



**Government Response to the Communities
and Local Government Select Committee
report:
‘Government Interventions: the use of
Commissioners in Rotherham Metropolitan
Borough Council and the London Borough of
Tower Hamlets.**

Presented to Parliament
by the Secretary of State for Communities and Local Government
by Command of Her Majesty

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Introduction

The Communities and Local Government Committee conducted an inquiry into the Government's interventions in Rotherham Metropolitan Borough Council and the London Borough of Tower Hamlets. Following the submission of written evidence and a number of oral evidence sessions, the Committee published its report on 19 August 2016.

The Government welcomes the Committee's report. The decision to intervene in a local authority and remove control from those who have been democratically elected is very serious. It is important therefore, that the Government is subject to the highest levels of scrutiny whenever it takes the decision to intervene.

The Committee agreed that our interventions in Tower Hamlets and Rotherham were justified, proportionate and effective. Broadly, the Committee recommended that the Government should learn from what had worked well in these interventions and what could have been improved. The Committee also said that lessons must be learnt as to how to monitor and mitigate the risk of financial, governance or service failure.

The Government agrees that interventions should only occur where there are very severe failings that where intervention does need to occur that this should be conducted in as swift and effective manner as possible. The Government has already taken steps, and will continue to do so, to ensure that lessons are learnt from the interventions in Tower Hamlets and Rotherham.

Conclusions and Recommendations

The Committee made 14 points of either conclusion or recommendation. Set out below is the Government's response to each. Paragraph references are to the original report.

The interventions in Tower Hamlets and Rotherham

- 1. It is important that mechanisms are in place to support and encourage local authorities to share learning and best practice with each other. The Local Government Association and Department for Communities and Local Government each have roles to play in this, but local authorities must also take responsibility themselves for seeking out and sharing best practice. (Paragraph 4)**

The Government welcomes this conclusion. In 2016/17 the Government provided £21.4 million to the Local Government Association for the support of local authorities, including through the facilitation of sharing best practice. Local government is independent of central government and should be proactive in seeking out and sharing best practice.

2. We believe that local authorities must be able to apply particular measures in relation to taxi licensing in their areas, such as requiring taxis to have CCTV installed, without those measures being undermined by taxis coming in from other areas. We recommend that, in order to ensure that lessons are learned from experiences in Rotherham, the Department for Communities and Local Government works with the Home Office and the Department for Transport on the preparation of statutory guidance under the Policing and Crime Bill in relation to taxi licensing. That guidance should be brought forward without delay. Once the guidance has been introduced, the Government should monitor the extent to which it ensures consistently high standards in taxi licensing across the country, and also enables local authorities to put in place and enforce specific measures which are appropriate for their local circumstances. If guidance is not able to achieve this, the Government should consider legislation. (Paragraph 16)

The Government strongly agrees with this recommendation; it is essential that taxi and private hire vehicle licensing is effective across the country and that the safeguarding of children and vulnerable adults is assured. Part 9 of the Policing and Crime Bill, currently before Parliament, will enable statutory guidance on safeguarding for taxi and private hire licensing to be issued. The Bill is currently at House of Lords Committee stage, having already been through the House of Commons. The Government will consider the additional recommendation to monitor national compliance following publication of the statutory guidance.

Issues arising from the interventions

3. We understand Tower Hamlets' initial focus on its own improvement, rather than identifying broader learning points, but we believe that Tower Hamlets council and Commissioners should work with the Local Government Association to identify learning from the council's culture change work which may be applicable to other authorities, and to identify ways to share this learning. (Paragraph 19)

The Government agrees with the Committee that Tower Hamlets Council's cultural change work, particularly in relation to transparency and the treatment of whistle blowers, may be applicable to other local authorities and on the importance of sharing these learning points more broadly. Organisational cultural change is crucial for ensuring the sustainability of improvements in local authorities under intervention. The Commissioners will discuss with the Council how best to work with the Local Government Association in the future to ensure this learning is shared.

