

READING BOROUGH COUNCIL

REPORT BY CHIEF EXECUTIVE

TO:	ADULT SOCIAL CARE, CHILDREN'S SERVICES AND EDUCATION COMMITTEE		
DATE:	11 JULY 2018	AGENDA ITEM:	8
TITLE:	CHILDREN'S SOCIAL CARE, EARLY HELP AND EDUCATION SERVICES IN READING - UPDATE ON DEVELOPMENT OF CHILDREN'S COMPANY		
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To comply with the in principle direction of the DfE and the recommendation of the Commissioner to establish a 'full service' children's company, the Council agreed to transfer its Children's social care, early help and education services to the Company and this was formally endorsed at Policy Committee on 15 January 2018.
- 1.2 This report provides an update on the latest position on setting up the children's company which will be a wholly owned company of the Council for the delivery of children's services.
- 1.3 This report also refers to the improvement work in children's services and encloses the most recent OFSTED letter following the latest monitoring visit. This most recent letter published on 8 June highlights some real signs of improvement in the service.

2. RECOMMENDED ACTION

- 2.1 That the latest position in the development of the company for the delivery of Children's Services be noted.
- 2.2 That as part of our communications plan for the company that an all Councillor briefing session is being arranged.
- 2.3 That the latest OFSTED letter published on 8 June showing a positive direction of travel for the service be noted.

3. POLICY CONTEXT

- 3.1 Statutory Direction notice from the Secretary of State UNDER SECTION 497A(4B) OF THE EDUCATION ACT 1996.

4. BACKGROUND

- 4.1 In August 2016 Ofsted published their findings following an inspection of Children's Services in Reading. Children's Services were rated 'Inadequate'. As a Result, and in line with the Government's reform programme 'Putting Children First' the Department for Education issued a statutory direction notice (September 2016) to the Local Authority and appointed a Commissioner. The direction notice required Reading Borough Council to comply with any direction of the Commissioner in improving services for children.
- 4.2 The recommendation of the Commissioner was to establish a 'full service' children's company and the Council agreed to transfer its Children's social care, early help and education services to the Company by the autumn of 2018 and this was formally endorsed at Policy Committee on 15 January 2018.
- 4.3 In the mean-time work continues to deliver improvement to children's services following the OFSTED inspection and subsequent monitoring visits. The OFSTED letter published on 8 June following the latest monitoring visit is attached. This letter shows that there are very pleasing signs of improvement and it must be recognised that the service must not take its eye off the improvement plan, continued improved performance and its savings targets during transition to the new company.

5.0 LATEST POSITION - KEY DEVELOPMENTS

- 5.1 The Council is working towards the transition to a new company by autumn 2018 and this is being driven via robust programme management of a set of 11 workstreams each led by a senior officer in the Council which together will deliver all the tasks required.
- 5.2 Work is progressing well however we have set an ambitious timescale and this is under continuous review. There are some critical factors which could impact such as the OFSTED registration process and appointment of the Managing Director/Chief Executive following the decision to separate this from the Director of Children's Services role. If nearer the time, a delay is considered to be likely, we would operate the company in a shadow or test and learn environment for longer and any such decision would be in collaboration between the Council, DfE and company representative(s).
- 5.3 Since the report to Policy Committee in January we have delivered some significant milestones towards the establishment of the company.
- 5.4 A memorandum of understanding was agreed between the DfE and the Council on 28 March which underpins the development of the company. This document (attached) sets out:
- key principles for operation of the company,
 - proposed legal form of the company,
 - proposed constitution of the board of directors of the company and associated corporate governance arrangements,
 - the operational framework within which the company will operate and be held accountable
- 5.5 The chair of the company, Deborah Jenkins, has been appointed, who comes with a wealth of experience and is already very actively involved in the establishment of the company. Interviews for Non - Executive Directors to make up the company board have taken place and confirmation of appointments is underway. Work is being done

following the appointment of a new Director of Children's Services, Stephen Kitchman, who joins the Council on 4 July, to agree the makeup of the remainder of management team including agreeing the role of Managing Director. Recruitment of the remaining senior roles will be underway shortly.

- 5.6 The majority of children's services staff will be TUPEd to the new company and they are being briefed regularly including face to face briefings. Formal staff consultation on their transfer to the new company started in 4 July.
- 5.7 The company name was consulted on and agreed to be Brighter Futures for Children. A visioning and branding workshop with staff and service users led by the new Chair took place in May and fed into the brand design and logo concepts which have been developed by a branding agency.
- 5.8 The detailed work on the service specification and contract is well under-way. The service contract will address the requirements of the specification and Council responsibilities, financial matters including the financial mechanism and annual review, performance and key performance indicators. A budget working group is working on the preparation of the company budget.
- 5.9 The service level agreements between the company and the Council for the provision of support functions are also being developed in parallel. The memorandum of understanding specifies that we are working to the principle of buy back of the majority of support functions for a minimum of two years. Detailed work on the scope of this is underway.
- 5.10 Proposals for the client side structure including governance arrangements and the performance mechanism are being developed in order that the Council can hold the company to account for the services it delivers on the Council's behalf. There will be a senior officer responsible for the contract, a contract manager to manage the relationship at an operational level, children's service expertise with the Council to ensure it can act as an 'intelligent client' and regular reporting to the Council as shareholder and as holder of statutory duties.
- 5.11 The Council will have 100% ownership of the company which will be run by a senior management team reporting to the company board of directors. The Board will report to the Council as its shareholder and acts in the interest of the company. The Council will set the Children's services vision, policy and service need. It will commission the services needed and monitor performance against an agreed set of performance metrics.
- 5.12 In order to provide the appropriate assurances to the Council it is anticipated that there will be:
 - Annual report on performance and the Company's business plan to the Council (the shareholder)
 - Reports on performance during the year to the shareholder via Policy Committee
 - Regular meetings between lead members, Chief Executives of the Council and the company
 - Detailed monthly performance and financial monitoring through the contract management function, underpinned by contractual reporting requirements including open book provision of data
- 5.13 The Company will operate from the Council's civic offices and work to create a specific and separate secure space with appropriate branding will be carried out in

the next few months to be completed by August with staff moves planned for August/September.

