

## **BIRMINGHAM CITY COUNCIL DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999**

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.

1. The Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State) has carefully considered the following in respect of Birmingham City Council (“the Authority”):
  - a. The Section 114 notices issued by the Authority on 5 September 2023 and 21 September 2023.
  - b. The Section 5 notice issued by the Authority on 21 September 2023.
  - c. The first and second reports produced by the Department for Education’s Special Educational Needs and Disabilities Commissioner, published in May 2022 and February 2023 respectively.
  - d. The results of an anonymous survey of Councillors conducted by the Labour’s BAME group officer, published in November 2022 which revealed concerns about a toxic culture and lack of representation of BAME councillors in senior positions.
  - e. The report produced by the Local Government and Social Care Ombudsman, published in July 2023.
  - f. A Regulatory Notice issued to the Authority by the Regulator of Social Housing on 24 May 2023.
  - g. Discussions between Ministers and Officials of the Department for Levelling Up, Housing and Communities and Members and Officers of the Authority.
  - h. The Authority’s current equal pay situation, which poses an acute financial risk and has been allowed to develop over a number of years.
  - i. The statutory recommendations issued to the Council by external auditors on 29 September 2023.
  - j. The representation made on 22 September by the Authority on the proposed Directions.
  - k. A representation from a Trade Union received on 20 September.
  - l. Two representations from members of the public received on 21 September and 27 September.
2. The Secretary of State is satisfied that the Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (“the 1999 Act”).
3. The Secretary of State, having considered the representations made by the Authority as required by section 15(9) of the 1999 Act considers it necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority’s compliance with the requirements of Part I of the 1999 Act, in particular:
  - a. To address systemic weaknesses in the Authority’s governance function, to secure improvements in transparency and formal decision making.

- b. To deliver financial sustainability, including by closing any short or long-term budget gaps - which should include taking action to expediate the closure of the equal pay liability.
  - c. To ensure compliance with all relevant rules and guidelines relating to the financial management of the Authority.
  - d. To agree as necessary any changes needed to the Authority's operating model and redesign of council services to achieve value for money and financial sustainability.
  - e. To achieve improvements in relation to the proper functioning of the Authority's IT.
  - f. To address the serious failings and ensure conformity with the best value duty, thereby delivering improvements in services and outcomes for the people of Birmingham.
4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:
- a. The Authority to take the actions set out in Annex A to these Directions.
  - b. That the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions by the Commissioners acting jointly or severally; the Commissioners being persons nominated by the Secretary of State for the purposes of these Directions as long as those nominations are in force.
  - c. That, from the date of these Directions, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as the Commissioners may require for the purpose of exercising the functions specified in Annex B.
5. These Directions shall remain in force until 4 October 2028 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Signed on behalf of the Secretary of State for Levelling Up, Housing and Communities.

Maxwell Soule  
Senior Civil Servant in the Department for Levelling Up, Housing and Communities  
Date: 5 October 2023

**ACTION THE AUTHORITY IS REQUIRED TO TAKE**

In this Annex, the following expressions have the following meanings –

“the Authority” includes the Leader, the Cabinet, members of the Cabinet, any committee or subcommittee of the executive, any committee or subcommittee of the Council, any officer of the Council or any other person who has responsibility for exercising the function or other decision making in relation to the matter in question.

The actions to be taken by the Authority are:

1. Prepare and agree an Improvement Plan, which considers actions to secure continuous improvement and restore public trust across all the Authority’s functions with a particular focus on housing, waste, finance, HR, governance and corporate services; to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), within six months, with resource allocated accordingly.
2. In the first 12 months to review the provision and operation of corporate services, (including HR, legal, internal audit, risk management, IT and systems, procurement and the PMO), to enable and support the effective delivery of front-line services and the smooth running of the Authority, and to implement any required changes thereafter to the satisfaction of Commissioners.
3. To secure as soon as practicable that all the Authority’s functions are exercised in conformity with the best value duty thereby delivering improvements in services and outcomes for the people of Birmingham.
4. To report to the Commissioners on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as Commissioners may direct.
5. To 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, poor financial governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.
6. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:
  - a. to any premises of the Authority;
  - b. to any document relating to the Authority; and
  - c. to any employee or member of the Authority.
7. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions.

8. To pay the Commissioners reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
9. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.
10. To co-operate with the Secretary of State for Levelling Up, Housing and Communities in relation to implementing the terms of these Directions.

**FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS**

In this Annex –

“the Authority” includes the Leader, the Cabinet, members of the Cabinet, any committee or subcommittee of the executive, any committee or subcommittee of the Council, any officer of the Council or any other person who has responsibility for exercising the function or other decision making in relation to the matter in question.

“Statutory Officer” means any of: the Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989; the Chief Financial Officer designated as having responsibility for the administration of the Authority’s financial affairs under section 151 of the Local Government Act 1972; the Monitoring Officer designated under section 5(1) of the Local Government and Housing Act 1989; and the Scrutiny Officer designated under section 9FB of the Local Government Act 2000 (and the expressions “statutory officer” and “statutory office” are to be construed accordingly).

“Senior positions” are defined as the Chief Executive, direct reports to the Chief Executive and their direct reports – tiers one, two and three.

The Commissioners shall exercise:

1. All functions associated with the governance and scrutiny of strategic decision making by the Authority.
2. All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority.
3. 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, to include:
  - a. providing advice and challenge to the Authority on the preparation and implementation of a detailed action plan to achieve financial sustainability and to close any short and long-term budget gaps identified by the Authority across the period of its medium-term financial strategy (MTFS), including a robust multi-year savings plan;
  - b. providing advice and challenge to the Authority in the setting of annual budgets and a robust medium-term financial strategy (MTFS) for the Authority, strictly limiting future borrowing and capital spending;
  - c. scrutiny of all in-year amendments to annual budgets;

- d. the power to propose amendments to budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty;
  - e. providing advice and challenge to the Authority on the preparation of sustainable and affordable capital, investment and treasury management strategies; including on any requirement for an appropriate debt reduction plan or for any revisions to the Authority's minimum revenue provision (MRP) policy;
  - f. providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making;
  - g. ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
4. 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:
- a. The functions of designating a person as a statutory officer and removing a person from a statutory office;
  - b. The functions under section 112 of the Local Government Act 1972 of –
    - i. 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
    - ii. Dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.
5. All functions to define the officer structure for the senior positions, to determine the recruitment processes and then to recruit the relevant staff to those positions.
6. All functions associated with the Authority's operating model and redesign of services to achieve value for money and financial sustainability.
7. All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.