



Department for Levelling Up,
Housing & Communities

Max Soule

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Housing and Communities**

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Ian Wake
Acting Chief Executive
Thurrock Council

By email

16 March 2023

Dear Mr Wake,

EXPANSION TO THE INTERVENTION AT THURROCK COUNCIL

In my last letter to you on 24 January, I invited you in your role as Acting Chief Executive to make representations about a proposed expansion to the intervention in Thurrock Council (“the Authority”). I am now writing to thank you for your representation, which I received on 7 February, and to inform you that the Secretary of State for Levelling Up, Housing and Communities has today issued a new set of Directions under section 15(5) and (6) of the Local Government Act 1999 (“the 1999 Act”) in relation to your Authority.

The Secretary of State has now carefully considered the representations made by your Authority and others as required by section 15(9) of the 1999 Act. He has also considered the conclusions and recommendations the Best Value Inspection report received from Essex County Council on 17 February and will publish in due course, following a further representations process whereby any particular individuals criticised are given an opportunity to read and respond to those relevant parts of the report before it is published.

Ministers have welcomed the cooperative and collaborative engagement that the new leadership of the Council have displayed in working with the Commissioner, Essex County Council. Given the scale of the challenge however, there is clearly an urgent need to expand the scope of the intervention at Thurrock Council, and the Secretary of State therefore considers it necessary and expedient to issue an updated and expanded set of Directions, to replace those issued on 2 September 2022, to secure your Authority’s compliance with the requirements of Part 1 of the 1999 Act. I have enclosed a copy of both the updated and expanded Directions and new Explanatory Memorandum with this letter.

The expanded intervention package comprises of an expanded and updated set of Directions which increase the number and scope of the powers provided to

Commissioners. These Directions also instruct your Authority to take additional actions to support its recovery. The final part of the expanded intervention package is the appointment of an independent Managing Director Commissioner. These elements are set out below.

The updated and expanded Directions issued today will confirm that Commissioners continue to hold powers over your Authority's finance function, and will provide Commissioners with further powers over:

- All functions associated with the governance, scrutiny and transparency of strategic decision making by the Authority.
- All functions associated with the Authority's operating model and redesign of council services to achieve value for money and financial sustainability.
- 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, to include:
 - The functions of designating a person as a statutory officer and removing a person from a statutory office.
 - The functions under section 112 of the Local Government Act 1972 of:
 - appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and
 - dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.
- All functions to define the officer structure for the senior positions at the Authority, to determine the recruitment processes and then to recruit the relevant staff to those positions.
- All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.

The Directions will also instruct your Authority to take additional steps to secure improvements. This includes the following additional elements to be added to your existing Improvement Plan, to form part of an enhanced Improvement and Recovery Plan:

- An action plan to reconfigure the Authority's services commensurate with the Authority's available financial resources.
- A plan to ensure that the Authority has personnel with sufficient skills, capabilities and capacity to deliver the Improvement and Recovery Plan, within a robust officer structure.
- An action plan to strengthen the Authority's governance function, to secure improvements in transparency and formal decision making. This should include measures to improve the Authority's scrutiny function, including the taking and recording of formal decisions.
- Arrangements to secure the proper resourcing and functioning of the system of internal controls, including risk management and internal audit.

Your Authority is also instructed to take steps to ensure that your role of Accountable Body to the Thames Freeport is exercised to the satisfaction of the Commissioners. This should also be reflected in the Improvement and Recovery Plan. It is my expectation that the Managing Director Commissioner will lead on assessing this work.

The Directions also make clear that your Authority should 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. The Minister has also asked the Commissioners to have oversight of an audit of the Authority's governance.

The Directions will remain in force until 1 September 2025 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Finally, I wish to make you aware that the new Explanatory Memorandum issued today to accompany the new Directions reflects the expectation of the Secretary of State that the Leader of Essex County Council, Councillor Kevin Bentley, will provide political support to all members of Thurrock Council, to promote a whole council approach to improvement and recovery. I understand that Essex County Council plan to work with your Authority to agree a protocol to set out in more detail their working practices as part of the intervention and will publish it in the interest of transparency.

As part of the expansion to the intervention announced today, the Secretary of State has appointed Dr Dave Smith to the role of an independent Managing Director Commissioner. The Managing Director Commissioner will fulfil the role of a Chief Executive for your Authority, and will be responsible for its day-to-day operations, until such time as a permanent appointment to the Chief Executive post can be made. It is my expectation that they will work closely with Essex County Council to form a Commissioner team.

In addition to providing strategic direction and leadership to your Authority, the Secretary of State expects that the Managing Director Commissioner will use his position to provide guidance to your Authority on matters pertaining to infrastructure or regeneration projects in your area, for example the Thames Freeport, local transport initiatives, and any future discussions and negotiations on the expression of interest submitted to DLUHC in respect of wider devolution in Essex.

The Directions also require your Authority to pay Commissioners reasonable expenses and such fees as the Secretary of State determines to be paid to them. The Secretary of State is mindful of the need for Commissioner remuneration to represent value for money for local taxpayers. In relation to the Managing Director Commissioner, he has determined fees of £1,100 per day for a maximum of 260 days per annum. The Secretary of State also expects Commissioners to be paid reasonable expenses in accordance with the rules for senior officers set out in your Authority's staff handbook.

At the time of the announcement of the intervention in September 2022, the former Secretary of State determined fees for Essex County Council of £1,100 a day, for a maximum of 150 days per year. However, in light of the Commissioner role being given to the Council as an individual entity, rather than to a person acting as an individual,

the Secretary of State made clear that a different approach may be required in the future and was committed to keeping this under review.

Going forward, the Secretary of State has determined that Essex County Council should recharge your Authority for the costs of its officers at the pro-rata rate of their existing salaries, and that information about the costs of the intervention should be published on a regular basis. The guiding principle is ensuring value for the taxpayer and transparency.

I would also like to acknowledge the work that you have undertaken as Acting Chief Executive over recent months in the role that will now be fulfilled by the Managing Director Commissioner. It is vital that members and officers at the Authority remain committed to realising the improvements that are needed to support its recovery, and you have provided commendable leadership during this difficult period.

I noted that in your representation you asked for greater clarity on the future of the intervention model for your Authority. I am very grateful for the work that Essex County Council have undertaken to date in their role as Commissioner. I can confirm that the expanded intervention package announced today specifies that Essex County Council will remain as a Commissioner for the next stage of the intervention, in recognition of the scale and complexity of the improvements required. They will work closely with the new Managing Director Commissioner, to form an expanded Commissioner team. The Secretary of State looks forward to receiving the Commissioners' progress report on the next stage of the intervention in June 2023. Ministers will review the intervention model and Commissioner team upon receipt of this report, as they would expect to do in any intervention.

I am copying this letter to Gavin Jones in his capacity as representative for Essex County Council in their Commissioner and Best Value Inspector roles, and to Dr Dave Smith, as Managing Director Commissioner.

Yours sincerely,

Max Soule
Deputy Director, Local Government Stewardship