5.14 As part of the communication plan for the new company we will offering an all councillor briefing in the next few weeks.

5.15 Further reports will come to members as we continue with the set up work including specific reports which will be needed for decisions at either Policy Committee or ACE Committee depending on timing to sign off formally the Company's business plan, the Company Budget and the service contracts.

6.0 CONTRIBUTION TO STRATEGIC AIMS

6.1 The following strategic aims will contribute to the following strategic aims:

1. Safeguarding and protecting those that are most vulnerable;
2. Providing the best start in life through education, early help and healthy living;

7.0 COMMUNITY ENGAGEMENT AND INFORMATION

7.1 The set-up of the company is under the direction of the Secretary of State. We have consulted service users, children's services staff and the Council's citizen's panel on the name of the company.

8.0 EQUALITY IMPACT ASSESSMENT

8.1 An initial Equality Impact Assessment has been undertaken and will evolve as the establishment of the Company progresses. There will be a particular focus on staff who are re-locating to the Civic Offices

9.0 LEGAL IMPLICATIONS

9.1 The Secretary of State for Education's decision to transfer Children's social care functions to a new company has been taken under Section 497A (4B) Education Act 1996.

9.2 A decision to transfer education and early help services, not defined in the Direction, to the new company will involve a significant change to the Council's policy framework and as such will need to be taken formally by full Council.

9.3 The creation of a new Children's Company will require amendments to the Council's Constitution, including changing the terms of reference of Committees, and will therefore need to be agreed by full Council in accordance with Article 4.2.2(a) of the Constitution.

10.0 FINANCIAL IMPLICATIONS

10.1 The costs of setting up the company was requested in a business case submitted to the DfE. The total cost of Company set-up is estimated at £3.496m of which £2.919m has been agreed as a grant from the DfE, leaving £577k of support (mostly in kind) to be delivered by the Council.

10.2 As set out above, the grant of £2.919m will be received in the form of lump sums during the period of set up.

THIS MEMORANDUM OF UNDERSTANDING ("MoU") is made on *28 March* 2018
BETWEEN:

- (1) **The Secretary of State for Education** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the "**Secretary of State**") acting through Nick Whitfield c/o Achieving for Children Community Interest Company, 42 York Street, Twickenham, TW1, 3BW in his capacity as the Commissioner for Children's Services in Reading; and
- (2) **Reading Borough Council**, Civic Offices, Bridge Street, Reading RG1 2LU (the "**Council**"),

each a "**Party**" and together "the **Parties**"

1. **Background and Purpose**

- 1.1 On 12 September 2017, the Secretary of State issued a statutory direction to the Council under Section 497A(4B) of the Education Act 1996 (the "**Act**") (a copy of which is set out in Appendix A to this document) (the "**First Direction**"). The primary purpose of the First Direction is to secure improvements in the performance of the Council's children's social care functions. Pursuant to the First Direction the Secretary of State appointed the Commissioner for Children's Services in Reading (the "**Commissioner**") for the purposes specified in the "Terms of Reference" set out in the Annex to the First Direction.
- 1.2 As part of the Council's initiative to secure improvements in the performance of its children's social care functions, and in consultation with the Commissioner and the Secretary of State, the Council has elected to voluntarily establish a wholly-owned subsidiary company (the "**Company**") to perform specified children's social care and education support functions (the "**Relevant Functions**") on behalf of the Council in the Borough of Reading and to directly award a contract to the Company for these purposes pursuant to Regulation 12 of The Public Contracts Regulations 2015 (the "**In-House Exemption**"). These transition arrangements shall be referred to as the "**Project**" in this MoU and the Parties agree that this Project will support and promote sustainable improvement to children's social care services in Reading.
- 1.3 The intention of the Secretary of State is to issue a further statutory direction under Section 497A(4B) of the Act (the "**Second Direction**") on or around the execution of the Services Contract (as defined in paragraph 1.4 below). In view of the agreed position set out in this Memorandum of Understanding (the "**MoU**"), the intention of the Second Direction is to acknowledge that the Council has voluntarily elected to delegate the performance of specified children's social care functions to the Company. For the purposes of this MoU, the First Direction and Second Direction are referred to collectively herein as "the **Directions**".

- 1.4 Notwithstanding that the Company will be a wholly-owned subsidiary company of the Council, the Council agrees that the new organisation will have operational independence from the Council in respect of the day-to-day management and performance of the Relevant Functions, which will be managed and regulated by the Council pursuant to an arm's length contract to be entered into between the Council and the Company (the "**Services Contract**") as more particularly described in paragraph 7 below. The Council shall remain statutorily responsible and accountable for the performance of the Relevant Functions and shall hold the Company to account in respect of its performance of such functions pursuant to the terms of the Services Contract.
- 1.5 The Parties have now agreed to enter into this MoU to record the following matters:
- 1.5.1 the agreed vision of the Parties in respect of the establishment of the Company and the delivery of high quality and innovative children's social care services to children, young people and their families within the Borough of Reading to meet the requirements of the Directions;
- 1.5.2 the key principles regarding the following:
- (a) the proposed legal form of the Company;
 - (b) the proposed constitution of the board of directors of the Company and associated corporate governance arrangements; and
 - (c) the operational framework within which the Company shall operate and be held accountable, which will address key aspects of the proposed Services Contract such as the development of the proposed budget, performance framework and governance arrangements between the Company and the Council;
- 1.5.3 the proposed timetable from the signing of the MoU, to the formal establishment of the Company through to service commencement under the Services Contract (the "**Service Commencement Date**"); and
- 1.5.4 the commitments of each Party in relation to the transition of children's social care and education support services to the Company and the structures that the Parties have put in place to periodically review and assess the progress of the Project against the agreed timetable and key Project milestones (as more particularly described in paragraph 9 below).
- 1.6 The Parties do not intend this MoU to be legally binding or to create legal relations between them. The Parties agree that they shall use all reasonable endeavours to comply with the terms and the spirit of this MoU.