Whistleblowing

4. The objective should be to build public confidence and trust in the two authorities so that whistleblowers feel comfortable and able to raise their concerns directly with the councils themselves. However, when an authority has failed to such an extent as to require the imposition of Commissioners, there may be both a greater need for whistleblowers to be encouraged to come forward, and a lower level of confidence about the response they will receive. We strongly support the inclusion of Department for Communities and Local Government-appointed Commissioners on the list of Prescribed Persons in the Public Interest Disclosure (Prescribed Persons) Order 2014 and call on the Minister to take the necessary legislative action as a matter of urgency. (Paragraph 24)

The Government agrees on the importance of including Department for Communities and Local Government-appointed Commissioners on the List of Prescribed Persons in relation to whistleblowing legislation. The Department for Business, Energy and Industrial Strategy is committed to updating this List on an annual basis, and will consider including councillors going forward. Commissioners appointed by the Secretary of State under section 15 of the Local Government Act 1999 will be listed as Prescribed Persons for whistle-blowing in relation to the local authority they are intervening in. Legislative amendments have been laid before Parliament, with changes due to take effect from 1 November 2016.

The return of functions

5. If the interventions in Tower Hamlets and Rotherham are to be successful in the long term, careful thought must be given to how functions are returned and how performance is monitored on an ongoing basis. We commend the Rotherham approach, under which Commissioners retain a monitoring and advisory role for the functions which have been restored to the council. Commissioners' expertise, their local knowledge and their experience mean they are well placed to monitor the council's performance in respect of its returned functions. However, even this level of intervention must eventually come to an end. In the longer term, once Commissioners have been fully withdrawn, suitable assurance mechanisms must be in place to ensure that there is no regression or lapse. We recognise that there are costs associated with monitoring, but nevertheless, we believe that the Department for Communities and Local Government should consider arrangements for ongoing additional oversight measures for councils which are exiting from interventions. Such measures might include, for example, phased withdrawal of Commissioners, seeking assurance from the council's external auditors, or peer review or monitoring by other local authorities. (Paragraph 30)

The Government agrees on the importance of putting in place ongoing oversight measures for councils exiting intervention. For example, the Department for Education runs a programme of support and supervision for local authorities coming out of intervention in order to track progress and monitor any specific concerns over a defined period of time. The Government also considers that external auditors have an important role to play in local authority accountability. In particular external auditors make a judgement on value for money, giving consideration to economy, effectiveness and efficiency. DCLG is considering how best to monitor the progress of councils exiting an intervention initiated under section 15 of the Local Government Act 1999, including the involvement of, where appropriate, mechanisms of sector-led support.

The intervention process

6. We believe that councillors, and officers, of local authorities have a responsibility to draw attention to, and pursue, issues which cause them concern, or which do not appear to be as they should. This goes hand in hand with the need for councils to take seriously the concerns which are raised with them, to treat whistleblowers properly, and to take action to investigate and address poor practice. (Paragraph 32)

The Government welcomes this recommendation. It is essential that Councils have effective governance processes which allow them to identify and address issues. The Government expects councils to have effective processes for dealing with whistleblowers.

7. We understand the Minister's reticence to name particular local authorities which may be receiving support or sector-led improvement, and would not ask him to do so. We also understand that any estimate of the number would represent a snapshot in time. However we are disappointed that he was unwilling to give even an estimate which could have helped us to gauge the extent or scale of any potential problem. We recommend that in his response to this report the Minister provides a broad indication of the number of local authorities which were, as at 29 February and 31 August 2016:

a) receiving enhanced monitoring, particular support, or sector-led improvement;

b) at risk of requiring some sort of intervention if there were no improvement in performance. (Paragraph 34)

Sector led support covers a wide range of activities, and the majority of local authorities will be taking advantage of some kind of support at any one time. This should be encouraged; the large numbers of local authorities making use of the support is a key strength of the sector rather than a weakness. It allows councils to collectively address challenges, spread best practice and drive up standards for local residents. Some forms of support will be short, and others over a sustained period, so the Government does not seek to maintain a record of the authorities seeking and receiving support at any given time. DCLG funds the LGA to run sector support which covers among other things, peer reviews, lead member support and mentoring.

Whilst DCLG does not carry out 'enhanced monitoring' as such, at any point in time there are local authorities which officials will be keeping a watching brief on. The duration of this can vary significantly, as can the reasons why a particular authority may warrant a level of focus. For example this may be owing to our interest in ensuring councils do not miss particular opportunities or due to high levels of public interest, as much as to their risk levels. Therefore the number of councils receiving extra attention does not give much of an indication of the health of the sector. We also regard any assessment we make on an authority's financial stability as commercially sensitive.

