

30 August 2022

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Max Soule
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Local Government Stewardship

Dear Secretary of State

RESPONSE TO THE PROPOSED FURTHER DIRECTIONS FOR LIVERPOOL CITY COUNCIL

Thank you for your letter of 19 August 2022, setting out your response to the commissioners' second progress report and the proposed revisions to the statutory directions. Please find the council's representations set out below and summarised in appendix A. We are open to discuss or elaborate upon any of the points made.

Together with the cabinet and corporate leadership of the council, we have publicly acknowledged that the pace and impact of improvement at Liverpool City Council has not met the commissioners' requirements, or the expectations of our residents, who deserve more from their city council. A positive and collaborative approach over recent months means that although there is much to do, there is confidence that working jointly with commissioners, we can make the necessary improvements at pace.

We have undertaken a huge amount of work over the last 12 months to build the foundations of our improvement journey across the organisation and to address the deep seated and long-standing problems in the council's systems, processes and culture. The scale of the challenge is recognised and we know that there is no quick fix. The first year of the intervention has been difficult as acknowledged previously. Since the commissioners' second report was submitted in June 2022, we have made further significant progress on the pace and focus of our improvement work, quickly learning lessons from commissioners' feedback.

We have taken important steps in the delivery of the council's Strategic Improvement Plan including improving governance, as set out below. Further, the council has been successful in strengthening corporate capacity through appointments to key posts in property, finance, procurement and audit. An interim chief executive with a strong track record on improvement will start in September. This new capacity, working alongside the strengthened leadership team, will allow the council to deliver change at pace, both at strategic and operational level.

Throughout the intervention, we have sought to work positively and collaboratively with commissioners who, whilst challenging the pace of change, have recognised this progress. We firmly believe that any issues that may have hindered our working relationship are resolved, as evidenced by the joint working between cabinet, commissioners and the leadership team on prioritisation as described below. The intervention is now in a fundamentally different and positive position and we are confident that we can increase the

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pace and scale of improvement and deliver the positive impacts which our residents want to see and deserve.

In this response, we provide constructive representations on the proposed changes to the Directions. We believe our representations will enhance the effectiveness and speed of improvement and in doing so, improve the delivery of best value to the city's residents and stakeholders.

We request these are taken into account when you make your final decision and, as stated, we are open to discuss our concerns with you or commissioners.

Strategic Futures Panel

We welcome the establishment of a Strategic Futures Panel, reporting directly to the Secretary of State. Sir Howard Bernstein and Baroness Blake of Leeds CBE are experienced and well respected local government leaders who, together with Mayor Steve Rotherham and local business input, will provide great support to Mayor Anderson on the challenges the city faces.

Mayor Rotherham shares our aspirations for building a strong and inclusive economy that works for all people and places alongside improving our national and global performance. We worked closely with the Liverpool City Region Combined Authority to develop the Plan for Prosperity, the long term vision to deliver a fairer, stronger, cleaner city region.

We anticipate that the panel's terms of reference will be co-designed with Mayor Anderson and that the panel will embed ongoing engagement with the City Mayor, cabinet, and the council's leadership into the terms of reference and its work. This will ensure clarity on the panel's focus and responsibility compared to that of commissioners and the council.

You have indicated that the panel could operate for 18 months, which we agree is a reasonable time period and gives some continuity to the new administration in May 2023. We also note your commitment, there will be no cost to the council in respect of the panel's work.

Further powers for commissioners

The commissioners have not directly exercised their existing powers to date. They have provided constructive input, oversight and approval, but decisions have continued to be made by the council, importantly maintaining the democratic mandate for decision making in the authority.

We understand that the commissioners wish to continue this practice and, in our view, this has been a positive approach based on constructive challenge.

We accept the need for further improvement and the scale of the challenge, but we have deep reservations at the formal expansion of commissioner powers and functions. There is a lack of clarity on the scope and breadth of some of the new powers in practice, which risks misunderstanding and potential delay to improvement.

Our individual representations are below but, as a minimum, we would ask that you undertake a collaborative exercise to clarify the scope of the new powers, for example through the agreement of a protocol or other arrangement. This can be built on experience of these powers in other authorities undergoing intervention and can be done directly with you or through the commissioners.

Finance

Liverpool is facing a challenging financial situation, one shared by all councils as they seek to address rising cost of living pressures, inflation and increasing demands for services. In Liverpool's case, our Financial Improvement Plan includes priorities to transform services, deliver better outcomes and ensure the financial management of the council is fit for purpose and resilient.