2. Term

2.1 This MoU shall come into effect on the date it is signed by both Parties and shall remain in force until the earlier of:

2.1.1 the Service Commencement Date; or

2.1.2 the date on which this MoU is terminated by either Party notifying the other Party of such termination in writing,

the "**Term**".

3. Key Representatives

3.1 The Parties shall (and shall procure that their key representatives as identified in this paragraph 3 shall) work together in good faith and in a collaborative and co-operative manner in order to achieve the establishment of the Company and the delivery of the Project in accordance with the timetable set out in paragraph 9 below.

3.2 The Secretary of State will be represented by the following key persons:

3.2.1 the Commissioner (who shall perform the role as set out in the First Direction); and

3.2.2 a senior civil servant in the Department for Education (as notified to the Council in writing by the Commissioner from time to time).

3.3 The Council shall be represented by the following key persons:

3.3.1 the Chief Executive of the Council (or, where applicable, his replacement from time to time during the Term); and

3.3.2 the Head of Customer Services (or, where applicable, her replacement from time to time during the Term).

3.4 The Company shall be represented by the following key persons:

3.4.1 the Chair (as defined in paragraph 6.4.1 below or, where applicable, his/her replacement from time to time during the Term); and

3.4.2 the Company Chief Executive (as defined in paragraph 6.4.2 below or, where applicable, his/her replacement from time to time during the Term).

4. Stages of the Project

4.1 The Project shall consist of two distinct key stages as follows:

- 4.1.1 the period from the date that this MoU is signed by both Parties up until the Service Commencement Date (the "**Shadow Period**"); and
- 4.1.2 the period on and from the Service Commencement Date when the Services Contract has been entered into by the Council and the Company, all relevant staff have transferred from the Council to the Company and the Company is fully operational and responsible for the performance of the Relevant Functions pursuant to the Services Contract (the "**Operational Period**").

The Shadow Period

- 4.2 During the Shadow Period, the key representatives of the Council and the Company (as further described in paragraph 3 above) and such other representatives of the respective organisations, will work collaboratively with one another (and in consultation with the Commissioner and the Secretary of State) to:
 - 4.2.1 on or before 30 April 2018, establish the Company pursuant to paragraph 6 below and register the company at Companies House for the purpose of preserving the identity of the Company with it not becoming operational until the Service Commencement Date;
 - 4.2.2 define a set of behaviours, values and measures to underpin the way the Council and the Company will work together in respect of the Company's performance of the Relevant Functions during the Operational Period, and which supports the development and establishment of a collaborative relationship between the Council and the Company which achieves an appropriate balance between the need for:
 - (a) the Council to be satisfied that the Company is appropriately performing the Relevant Functions on its behalf; and
 - (b) the Company to have unfettered day-to-day operational independence in respect of its performance and discharge of the Relevant Functions;
 - 4.2.3 enable the Council to design, develop and establish an appropriate, robust and efficient internal contract management function (the "**Intelligent Client Function**") for the purposes of monitoring the Company's performance of the Relevant Functions pursuant to the Services Contract but which does not serve to fetter the operational independence of the Company; and
 - 4.2.4 develop the following key documents based on the principles set out in paragraph 4.2.2 above:
 - (a) a set of Articles of Association for the Company (the "**Articles**") which will, among other things, regulate the internal affairs of the Company

and, in particular, will govern the relationship between the Council (as the sole member of the Company (see paragraph 6.1 below)) and the Company's board of directors in respect of the operation and management of the Company;

- (b) a business plan for the Company, which will, among other things, set out the strategic objectives of the Company for specified periods and detail how the Company intends to achieve those strategic objectives (the "**Business Plan**");
 - (c) an appropriately balanced Services Contract pursuant to which the Company will perform the Relevant Functions on behalf of the Council from the Service Commencement Date; and
 - (d) appropriately balanced support services arrangements which will be provided by the Council to the Company under a "**Support Services Agreement**" to support the Company's operations and its performance of the Relevant Functions.
- 4.3 In addition, during the Shadow Period the Parties shall develop the "Governance Side Agreement" (which is more particularly described in paragraph 6.16 below) with any necessary input from the Company.
- 4.4 It should be noted that although the Articles, the Business Plan, the Services Contract, the Support Services Agreement and the Governance Side Agreement are developed between the Council, the Company and the Secretary of State (as applicable) during the Shadow Period, these documents shall only have legal effect once they are executed (or formally approved, in respect of the Articles) by the relevant parties, which shall be on a date on or around the Service Commencement Date.

The Operational Period

- 4.5 During the Operational Period, the Company will be fully operational and responsible for the performance of the Relevant Functions on behalf of the Council and the Services Contract, Support Services Agreement, Articles, Business Plan and the Governance Side Agreement will all have legal effect during the Operational Period.
- 4.6 It should therefore be noted that, pursuant to paragraph 2.1.1 above, this MoU will terminate on the Services Commencement Date (if not terminated earlier in accordance with paragraph 2.1.2) and therefore will not be in effect during the Operational Period, unless otherwise agreed by the Parties in writing.

