

**STATUTORY DIRECTION TO HEREFORDSHIRE COUNTY 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 carefully considered Ofsted's report published on 21 September 2022, in respect of Herefordshire County Council ("the Council"), of its inspection carried out between 18 July – 29 July 2022. The inspection report found that children's social care services are 'inadequate' overall. The sub-judgements for children who need help and protection, children looked after and achieving permanence and leadership, management and governance were also all rated as 'inadequate'.
2. The Secretary of State is therefore satisfied that the Council is 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.
3. The Secretary of State has appointed Eleanor Brazil as Commissioner for Children's Services in Herefordshire ("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.
4. The Secretary of State, having considered any 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:

5. Pursuant to his 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 the most effective way of securing and sustaining improvement in Herefordshire, including whether to remove the control of children's social care from the Council, and/or put in place an alternative delivery model.

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



Dawn Dandy  
A Senior Civil Servant in the Department for Education  
Dated this 21<sup>st</sup> day of September 2022

## **ANNEX**

### **Non-Executive Commissioner for Children's Services**

#### **Herefordshire County Council**

##### **Terms of Reference**

Herefordshire County Council's children's social care services have been found to be 'inadequate' across all of the key judgements in the recent Ofsted inspection report. There is a presumption in cases of systemic failure of this nature that children's social care services will be removed from local authority control, for a period of time, in order to bring about sustainable improvement, unless there are compelling reasons not to do so.

In line with the recommendations set out in the Ofsted report of children's social care, published 21 September 2022, the Children's Services Commissioner for Herefordshire is expected to take the following steps.

1. To issue any necessary instructions to the local authority for the purpose of securing immediate improvement in the authority's delivery of children's social care.
2. To identify ongoing improvement requirements; and to recommend any additional support required to deliver those improvements. In light of the findings around leadership and management this should include consideration of the supporting functions within children's services, in particular SEND.
3. To bring together evidence to assess the council's capacity and capability to improve itself, in a reasonable timeframe, and recommend whether or not this evidence is sufficiently strong to suggest that long-term sustainable improvement to children's social care can be achieved should operational service control continue to remain with the council.
4. As appropriate, to advise on relevant alternative delivery and governance arrangements for children's social care, outside of the operational control of the local authority, taking account of local circumstances and the views of the council and key partners.
5. To report to the Minister of State for Children and Families by 12 December 2022.