We acknowledge the recent lack of stable financial leadership, including a permanent s.151 officer, combined with a challenging political context, creates risks for the setting of next year's budget.

Our view is that these powers should be in place for the minimum time to allow the council to restore its financial resilience. Again, whilst recognising our challenges, we are making significant progress on strategic financial matters. This includes working closely with members to propose and agree a balanced three-year budget, the approval of a Medium Term Financial Strategy alongside a programme of finance transformation and an agreed future budget planning process. Commissioners and the Finance Improvement Steering Group (which includes external members) are working successfully to oversee progress.

We understand the proposal to appoint an additional commissioner for finance but ask that the appointment and the reservation of financial powers are reviewed at the earliest opportunity. This review should be based on the appointment of an experienced s151 officer and the council setting a balanced three-year budget to the satisfaction of commissioners.

Governance and scrutiny

We note the proposed additional powers for commissioners over the governance and scrutiny of strategic decision making. This is significant because of its impact on the democratic mandate of elected members in the city, especially with its first "all out" elections in May 2023.

We are unclear of the rationale or intended focus and outcome behind these new powers, and how in practice the commissioners will exercise these powers. The council has operated under government intervention for 12 months without such powers in place and has, in that time, put in place a detailed governance improvement plan, overseen and agreed by commissioners. Commissioners recognise that there is no overnight "fix" to reset the governance culture and so, in our view, to add new powers now does not allow the council the opportunity to embed its improvements. Our understanding was that May 2023 was the time for a governance "reset" and we believe we are on track to achieve this.

We have made significant progress in all areas of our governance workstream:

- A clear plan for the revision and modernisation of the constitution of the council (including a change of governance model), adopting a new code of conduct and Standards and Ethics Committee which are now fully operational, a member-officer protocol and protocols for planning and licensing;
- Agreed revisions to introduce best practice to contract standing orders are being rolled out across the council, whilst a full review is carried out;
- Council agreed the recommendations of an external scrutiny review in May 2022 with proposals for a new model of overview and scrutiny. Further proposals, in line with statutory guidance, will be submitted to the next full Council meeting in September;
- Significant changes in practice to cabinet governance, including a move to six month forward planning and from fortnightly to monthly cabinet meetings. This is supported by

increased joint working between the cabinet and senior management team on a weekly basis; and

- Improved report writing through revised templates, guidance and proactive training, with a council wide programme to be rolled out in the autumn.

As a minimum, we make strong representations to you that clear boundaries are set for this direction, especially on the meaning of “governance”, “scrutiny” and “strategic decision making” and that, in practice, these powers continue to be exercised by members and officers where at all possible. As with the scope of the financial powers, we ask that clarification is undertaken directly with you or through the commissioners, to set the scope of the new powers, for example through the agreement of a protocol or other arrangements. This again can presumably be built on experience of these powers in other authorities undergoing intervention.

There have been weaknesses in governance exposed over the past six months, most notably the energy contract. In a significant number of cases this has been as a result of the openness and transparency of the council’s improved processes. We have been open with the commissioners about how to improve those decisions. There have been no instances where the council has taken a major strategic decision without the consent of the commissioners, and we see little reason to change this positive and collaborative approach and extend these powers to commissioners.

Human resources

You state you are minded to extend commissioner powers and functions to cover executive and non-executive Human Resources (HR) powers. The proposed extension, in particular covering non executive functions of HR policy, is unexpected and more far ranging than described in the commissioners’ recommendations.

As it stands and without greater clarity, the proposal to extend to *“all non-executive powers with relation to the organisation of the Authorities staff, their appointment and management”* could extend to all HR policies, the appointment of all staff, their performance appraisals, and power over the terms and conditions of all staff. We doubt this is your intention. If applied this brings a risk of confusion and instability to the council as we work through the practical arrangements of implementation and could therefore delay improvements.

Your letter states this is due to concerns over workforce capacity and capability. Whilst we accept that there have been issues that were hampering progress, we believe these are now behind both the commissioners and the council. We have worked with commissioners on all relevant senior appointments to their satisfaction without such powers in place. The justification for these powers now being added is not clear to us and it is important that, at the least, we understand the rationale to be able to address the concerns

Our representation is that we are directed only to agree a protocol for senior appointments with commissioners including their active involvement in agreeing the senior structure (Tiers two to four) and making appointments (tiers two and three).

If you proceed with additional powers in this area, our representation is that your proposal is modified to provide greater specification on the non-executive powers covered by the direction with a focus on strategic policies (to be agreed and defined). Further, we ask that these powers are reviewed with a view to removal following the conclusion of the tiers three and four restructure of the council.

