



Department for Levelling Up,
Housing & Communities

Deborah Cadman OBE
By email

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Dear Deborah,

I am writing to inform you that, after careful consideration, the Secretary of State for Levelling Up, Housing and Communities has today made Directions, under section 15(5) and (6) of the Local Government Act 1999 (“the Act”), in relation to your Authority. I enclose a copy of the Directions, together with an Explanatory Memorandum, which will also be published on gov.uk, together with this letter.

The Directions implement an intervention package which is described below. You will see in the Directions and Explanatory Memorandum that the Secretary of State has nominated Max Caller CBE as Lead Commissioner, John Coughlan CBE, Chris Tambini, Pam Parkes, Jackie Belton and Myron Hrycyk as Commissioners and Lord John Hutton and John Biggs as political advisors. These individuals are best placed to take up these roles directly, due to their individual knowledge and experience in local authority leadership, decision-making, governance, finance, HR, IT and commercial development. The Secretary of State recognises the expertise of his appointees and is confident that they will be key to resolving Birmingham City Council’s issues as quickly and effectively as possible.

You will see that John Coughlan has been nominated as Commissioner. This is in addition to his role as Commissioner for Special Educational Needs and Disability (SEND) services, for which he will continue to report to the Secretary of State for Education. I anticipate that John’s dual role will help ensure links between the two interventions. This will be complemented by close monitoring of the situation, and both interventions, by officials from across the Department for Levelling Up, Housing and Communities and Department for Education. The Secretary of State has asked his appointees to work closely both with John in his role as SEND Commissioner, and also the Regulator for Social Housing, and the Local Government and Social Care Ombudsman.

The intervention package is formed of actions your Authority is directed to take, and powers over Authority functions to be enacted by Commissioners. The Directions will be in place for five years: that this is a longer duration than in previous interventions reflects the severity and size of the challenge at Birmingham, in comparison to other

intervention areas. The Secretary of State is not yet commissioning the local inquiry, and I would welcome a discussion with you about this in due course.

The Commissioners are accountable to the Secretary of State in that they have been nominated by him and can have their nominations withdrawn by him. The Directions enable the Commissioners to exercise the following functions:

- All functions associated with the governance and scrutiny of strategic decision making by the Authority.
- All functions associated with the financial governance and scrutiny of strategic financial decision making by the Authority.
- 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:
 - 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;
 - 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;
 - scrutiny of all in-year amendments to annual budgets;
 - 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;
 - 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;
 - providing advice and challenge to the Authority on a suitable scheme of delegations for financial decision-making;
 - ensuring compliance with all relevant rules and guidelines relating to the financial management of the Authority.
- 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, to determine the recruitment processes and then to recruit the relevant staff to those positions.
- All functions associated with the Authority's operating model and redesign of services to achieve value for money and financial sustainability.
- All functions pertaining to the development, oversight and operation of an enhanced performance management framework for officers holding senior positions.

The Secretary of State considers that most decisions should continue to be made by the Authority, but with the oversight of the Commissioners: they will uphold proper standards and due process and recommend action to the Authority. The Secretary of State's intention is that the powers he is providing to the Commissioners be used to ensure that the Authority takes the necessary steps to achieve the best possible outcome for Birmingham residents and the public purse. The Commissioners should not hesitate to exercise their functions if they determine it to be necessary to do so. The exercise of these functions should enable the Commissioners to make sure that the Authority has made sufficient improvement within the next five years to be able to comply with its best value duty on a sustainable basis.

The Directions require your Authority to take certain actions:

- 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.
- 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.
- 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.
- To report to the Commissioners on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as Commissioners may direct.
- 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.
- To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary:

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

I appreciate that the Authority has already started taking some steps in relation to these actions.

The Directions also require your Authority to pay the 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 recognition of the nature and scale of the intervention, he has determined fees of £1,200 per day for the Lead Commissioner, £1,100 per day for the Commissioners, and up to a total of 150 days annually for each individual. The Secretary of State also expects the Commissioners to be paid reasonable expenses in accordance with the rules for senior officers set out in your Authority's staff handbook.

The Directions also require your Authority to take certain actions, such as providing the Commissioners with such reasonable amenities, services and administrative support as the Commissioners may reasonably require when undertaking their functions and responsibilities under these Directions. As part of this, the Secretary of State expects you to pay the fees of the political advisors, which he has also set at £1,100 per day, and again, they should be paid reasonable expenses in accordance with the rules for senior officers set out in your Authority's staff handbook. In addition, the Directions require your Authority to allow the Commissioners at all reasonable times access to any premises of your Authority, to any document relating to your Authority, and to any employee or member of your Authority.

The Directions will remain in force until 4 October 2028 unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

Finally, you will wish to note that the Secretary of State has asked for a report from the Commissioners within six months and thereafter at six-monthly intervals, or at such other times as he might agree with the Commissioners. This allows for a process for regular review of whether it would be appropriate for any function exercisable by the

Commissioners to be returned to the Authority. The Secretary of State has not ruled out the possibility that further functions might be brought under the control of the Commissioners, or that further Commissioners may be appointed in the future.

I am copying this letter to your Authority's interim Section 151 Officer, and to its Monitoring Officer.

Yours sincerely,

Max Soule
Deputy Director, Local Government Stewardship