5. Objectives and Agreed Vision

- 5.1 The Parties' agreed vision is to establish the Company as a new and distinct legal entity that is operationally independent of the Council, to provide high quality children's services across the Borough of Reading. The Company shall have day-to-day operational independence in the performance and management of these services and will be managed by a strong board of executive and non-executive directors.
- 5.2 The Company will raise the profile of, and measurably improve, children's social care services in the Borough of Reading, providing expert support to managers, staff and local stakeholders. The Council's ambition is that the Company will become a national leader in social work practice and training, putting safeguarding and developing children's life chances at the heart of everything that it does.
- 5.3 It is envisaged that the Company will work collaboratively with partners and key stakeholders in a culture of social enterprise, to improve children's social care services for children, young people and their families within the Borough of Reading at a time of financial constraint by combining a business-like commercial discipline with a public service ethos. The Council and the Company will work with partners to create local centres of excellence and use ICT solutions to provide easy access to services and advice for children, young people and their families to ensure efficient delivery of children's services.
- 5.4 The Parties envisage that the Company's ethos may be summarised as a "TEAM" approach:
- T** – everyone together across all sectors in Reading putting children first;
 - E** – efficient and effective use of public resources to maximise impact;
 - A** – ambitious for Reading children, young people and their families and the Company;
 - M** – monitoring and measuring to make a difference to the life chances of children, young people and their families.
- 5.5 The Parties acknowledge and agree the following:
- 5.5.1 the Company will have a key role to play in pursuing the agreed vision and objectives of the Parties set out in paragraphs 5.1 to 5.4 (inclusive) above, together with the Council and other key stakeholders; and
 - 5.5.2 the Council and the Company will work collaboratively with all key stakeholders to pursue the agreed vision and objectives,
- and, during the Shadow Period, the Council and the Company will work together in good faith to further develop the agreed vision and objectives described above

so that they are capable of being transposed into the Company's Articles and the Services Contract as a statement of the Company's objects and 'shared vision' (as appropriate) in respect of the Company's delivery of children's services.

6. The New Organisation Model, Board Constitution and Decision-Making

Form of the Company

- 6.1 The Company will initially be established in a dormant and 'shadow form' as a wholly-owned subsidiary company of the Council that is a company limited by guarantee, with the Council as its sole member and the Commissioner as its sole director. The Company shall remain in a dormant and 'shadow form' during the Shadow Period and shall not be considered operational until it formally enters into the Services Contract with the Council and commences the performance of the Relevant Functions.
- 6.2 During the Shadow Period, and prior to the Company becoming operational, the Articles of the Company shall be developed and revised so that, together with the Services Contract, the Council is comfortable that the In-House Exemption will apply to the award of the Services Contract to the Company by the Council and also the entering into of any ancillary contracts between the Council and the Company that may be applicable, including the Support Services Agreement.
- 6.3 The Parties agree that the model for the new Company must:
- 6.3.1 comply with the requirements of the Directions to secure the improvement in the performance of the Council's Relevant Functions insofar as they relate to children's social care and to provide confidence to the Parties regarding the future delivery of high quality children's social care services;
 - 6.3.2 establish a new and distinct legal entity which has day-to-day operational independence from the Council in the management and performance of children's social care services in the Borough of Reading through a strong board of executive and non-executive directors;
 - 6.3.3 enable the effective discharge at all times of the Relevant Functions in respect of those children's services that are the subject of the Services Contract and to enable the Council, through its elected members or otherwise, to properly discharge their local democratic accountability in respect of the performance of the Relevant Functions within the Borough of Reading through an appropriate and balanced contractual governance and quality assurance framework in the Services Contract which enables:
 - (a) the Council to have sufficient assurance that the Relevant Functions are being properly discharged by the Company on its behalf; and

- (b) the board of directors and executive management of the Company to have sufficient flexibility to innovatively and independently perform the Relevant Functions on behalf of the Council, and meet the changing demands of children, young people and their families in the Borough of Reading without undue interference from the Council;
- 6.3.4 focus on social objectives and the improvement of outcomes for children, young people and their families in the Borough of Reading with the treatment of any surpluses that are generated by the Company being subject to negotiation between the Council and the Company and documented in the Services Contract in accordance with an agreed mechanism;
- 6.3.5 provide a structure that is lawful and within the scope of the Council's legal powers, including pursuant to Section 1 of the Children and Young Persons Act 2008, the Contracting Out (Local Authority Education Functions) (England) Order 2002 and which complies with The Public Contracts Regulations 2015 and associated State Aid rules. To this end, the Council agrees that the Company will register as an independent fostering agency on or prior to the Service Commencement Date;
- 6.3.6 be capable of facilitating potential future business growth and working with other public sector bodies/customers in accordance with applicable laws; and
- 6.3.7 provide the most tax efficient structure possible in order to minimise additional costs arising under the new model.

