

STATUTORY DIRECTION TO SANDWELL METROPOLITAN BOROUGH COUNCIL 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 Sandwell Metropolitan Borough Council ("the Council") that following earlier 'inadequate' judgements for arrangements for the protection of children (April 2013) and for services for looked after children (August 2013), performance in respect of child protection has remained 'inadequate' as detailed in Ofsted's inspection report of 5 June 2015 ("the 2015 Ofsted report").
2. In March 2010 the Secretary of State issued an improvement notice to the Council for the purpose of securing 'adequate' performance of children's services. The improvement notice followed an 'inadequate' rating in the January 2010 safeguarding and looked after children inspection. In October 2013 the secretary of State issued a statutory direction to the council following 'inadequate' inspection reports for child protection and looked after children in 2013. In July 2014 a second statutory direction was issued as the Secretary of State considered that the service remained 'inadequate'. The action taken did not, however, result in service improvement to an adequate standard.
3. The Secretary of State has carefully considered the 2015 Ofsted report and the findings of the independent diagnostic report conducted by Malcolm Newsam. Both reports found that the Council's delivery of children's services, particularly in relation to child protection, continues to be 'inadequate'.
4. The Secretary of State is satisfied that 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 ("the 1996 Act") 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 240 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, 120 and 17A of the Children Act 2004.
5. The Secretary of State has appointed Eleanor Brazil as Commissioner for Children's Services in Sandwell ("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.

6. The Secretary of State, having considered representations made by the Council, considers it expedient, in accordance with her 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:

7. Pursuant to her powers under section 497A(4B) of the Education Act 1996 Act, the Secretary of State directs the Council as follows:

- a. To comply with any instructions of the Secretary of State or the 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 either the Secretary of State or the Children’s Services Commissioner may require;
- b. To co-operate with the Children’s Services Commissioner, including on request allowing the Commissioner at all reasonable times access:
 - i. to any premises of the Council;
 - ii. to any document of, or relating to, the Council; and
 - iii. to any employee or member of the Council,

which appears to her 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 Commissioner with such amenities, services and administrative support as she may reasonably require from time to time for the carrying out of her 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 a Commissioner-led review as to whether the most effective way of securing and sustaining improvement in Sandwell is to remove the control of the service from the local authority for a period of time.

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

Signed on behalf of the Secretary of State for Education

A handwritten signature in cursive script, appearing to read 'Suzanne Lunn'.

SUZANNE LUNN

A Senior Civil Servant in the Department for Education

Dated this 7 day of January 2016

ANNEX

Relevant Functions

Commissioner for Children's Services

Terms of Reference

In line with the recommendations set out in the Ofsted report of children's social care published on 5 June 2015, the Children's Services Commissioner is expected to take the following steps:

- 1) To direct and support the improvement of children's social care.
- 2) To review the Council's leadership and management capacity and capability to drive forward the changes necessary to achieve the required standard.
- 3) To make a recommendation to the Secretary of State as to whether alternative delivery arrangements are the most effective way of securing and sustaining improvement.

The Commissioner will provide her report to the Secretary of State by 31 March 2016.