

DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999

1. The Secretary of State for Levelling Up, Housing and Communities (“the Secretary of State”) has carefully considered the following in respect of Sandwell Metropolitan Borough Council (“the Authority”):
 - i. The Value for Money Governance Review produced by the Authority’s auditor Grant Thornton (“the Report”), given to the Authority on 3 December 2021 and published on gov.uk on 18 January 2022;
 - ii. The representation made on 10 February 2022 by the Authority on the Report and on the proposed Directions;
 - iii. A representation from the Authority’s Conservative Councillor Group dated 11 February 2022;
 - iv. A representation from a Sandwell Councillor dated 10 February 2022.
 - v. Representations from Shaun Bailey, MP for West Bromwich West, Nicola Richards, MP for West Bromwich East, and John Spellar, MP for Warley, each dated 10 February 2022;
 - vi. Representations from eight members of the public and one residents’ group received during the representation period (18 January 2022 to 11 February 2022).
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, and those listed above, 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:
 - To continue to rebuild the governance capacity of the Authority, addressing the deep-seated culture of poor governance and leadership;
 - To restore public trust and confidence in the Authority by putting an end to any of the Authority’s activities, practices, and omissions which are, or risk being, not compatible with the best value duty.
4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:
 - i. The Authority to take the actions set out in Annex A to these Directions;
 - ii. 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;

iii. 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 22 March 2024 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: 22 March 2022

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex “the Authority” includes the Leader of the Council, Cabinet Members, any committee or sub-committee; and any other person who has responsibility for the matter in question.

The actions to be taken by the Authority are:

1. In the first three months prepare, agree and implement an Improvement Plan, to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), with resource allocated accordingly, activities to implement all the recommendations of the Report, and as a minimum, the following components:
 - a) Actions to deliver rapid and sustainable improvements in governance, leadership and culture in the Authority.
 - b) Actions to secure improvement in relation to the proper functioning of the scrutiny and associated audit functions.
 - c) Actions to secure continuous improvement in all services.
2. To report to the Secretary of State on the delivery of the Improvement Plan at six monthly intervals, or at such intervals as the Commissioners may direct, and adopt any recommendations of the Commissioners with respect to the Improvement Plan and its implementation.
3. 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 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.
4. 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.
 - c) To any employee or member of the Authority.
5. 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.

6. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them.
7. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request.
8. 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 –

“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 Authority” includes the Leader, Cabinet Members, any committee or sub-committee; and any other person who has responsibility for the matter in question.

The Commissioners shall exercise:

1. All functions associated with the governance and scrutiny of strategic decision making by the Authority.
2. 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.