The Department is acutely conscious of the seriousness of intervening in a democratically-elected local authority, and is not aware of any local authorities' situations being so severe as to warrant an intervention at either of these dates and therefore no new interventions were being considered at these points in time.

8. We recommend that after the interventions have come to an end, the Department for Communities and Local Government reflects and reports on each intervention and the lessons which can be learned or best practice which can be shared in relation to the intervention process and service improvement. The evaluation reports should take into account this report, and the views of the Commissioners, councillors from across the political spectrum in each local authority, council officers, partner organisations and local residents. (Paragraph 35)

The Government welcomes this recommendation. The decision to remove control from a democratically elected council is a very serious; it is essential therefore that interventions operate as swiftly and effectively as possible. The Government is already committed to learning lessons from the interventions in Tower Hamlets and Rotherham and has a regular, open and ongoing dialogue with Commissioners on this, which will continue.

Once the intervention has ended the Government will certainly want to take a view as to whether further reflections on the intervention are required to capture learning on the intervention process and service improvement.

The appointment of Commissioners

9. We believe that ordinarily the Department for Communities and Local Government should consult both the relevant local authority and the Local Government Association as part of the process of identifying the required skills and appointing Commissioners. (Paragraph 38)

The Government notes the Committee's recommendation. Where practical the Government works with the Local Government Association and the relevant local authority to identify the skills required of Commissioners to inform the Secretary of State's decision on appointments. We will continue to do this. The Government agrees that it is important for Commissioners to have the right balance of skills and experience to address the specific issues an authority may have and create sustainable change. It is important to note however, that this does not constitute a formal consultation or a right to veto an appointment. There are a range of circumstances in which it may not be possible or practical to take soundings before appointing Commissioners, and the Secretary of State will need to consider the weight he gives to the views of local authorities in each case, given time constraints and whether the local authority is in denial of its problems and resistant to the intervention. Indeed, where an authority is resistant to the intervention they may try to delay the appointment of Commissioners, as was the case initially in Tower Hamlets. Alternatively, they may seek to influence the Secretary of State to appoint Commissioners that are less likely to provide robust challenge and scrutiny.

10. On an ongoing basis throughout an intervention, Commissioners and the Department for Communities and Local Government, in consultation with the local authority and the Local Government Association, should review the intervention's aims and the local authority's needs, and assess the Commissioners' collective skills and expertise against them. Where appropriate, this might result in the appointment of additional Commissioners, the replacement of existing Commissioners whose expertise no longer aligned with the needs of the organisation, or the withdrawal of individual Commissioners as the local authority achieves sustainable improvements in particular functions. (Paragraph 40)

The Government agrees with the Committee and already acts to ensure that through out an intervention Commissioners skills are aligned to the particular needs of the local authority.

After the Children's Social Care Commissioner Malcolm Newsam decided to step down in Rotherham, Commissioner Patricia Bradwell was appointed. Commissioner Bradwell brings with her years of experience in leading children's social care as a Member in Lincolnshire, which will be invaluable in helping Rotherham take the next steps to deliver against its improvement plans.

In Tower Hamlets, following the Election Court judgement of 23 April 2015 and the proposal of additional powers for the Commissioners to take any actions needed to safeguard good governance throughout the Council until a new mayor and top officer team were in place, two additional Commissioners were appointed to the existing team on 29 April 2015. The skill sets of Chris Allison CBE, who has extensive policing and security experience, and Alan Wood CBE, who has significant experience in children's services, complemented those of the other Commissioners and were appropriate to the needs of the intervention at that time.

The Government will continue to ensure that throughout an intervention that Commissioners have the collective skills and expertise to ensure the timely and effective improvement of authorities under intervention.