Constitution and Appointment of the Company's Board of Directors

- 6.4 Subject to paragraphs 6.5 to 6.15 (inclusive) below, the board of directors of the Company shall comprise the following:
 - 6.4.1 a non-executive director of the Company appointed as chair of the Company by the Secretary of State, in consultation with the Council, during the period of the intervention (the "**Chair**");
 - 6.4.2 up to three (3) executive directors comprising the chief executive of the Company (the "**Company Chief Executive**") and two other executive roles (collectively referred to in this MoU as the "**Executive Posts**");
 - 6.4.3 up to six (6) non-executive directors with collective knowledge, expertise and experience across the range of children's services to be provided by the Company, as well as business development (collectively referred to in this MoU as the "**Non-Executive Independent Directors**" or "**NEIDs**"); and

- 6.4.4 an additional non-executive director nominated by the Chief Executive of the Council, who should be an officer of the Council (other than the Chief Executive of the Council) (the "**Council Nominated Director**").
- 6.5 In respect of the appointment of the Company Chief Executive, the Council, in consultation with the Commissioner, is considering whether that person should also be the Council's Director of Children's Services, or whether that person should be an additional, independent appointment. This is one of a number of options currently being considered by the Council, however, if the Council determines that its Director of Children's Services should also be the Company Chief Executive, then that person shall remain employed by the Council and be seconded into the Company as the Company Chief Executive (see paragraph 7.11 below). If it is agreed that the Council's Director of Children's Services will also be the Company Chief Executive then notwithstanding such appointment, the Council's obligation and discretion to appoint a Director of Children's Services pursuant to the Children Act 2004 shall not be fettered and the Council shall be free, at any time, to appoint another person as its Director of Children's Services at its absolute discretion.
- 6.6 During the Shadow Period, the constitution of the board of directors of the Company will commence in accordance with paragraphs 6.7 and 6.8 below and, although such individuals are not directly appointed to or by the Company at this stage, they will be appointed to the designated posts that they will be due to take up on the board of directors of the Company (the "**Designated Company Board**").
- 6.6A During the Shadow Period it is expected that the Designated Company Board shall:
- 6.6A.1 in relation to the performance of the Relevant Functions during the Shadow Period:
- (a) act in an advisory capacity to the Council with the Company Chief Executive informally reporting to the Designated Company Board during the Shadow Period on the performance of the Relevant Functions and the design of the services that will ultimately be provided by the Company from the Service Commencement Date pursuant to the Services Contract; and
 - (b) be entitled to make recommendations to the Council in respect of such matters so that the Designated Company Board may appropriately influence the delivery and performance of such services to enable the effective transition of the services to the Company on and from the Service Commencement Date;

and

- 6.6A.2 be responsible for working alongside the Council to ensure that the Company is in a position to efficiently and effectively take over the performance of the Council's Relevant Functions pursuant to the Services Contract on and from the Service Commencement Date.
- 6.7 Notwithstanding the appointment of the Designated Company Board as described in paragraphs 6.6 and 6.6A above, during the Shadow Period the Council will continue to be responsible for and directly perform and discharge the Relevant Functions itself, and such functions shall not be performed and discharged by the Company (or the Designated Company Board) until the Service Commencement Date and the Parties acknowledge and agree that the Company shall not be operational during the Shadow Period.
- 6.8 During the Shadow Period, any appointments to the Designated Company Board shall be as follows:
- 6.8.1 the Secretary of State, in consultation with the Council, shall select the person who will have the role of the Chair;
 - 6.8.2 the Company Chief Executive shall be appointed by the Council with the prior written consent of the Secretary of State;
 - 6.8.3 the persons occupying Executive Posts (other than the Chief Executive) shall be appointed by the Council in consultation with the Commissioner and the Secretary of State;
 - 6.8.4 the Non-Executive Independent Directors shall be appointed by a selection committee comprised of the Chair, a representative of the Secretary of State (which is likely to be the Commissioner) and a representative of the Council; and
 - 6.8.5 the Council Nominated Director shall be appointed by the Council in consultation with the Commissioner,
- and, where applicable, the recruitment process for such positions shall reflect good practice for public appointments.
- 6.9 During the Operational Period, and only for so long as the Directions (or any subsequent applicable statutory direction of the Secretary of State that replaces any or both of the Directions) remain in force (the "**Intervention Period**"), the following principles shall apply in respect of the appointment and/or removal of the directors of the Company:
- 6.9.1 the Secretary of State shall, in consultation with the Council, nominate the Chair of the Company whose formal appointment shall be made by the Council following such nomination by the Secretary of State and, during

the Intervention Period, the Secretary of State shall be solely responsible for appointment and removal of the Chair and the remuneration of the Chair; and

- 6.9.2 subject to paragraphs 6.5 and 7.11 of this MoU in relation to the appointment of the Council's Director of Children's Services, the Council shall obtain the prior written consent of the Secretary of State in relation to any decision to appoint or remove the Company Chief Executive, as more particularly described in paragraph 6.15.1(a) below.

Decision-Making and Reserved Matters

- 6.10 Subject to paragraph 6.11 below, during the Operational Period the board of directors of the Company shall:
- 6.10.1 be fully empowered to manage the Company's day-to-day business and affairs in accordance with the Company's approved Business Plan (from time to time – see paragraph 4.2.4(b) above and paragraph 6.10.4 below).
 - 6.10.2 make decisions on a majority basis only and, in the case of an equality of votes, no director (including the Chair) will have a casting vote;
 - 6.10.3 be expected to comply with their duties under the Companies Act 2006 in relation to their decision-making, including the duty to promote the success of the Company; and
 - 6.10.4 in consultation with the Council develop a Business Plan in accordance with paragraph 4.2.4(b) above and on an annual basis refresh and update the Business Plan for approval by the Council pursuant to paragraph 6.11.3 below.
- 6.11 In addition to its statutory rights under the Companies Act 2006 (and associated legislation) and subject to paragraphs 6.12 to 6.15 (inclusive) below, during the Operational Period the Council shall have a right to approve the following key decisions of the Company:
- 6.11.1 subject to paragraphs 6.9, 6.15.1(a) and 6.15.1(b) (as applicable) of this MoU the appointment and removal of the Company's directors;
 - 6.11.2 any change to the membership of the Company;
 - 6.11.3 the approval of the Company's Business Plan (including the approval of any amendments to the Company's Business Plan);
 - 6.11.4 any changes/amendments to the Company's Articles;

