

**STATUTORY DIRECTION TO KIRKLEES 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 Kirklees Council ("the Council") that performance in respect of children's social care services is 'inadequate' as detailed in Ofsted's inspection report of 25<sup>th</sup> November 2016 ("the 2016 Ofsted report").
2. The Council's failure led the Secretary of State to issue a statutory direction on 25<sup>th</sup> November 2016 ("the first direction"), requiring the Council to comply with any instructions of the Secretary of State or the Commissioner appointed by the Secretary of State in relation to the improvement of the Council's exercise of its children's social care functions; and to co-operate with a Commissioner-led review as to whether the most effective way of securing and sustaining improvement in Kirklees was to remove the control of children's social care from the Council for a period of time.
3. The Secretary of State has carefully considered:
  - a. The 2016 Ofsted report, which found the Council's delivery of children's social care services in relation to children who need help and protection, children looked after and achieving permanence and leadership, management and government to be inadequate
  - b. The Children's Services Commissioner's report of March 2017 ("the 2017 report"), which concluded that in order to secure sustained improvement to children's social care services the council should form a long-term strategic partnership with Leeds City Council
  - c. Ofsted's letter of 27 July 2017 to the Council, recording the findings of its monitoring visit of 27 and 28 June 2017, that the Council '*is making limited progress in improving services for children and families*' and that '*some children have been left in risky situations for too long*'; and
  - d. Ofsted's letter of 8 December 2017 to the Council, recording the findings of its monitoring visit of 8 and 9 November 2017, that '*the pace of change in Kirklees is too slow, and widespread and serious failures remain in the first response to children in need of help and protection.*'
4. The Secretary of State is therefore 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 24D 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, 12D and 17A of the Children Act 2004.
5. The Secretary of State has re-appointed Eleanor Brazil OBE as 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 his 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 his powers under section 497A(4B) of the Education Act 1996, 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 the development of a strategic partnership with Leeds City Council, including the development of a formal partnership agreement, the details subject to agreement by the Secretary of State.
  - e. Within three calendar months of the date of this direction, enter into a strategic partnership agreement with Leeds City Council, which must provide that Leeds City Council work with the Council to deliver all of its children's social care services functions. The terms of the partnership agreement, and any subsequent changes to it, must be agreed by the Secretary of State. The agreement will be for a term of 3 years or (if earlier) until such time as the Secretary of State is satisfied that children's social care services within the Council have improved to meet the minimum standard and that the improvement can be sustained.
  - f. Appoint the Director of Children's Services for Leeds City Council as Director of Children's Services for the Council, in accordance with section 18 of the Children Act 2004. The appointment, under the terms of this direction, shall exist for such time as the partnership agreement remains in force unless alternative arrangements are agreed by the Secretary of State.
  - g. The Department for Education will assess the progress of service improvements by undertaking performance reviews at 6 monthly intervals from the date of this direction. The progress of the partnership will be monitored through regular bi-monthly discussions between the Department for Education and the Director of Children's Services, or with such of his nominated representatives as have been agreed with the Department for Education, and through quarterly reports provided by the partnership governance board to the Department for Education.
8. In consequence of this direction, the Secretary of State revokes the first direction.
9. 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', enclosed within a faint rectangular border.

SUZANNE LUNN

A Senior Civil Servant in the Department for Education

Dated: 25<sup>th</sup> January 2018

## **ANNEX**

### **Relevant Functions**

#### **Commissioner for Children's Social Care Services**

#### **Terms of Reference**

1. Kirklees Council has systemically failed as its children's social care services were found to be 'inadequate' across all of the key judgements in an Ofsted inspection report (published 25 November 2016). In all cases where a Council has persistently or systemically failed to discharge its children's social care functions there is a presumption that service control will be removed from the Council unless there are good reasons not to do so.
2. The Commissioner carried out a comprehensive review and concluded that Kirklees did not have the leadership and management capacity and capability to drive forward the changes necessary to achieve the required standards in children's social care and alternative forms of service governance must be considered. In March 2017 the Commissioner recommended that the Council should enter a strategic partnership with Leeds City Council, to work with the Council to deliver all of its children's social care services functions.
3. The Commissioner is expected to provide independent strategic oversight of Kirklees Council's progress towards the partnership, under the updated Direction issued to Kirklees Council by the Secretary of State under section 497A of the Education Act 1996 in December 2017. The Commissioner shall:
  - a. Chair Kirklees Children's Services Improvement Board;
  - b. Ensure the improvement plan, which spans children's services, continues to be delivered and robustly monitored. Progress will be reported by the Council to each meeting of the Kirklees Children's Services Improvement Board;
  - c. Ensure the improvement plan includes clear and specific actions which reflect the journey of the child and which are designed to improve the quality of services for children in need of help and protection and children looked after and achieving permanence;
  - d. oversee the implementation of a robust monitoring and audit framework, which supports practice improvement and the effective delivery of the service;
  - e. support practice improvement through the re-design of systems and processes;
  - f. steer the development of a strategic partnership between Kirklees and Leeds City Council;
  - g. sit on the governance board of the strategic partnership and
  - h. deliver quarterly written updates on the partnership and Council's progress to the Minister for Children and Families, and more frequently if the pace of progress is not sufficient or if the Minister requires it.