The cost of intervening

11. We recognise that local authorities are facing difficult economic circumstances and tightening budgets. Authorities which are failing to the point at which interventions are required may, in particular, face challenging financial decisions. We believe therefore that the Department for Communities and Local Government, the Commissioners and the local authorities should continue to monitor and report on the costs of intervention and any savings which are realised. Such reports should be publicly available to ensure that residents are able to see for themselves the financial impact of the interventions. (Paragraph 43)

The Government notes this recommendation. The costs of intervention are already reported on publically, and the Commissioners in Tower Hamlets submitted written evidence to this Committee on examples of cost savings that have been the direct result of Commissioner-led initiatives. We will look into how best to report on savings more broadly. However it is important to note that Government interventions also put an end to local misuse of the public purse. In Tower Hamlets, for example, one of the reasons the Government intervened was because of clear evidence of the abuse and misuse of taxpayers' money by the then mayoral administration, as highlighted in the PwC inspection report.

Transparency, accountability and scrutiny

12. We note the steps taken by the Commissioners and councils, particularly in Rotherham, to engage with the public and make information about the interventions available to them. While the circumstances in the two authorities are different, we believe there is scope for good practice to be shared between them on issues such as communicating with residents, providing information about the interventions and the ways in which the councils work, and ensuring there are opportunities available for residents to hold the council and Commissioners to account. We welcome the holding of joint meetings between the Commissioners in the two local authorities, and suggest that this could be an appropriate forum for sharing good practice. (Paragraph 47)

The Government welcomes and agrees with the recommendation. Whilst it is important to note, as the Committee does, that the scope and circumstances of every intervention are unique, the Government supports the sharing of best practice.

In June of this year the Department for Communities and Local Government hosted a meeting which brought Commissioners together to share best practice and the lessons they had learnt during the course of the interventions. On the basis of Rotherham's positive experience, the Tower Hamlets Commissioners have now spoken to Tower Hamlet's new Head of Communications and he has agreed to develop a dedicated section of the Council's website containing information about the Commissioners, their roles and responsibilities, and their decision-making processes.

In addition, the Commissioners in Tower Hamlets and Tower Hamlets Council shared the lessons they had learned in relation to elections management with Sir Eric Pickles' review of electoral fraud. The Government is carefully considering this independent report. The Government will also continue to support and facilitate the sharing of best practice amongst Commissioners.

13. The nature of the Commissioner model of intervention means that it may not always be appropriate at the beginning of an intervention for elected members to fulfil the same scrutiny role in relation to the Commissioners as they usually would in relation to the council leadership. However, in the same way that Commissioners seek to model good practice in terms of ways of working and decision-making in order to embed good practice and prepare for the return of functions, they should also seek to model good practice in terms of scrutiny and accountability and should, as far as possible, mirror normal scrutiny arrangements. This may require arrangements for scrutiny of Commissioners to change and develop throughout the duration of an intervention, as the council is prepared for its return to democratic control. (Paragraph 48)

The Government notes this recommendation. Commissioners are appointed by the Secretary of State and are ultimately accountable to the Secretary of State and consequently to the electorate.

The Secretary of State appoints Commissioners because they have the necessary skills, expertise and experience to ensure sustainable change in an authority. In most circumstances it will be for Commissioners to decide how significant and sustainable improvement is best achieved in a particular authority. The circumstance and scope of every intervention is unique, and practices that work well in one area may not be effective in another.

The Government agrees that having effective scrutiny and accountability arrangements in a council is essential. The Government expects Commissioners to be mindful of this and to take the action necessary to ensure that this is the case. Whether there is effective scrutiny and accountability will be an important determinant of how sustainable any changes made by Commissioners will be and will be taken into account by the Secretary of State when he makes his decision as to whether to return functions.

14. For scrutiny to be effective, councillors must have adequate information, support and training to undertake their roles. We welcome the progress which has been made at Rotherham to establish and develop a culture of scrutiny, including the steps taken by Commissioners to deliver training and development for current and potential councillors. We recommend that the Department for Communities and Local Government and the Rotherham Commissioners continue to work with opposition councillors and the Local Government Association to identify training needs, and to build the skills, information and support required for the development of effective scrutiny in Rotherham. (Paragraph 50)

The Government agrees with this recommendation. The Department for Communities and Local Government and the Rotherham Commissioners will continue to work with key stakeholders to improve the scrutiny function in Rotherham. This will include improving Councillors' skills, ensuring Councillors receive timely and accurate management information as well as support from Council Officers.

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