- 6.11.5 the voluntary winding up of the Company (save where the Company is insolvent and action is necessary by the directors of the Company in order to comply with their statutory duties or to avoid potential civil or criminal liability);
- 6.11.6 any proposal by the Company to enter into (or the entering into by the Company) of any new third party contracts for the provision of services by the Company to third parties above a pre-agreed threshold (which are outside the scope of the Services Contract and/or the Company's Business Plan);
- 6.11.7 any proposal by the Company to enter into any other contractual arrangement with the Council for the provision of other services to the Council following the Service Commencement Date (unless otherwise expressly provided for in the Services Contract, including pursuant to any change mechanism therein); and
- 6.11.8 any proposal by the Company to form or procure the formation of any other legal entity or undertaking in which the Company would be a member, shareholder or hold any analogous position in any jurisdiction;

together the "**Reserved Matters**".

- 6.12 The Parties acknowledge and agree that, during the Shadow Period, the Council and/or the Company may identify and collaboratively agree on additional matters that should be added to the list of Reserved Matters set out in paragraph 6.11 above for inclusion in the Company's Articles ("**Additional Reserved Matters**"), and when identifying and agreeing any Additional Reserved Matters with the Company the Council shall:
 - 6.12.1 have regard to the fundamental principle of the operational independence of the Company; and
 - 6.12.2 subject to paragraph 6.13 below, consult the Secretary of State (or his nominee, where applicable) prior to formally agreeing any Additional Reserved Matters with the Company.
- 6.13 Following consultation with the Secretary of State (or his nominee) pursuant to paragraph 6.12.2 above, the Secretary of State shall be entitled to request consent or consultation rights over any Additional Reserved Matters to the extent that the Secretary of State reasonably believes that such rights are necessary. Following any such request by the Secretary of State, the Parties shall agree (acting reasonably and having due regard to the principles set out in paragraphs 6.12.1 and 6.16 of this MoU) such consent/consultation rights over any Additional Reserved Matters and such rights shall be exercisable by the Secretary of State

during the Intervention Period. No Additional Reserved Matters can be agreed between the Council and the Company until the process set out in paragraph 6.12.2 and this paragraph 6.13 has been followed.

- 6.14 The Reserved Matters (including any Additional Reserved Matters agreed between the Council and the Company pursuant to paragraphs 6.12 and 6.13 above), and the Council's rights in respect of the same, will be set out in the Articles.

The Secretary of State's consent/consultation rights in respect of the Reserved Matters

- 6.15 During the Intervention Period, the Secretary of State shall have:

- 6.15.1 **consent rights** in respect of the following Reserved Matters:

- (a) the appointment and removal of the Company's Chair;
- (b) subject to paragraphs 6.5 and 7.11, the appointment and removal of the Company Chief Executive;
- (c) any change to the membership of the Company;
- (d) the voluntary winding up of the Company (save where the Company is insolvent and action is necessary by the directors of the Company in order to comply with their statutory duties or to avoid potential civil or criminal liability); and
- (e) any other consent rights agreed between the Parties pursuant to paragraph 6.13 above;

- 6.15.2 **consultation rights** in respect of the following Reserved Matters:

- (a) the approval of the Company's Business Plan (including the approval of any amendments to the Company's Business Plan);
- (b) any changes/amendments to the Company's Articles;
- (c) any proposal by the Company to enter into (or the entering into by the Company) of any new third party contracts for the provision of services by the Company to third parties above a pre-agreed threshold (which are outside the scope of the Services Contract and/or the Company's Business Plan);
- (d) any proposal by the Company to enter into any other contractual arrangement with the Council for the provision of other services to the Council following the Service Commencement Date (unless otherwise expressly provided for in the Services Contract, including pursuant to any change mechanism therein);

- (e) any proposal by the Company to form or procure the formation of any other legal entity or undertaking in which the Company would be a member, shareholder or hold any analogous position in any jurisdiction; and
- (f) any other consultation rights agreed between the Parties pursuant to paragraph 6.13 above.

6.16 The consent and consultation rights of the Secretary of State described in paragraph 6.15 above (or any additional consent/consultation rights requested and afforded to the Secretary of State pursuant to paragraph 6.13 above) are only exercisable during the Intervention Period and are intended to preserve the integrity of the intervention pursuant to the Directions, and shall be set out in a legally binding agreement between the Council and the Secretary of State (the "**Governance Side Agreement**") to be entered into between the Parties on or before the Company's Articles are adopted and the Services Contract is entered into between the Council and the Company. The Governance Side Agreement will, among other things, manage the exercise by the Secretary of State of such consultation and consent rights and will stipulate time periods within which the Secretary of State (or his duly appointed nominee) must respond to the Council in respect of its exercise of such rights.

7. The Services Contract

7.1 On or around 30 September 2018 the Council will enter into an arm's length Services Contract with the Company awarded to the Company in accordance with the In-House Exemption. The Services Contract shall be for a term of seven (7) years with an option to break after five (5) years. Under the Services Contract, the Company (in the capacity of a 'supplier') will be required to perform the Relevant Functions on behalf of the Council (in its capacity as the 'customer'). The Council will remain statutorily responsible and accountable for the discharge of the Relevant Functions and the Company will be accountable to the Council in respect of the performance of the Relevant Functions pursuant to the terms of the Services Contract.

7.2 The current proposed scope of children's services to be delivered by the Company is set out in Part A (*List of Transferring Services*) to Appendix B of this MoU. In addition, Part B (*Relevant Support Services*) to Appendix B of this MoU sets out the current proposed scope of relevant support services that the Company will require in order for it to be able to perform its obligations under the Services Contract. It is acknowledged that the content of Appendix B remains subject to ongoing review and, in particular, subject to paragraphs 7.4 and 7.5 below the Council and the Company will work together during the Shadow Period to collectively determine which of these support services will be directly performed by

the Company and which will be purchased by the Company from the Council *via* the Support Services Agreement.

