social care services is 'inadequate' as detailed in Ofsted's inspection report of 17 March 2020.
2. The Council's inadequate performance of some of its children's social care functions led the Secretary of State to issue a statutory direction on 17 March 2020 ("the first direction"), requiring the Council to comply with any instructions of the Secretary of State in relation to improvement of children's social care functions, to continue improvement activity, to submit an improvement plan, and to co-operate with a Commissioner to be appointed.
3. A revised statutory direction was issued on 2 July 2020 ("the second direction") which required the Council to work with Eleanor Brazil OBE as the Commissioner for Children's Services ("the previous Commissioner").
4. Following the previous Commissioner's final report of 22 March 2021 which concluded that there were compelling reasons why the Council should retain control of its children's services, a further revised statutory direction was issued on 11 May 2021 ("the third direction"), requiring the Council to continue to take steps to improve the quality of services and to work with an appointed Improvement Adviser ("the Improvement Adviser"). The Improvement Adviser's contract formally ended on the 31 March 2022.
5. The Secretary of State has carefully considered
  - a. Ofsted's report of 17 March 2020 which found that children's services are 'inadequate' overall. The sub-judgement for the experiences and progress of children who need help and protections was rated as 'requires improvement to be good'. The sub-judgements for the impact of leaders on social work practice with children and families and experiences and progress of children in care and care leavers were both rated 'inadequate'.
  - b. The previous Commissioner's report of September 2020 which recommended that there was no need to commission an additional Commissioner review, or to consider any alternative delivery and governance arrangements for children's social care.
  - c. The previous Commissioner's second report of March 2021 which concluded that the Commissioner work should be replaced by an

Improvement Adviser, and that the Council should enter into a partnership with a Sector Led Improvement Partner (“SLIP”).

d. Subsequent Improvement Adviser’s reports and findings from ongoing Ofsted Monitoring Visits.

6. The Secretary of State is therefore satisfied that while there has been some improvement, 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 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, 12, 12C, 12D and 17A of the Children Act 2004.
7. The Secretary of State has appointed Matt Dunkley CBE as the new Commissioner for Children’s Services in Devon (“the Children’s Services Commissioner”) in accordance with, and for the purposes of, the terms of reference (“the Terms of Reference”) set out in the Annex to this direction.
8. 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

9. 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/or Children’s Services Commissioner in relation to the improvement of the Council’s exercise of its children’s social care functions and provide such assistance as the Secretary of State or the Children’s Services Commissioner may require;
  - b. To co-operate with the Children’s Services Commissioner and any SLIP, including on request allowing the Children’s Services Commissioner and SLIP at all reasonable times access to:

- i. any premises of the Council;
- ii. any document of, or relating to, the Council; and
- iii. any employee or member of the Council,

which appear to either of them to be necessary for achieving the purposes of, and carrying out the responsibilities set out in the Terms of Reference;

- c. To provide the Children's Services and any SLIP with such amenities, services and administrative support as either of them 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;
  - ii. providing office space, meeting rooms or computer facilities.
- d. To co-operate with the Children's Services Commissioner and any SLIP in their assessments and any subsequent review, in accordance with the Terms of Reference in the Annex to this statutory direction;

10. This direction will remain in force until it is revoked by the Secretary of State.

11. In consequence of this direction, the Secretary of State revokes the third direction.

Signed on behalf of the Secretary of State for Education.



Lucy Livings

A Senior Civil Servant in the Department for Education  
Dated this day of 10 October 2022

## **ANNEX**

### **Children's Services Commissioner**

Devon County Council

#### **Terms of Reference – October 2022**

The Children's Services Commissioner will support the Council in continuing to develop and implement robust, realistic and achievable plans to improve its children's social care services, in particular those areas which have been judged by Ofsted to be inadequate or where other serious concerns have been identified. In particular, he will:

- Provide effective oversight to ensure the pace of improvement is appropriate and that improvements to children's social care are sustainable;
- Provide support and advice as necessary when assessing and driving progress, taking account of the weaknesses identified by Ofsted and of other diagnostic work;
- Apply their expertise and experience to support and challenge the Council's political, corporate and children's services leadership, to continue to make progress in addressing areas of weakness and system/ strategic blockages to improvement; this may also include working with practitioners of different levels to:
  - develop competence and improve performance; and
  - help foster a culture of reflection, challenge and support;
- Make use of wider contacts to support and advise the Council on potential solutions to issues and signpost examples of good practice where possible;
- To chair the Council's Children's Services Improvement Board, to be in person and scheduled on a 6-weekly basis and with the timings of which to be kept under review;
- Work closely with any other local authority improvement partners to maximise impact of work and avoid unnecessary duplication;
- Engage with the wider partnership;
- Support the Council to ensure it has the right capacity in place to sustain and increase the pace of improvement;
- Identify key deliverables and produce a plan detailing the outputs and KPIs which the Commissioner will meet over the duration of their appointment, and agree this with the Department for Education (DfE") within 6 weeks of appointment;

- Participate in any DfE-led review of the Council's progress;
- Deliver quarterly written updates on the Council's progress to the Minister for Children and Families, which is to include a six-month review on whether the pace of progress of improvement is sufficient; and
- Escalate and conduct a more in-depth review of whether services should remain with the Council on request should the progress and pace of improvement be deemed insufficient.