Finally, we welcome commissioner input into the performance appraisal of senior management as it aligns to our wish to adopt a “360 degree” approach to appraisals. Given

such appraisals can have an impact on the employment relationship between the officer and the Council, we request that you provide clear guidance as to the definition and extent of the commissioner's participation. We say this to seek to avoid in advance the potential for individual disputes, that could be detrimental to the Council and commissioners.

Commissioner recommendations

We have held a number of positive joint planning sessions with the commissioners designed to agree council priorities over the next 12 months. Those priorities reflect the commissioners' recommendations to the council, and we are confident of making good progress over the course of the next reporting period.

A consequence of the delay in publishing the commissioners second report, is that the council only received a full, final copy on 19 August. We are therefore concerned that some of the original deadlines are now unrealistic and may require more time to implement. We request a short period to review and agree any amendments with commissioners.

Conclusion

Thank you for giving the council the opportunity to make representations on your proposals. We accept the need for further improvement at a greater pace. Our intention in our representations is to seek greater clarity and definition to enable the commissioners and council to continue to work collaboratively and improve the council at pace.

We have informed the Council's political group leaders of the contents of this letter and our representations. The political groups may make their own representations to you. To ensure transparency, we intend to share our letter with all our members and staff when it is sent to you.

For the avoidance of any doubt, we can assure you that Liverpool City Council is a resilient organisation with committed, hardworking and dedicated staff and elected members and we will deliver the Directions you consider necessary. With the Cabinet, the incoming Chief Executive and the officer leadership team, we will turn this council around so that it delivers best value for the residents of Liverpool and the social value commitments made by the administration.

Yours sincerely

Joanne Anderson
Mayor of Liverpool

AnnMarie Lubanski
Acting Head of Paid Service

Liverpool City Council Representations

For clarity, we repeat our specific representations in appendix A

APPENDIX A: SUMMARY OF REPRESENTATIONS ON THE PROPOSED FURTHER DIRECTIONS TO LIVERPOOL CITY COUNCIL

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| <p>Representation 1 Liverpool Strategic Futures Panel</p> | <p>That the panel’s terms of reference are co-designed with Mayor Anderson and that the panel embeds ongoing engagement with the City Mayor, cabinet and the council’s leadership into the terms of reference and its work.</p> <p>That any panel members, especially those with financial or business interests in the city, to be required to declare them to ensure the Nolan Principles on standards in public life are upheld and are seen to be upheld.</p> |
| <p>Representation 2 Clarification of the scope of the proposed powers</p> | <p>Undertake a collaborative exercise to clarify the scope of the new powers, for example through the agreement of a protocol or other arrangement. This can be built on experience of these powers in other authorities undergoing intervention and can be done directly or through the commissioners.</p> |
| <p>Representation 3 Appointment of a finance commissioner</p> | <p>This appointment and the reservation of financial powers to be reviewed at the earliest opportunity based on the appointment of an experienced s151 officer and the council setting a balanced three year budget to the satisfaction of commissioners.</p> |
| <p>Representation 4 Governance and scrutiny of strategic decisions</p> | <p>That clear boundaries are set for this direction, especially on the meaning of “governance”, “scrutiny” and “strategic decision making” and that, in practice, these powers continue to be exercised by members and officers where at all possible. As with the scope of the financial powers, we ask that clarification is undertaken directly with you or through the commissioners, to set the scope of the new powers, for example through the agreement of a protocol or other arrangements. This again can presumably be built on experience of these powers in other authorities undergoing intervention.</p> |
| <p>Representation 5 Human resources</p> | <p>The council is directed only to agree a protocol for senior appointments with commissioners including their active involvement in agreeing the senior structure (Tiers two to four) and making appointments (tiers two and three).</p> <p>If a decision is made to proceed with additional powers:</p> <ul style="list-style-type: none"> • there is provision of greater specification on the non-executive powers covered by the direction with a focus on strategic policies (to be agreed and defined); • these powers are reviewed with a view to removal following the conclusion of the tiers three and four restructure of the council; and • provision of clear guidance as to the definition and extent of the commissioners’ participation in the appraisal of senior management in order to avoid in |

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| | advance the potential for individual disputes, that could be detrimental to the Council and commissioners. |
| Representation 6 Commissioner recommendations | A short period of time is taken to review and agree any amendments to the timeline for implementation of these recommendations with commissioners in the light of the delay to publication of the report. |