- 7.3 The Parties acknowledge and agree that the Council currently discharges its statutory duties relating to adoption *via* a joint adoption agency agreement led by Oxfordshire County Council, and therefore the Council's statutory functions in respect of adoption will be retained by the Council and will not fall within the scope of, or form part of, the Services Contract and accordingly will not be performed by the Company on the Council's behalf.
- 7.4 The outline scope of the support services which are to transfer to the Company and those support services which are to be purchased by the Company from the Council pursuant to the Support Services Agreement between the Council and the Company shall be determined by the Council's Policy Committee in consultation with the Commissioner by the end of May 2018. Those support services which are not transferred to the Company shall be purchased by the Company from the Council for a minimum period of two (2) years from the Service Commencement Date, on the basis of a one year term with a twelve (12) month notice period to terminate the arrangement thereafter.
- 7.5 It is recognised that the Council's Joint Legal Service (through the Joint Legal Team) under existing arrangements and agreements advises and represents the Berkshire Authorities, including Reading, in connection with children's and adults' social care services which include care proceedings, fostering, assessment of adopters or carers for permanency and special education tribunals etc. Therefore, the Joint Legal Service shall also be purchased by the Company from the Council on a similar basis to that described in paragraph 7.4 above (i.e. one year term with a twelve (12) month notice period to terminate thereafter), however special arrangements will apply to the Joint Legal Service as a twelve (12) month notice period will also be required to significantly reduce its scope.
- 7.6 During the Shadow Period an outcomes-focused service specification and associated contract governance and performance framework, which shall include appropriate performance metrics, will be jointly developed and agreed by the Council and the Designated Company Board in consultation with the Commissioner and the Secretary of State, in respect of the delivery of children's services by the Company. The services specification and performance and governance frameworks will be key components of the Services Contract.
- 7.7 During the Intervention Period the Secretary of State will have the following rights in respect of the Services Contract:

7.7.1 **consent rights** in respect of any proposal:

- (a) to terminate the Services Contract;

- (b) to extend or exercise a break right under the Services Contract;
- (c) to make any major variation to the Services Contract (outside pre-agreed thresholds);
- (d) by the Company to subcontract a substantial part of the services it is performing under the Services Contract to a third party;
- (e) by the Company to assign, novate or otherwise dispose of its rights under the Services Contract;
- (f) by the Council to exercise any rights of 'step-in' it has under the Services Contract; and

7.7.2 a **consultation right** in respect of any proposal by the Council to 'step-out' under the Services Contract following the exercise by the Council of any 'step-in' rights it may have.

7.8 The consent and consultation rights of the Secretary of State described in paragraph 7.7 above shall be capable of being exercised by the Secretary of State through 'Third Party Rights' provisions to be contained within the Services Contract. Furthermore, the exercise of these rights will be governed by the Governance Side Agreement.

TUPE/Employment and Pensions

- 7.9 The persons on the Designated Company Board who hold Executive Posts shall be employed by the Council during the Shadow Period and on the Service Commencement Date such persons will transfer to the Company pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**").
- 7.10 In addition to the transfer of the Executive Posts as described in paragraph 7.9 above, on the Service Commencement Date there shall be a transfer of relevant and appropriately assigned staff from the Council to the Company pursuant to TUPE. The scope of the transferring services and the design of the Council's retained Intelligent Client Function will determine the scope of this TUPE transfer. The Council will be responsible for all pre-transfer employment liabilities of the transferring staff and the Company will be responsible for all post-transfer employment liabilities of such transferring staff insofar as they relate to their employment by the Company following the relevant transfer date.
- 7.11 If it is determined pursuant to paragraph 6.5 that the Company Chief Executive will also be the Director of Children's Services at the Council, then the relevant post holder will remain an employee of the Council and will be seconded to the Company as its Chief Executive in accordance with the terms of a secondment agreement to be entered into between the Council and the Company in respect of

such individual. Under that secondment agreement, the Company will have the necessary day-to-day control in relation to the performance and management of the Company Chief Executive's role and tasks. The Parties envisage an 80/20 split of time between Company Chief Executive duties and Director of Children's Services duties (with the majority being dedicated to the former) in relation to this role. If, pursuant to paragraph 6.5, the Council decides to appoint (in its absolute discretion) another individual as its Director of Children's Services, then it is envisaged that the Company Chief Executive who was previously also the Council's Director of Children's Services will continue to act as the Company Chief Executive but will become an employee of the Company.

- 7.12 It is acknowledged that all staff assigned to the performance of statutory functions relating to adoption shall be retained by the Council and will not be transferred to the Company in accordance with TUPE as the Council will be retaining all its statutory functions that relate to adoption.
- 7.13 The Council is currently in the process of considering its options in relation to matters concerning pensions and is seeking actuarial advice. It is envisaged that the Company will either secure "admitted body status" or be a "designated body" (for the purposes of part 2, schedule 2 of the Local Government Pension Scheme Regulations 2013) in relation to the Local Government Pension Scheme (LGPS), however further work on pensions matters is required before anything further can be said.

8. Finance

Transition Costs

- 8.1 The Parties shall enter into a funding agreement by 31 March 2018 in respect of the Secretary of State's contribution to the funding of the transition costs in respect of the set-up and establishment of the Company. For these purposes, it is agreed that the following non-exhaustive list of cost headings shall be eligible to be treated as transition costs in respect of which the Secretary of State shall contribute:
- 8.1.1 project management costs;
 - 8.1.2 set-up of Company (including appointment costs in respect of the board of directors of the Company);
 - 8.1.3 legal advice and support;
 - 8.1.4 finance advice and support (including the relevant set-up costs in respect of the Council's Fusion finance system);
 - 8.1.5 HR advice and support;

- 8.1.6 communications (with staff and third parties);
 - 8.1.7 set up of accommodation for the Company;
 - 8.1.8 transfer of data and ICT set-up costs;
 - 8.1.9 support services (including changes to business processes and transfer of contracts); and
 - 8.1.10 development of the Council's retained commissioning and contract management function.
- 8.2 A key principle will be that the relevant transition costs should be "additional costs" only – i.e. costs that are a direct result of setting up the Company to deliver the Services Contract, as opposed to costs that the Council would otherwise ordinarily incur if the Company was not being established.

The Company's Budget

8.3 The Council is in the process of setting its three (3) year Medium Term Financial Strategy for the period of 2018 to 2021 and, as part of that process, has agreed an indicative 3-year budget/financial plan for the Company as more particularly described in the table below. This indicative budget remains subject to overall financial settlement from Central Government being as predicted and therefore remains subject to ongoing review.

DCEEHS*	18-19 Budget (Draft)	19-20 Budget (Draft)	20-21 Budget (Draft)
excluding DSG	41,566,000	42,272,400	41,632,000

8.4 This indicative plan excludes the costs of support services and has been set to meet recent growth in demand in children's services and to allow a clear twelve (12) month period to implement efficiency savings. All local authorities in intervention have seen a rise in costs, but as the children's social care services move from inadequate to good, there should be an opportunity to reduce the costs of looking after children. Furthermore, Central Government has set targets for Local Government to reduce costs and therefore the Council's Medium Term Financial Strategy shows a planned reduction in the budget in 2020/21, and accordingly the Company we will be required as part of its business planning process to set targets for efficiency savings which will help to manage the strain on the Council's limited finances and to ensure that children's social care services improve.

- 8.5 The Council will work with the Designated Company Board during the Shadow Period to identify the costs of providing support services to the Company, which the Council wishes to ensure are of the correct quality to enable the company to perform its obligations under the Services Contract. For the avoidance of doubt, the final budget for the Company will include the costs of the required support services.

Approach to VAT

- 8.6 As part of the process of securing the most tax efficient structure possible for the Company, and based on similar alternative delivery models of this nature (i.e. that are not just the simple provision of welfare and education services but include many additional aspects the successful fulfilment of which relates to the discharge of the Council's functions as a whole), the understanding between the Parties is that Company will be delivering a single supply of taxable services to the Council and should be entitled to fully recover VAT it incurs on the cost of making that supply.
- 8.7 The Parties will continue to assess the VAT position during the Shadow Period and where, for whatever reason, whether during the Shadow Period and/or during the Intervention Period, HMRC or another relevant tax authority makes a determination that would result in the Company having an irrecoverable VAT issue in respect of the delivery of the children's services under the Services Contract, then the Parties shall come to an agreement such that the Council and the Company are not liable for any irrecoverable VAT costs that may be associated with the delivery of the children's services pursuant to the Services Contract. Any such agreement will only be in relation to any irrecoverable VAT costs during the Intervention Period and not thereafter.

9. Key Project Milestones and Management of the Project

- 9.1 The Parties shall use all reasonable endeavours to achieve the following key milestones as part of the proposed timetable for this project (these are merely anticipated dates):
- 9.1.1 recruitment and appointment of the Chair by 30 March 2018 (subject to a successful executive search and identification of candidates);
 - 9.1.2 recruitment and appointment of the remainder of the Designated Company Board by 30 April 2018 (subject to a successful searches);
 - 9.1.3 the Designated Company Board operating in 'shadow form' by 1 May 2018 (subject to appointment of positions to the Designated Company Board);
 - 9.1.4 budget for the Company to be agreed by 28 September 2018;

- 9.1.5 Articles of the Company to be revised and finalised by 28 September 2018;
- 9.1.6 Council approval of the Services Contract and ancillary documents by 28 September 2018; and
- 9.1.7 the Services Contract and Governance Side Agreement to be executed by 30 September 2018.
- 9.2 During the Shadow Period the Project shall be periodically monitored, reviewed and effectively managed through the following key groups:
- 9.2.1 the **Strategic Stakeholder Group** – which will meet monthly (or as otherwise agreed) and will provide input into the overall strategic direction of the Project. This group will be chaired by the Commissioner and key attendees at this group will be:
- (a) representatives of the Secretary of State;
 - (b) the Chief Executive of the Council;
 - (c) the Council's Director of Children's Services (if such person is not also the Company Chief Executive); and
 - (d) the Company Chief Executive (if such person is not also the Company Chief Executive);
- 9.2.2 the **RBC Commissioning Group** – which will meet monthly (or as otherwise agreed) and which will oversee the delivery of the Project on behalf of the Council and will be accountable for the delivery of the Project. This group will be chaired by the Chief Executive of the Council and key attendees at this group will be:
- (a) the Council's Director of Finance;
 - (b) the Council's Head of Legal; and
 - (c) the Council's Director of Children's Services; and
 - (d) the Council's Head of Customer Services;
- 9.2.3 the **Project Board** – which will meet fortnightly and which will manage the project plan, track Project risks and issues and generally support the Project and which will report directly to the RBC Commissioning Group. This group will be chaired by a nominated representative and key attendees at this group will be:
- (a) the Project Manager for the Project;

- (b) the Council's Head of Customer Services;
- (c) the Council's project support officer; and
- (d) all workstream leads at the Council.

10. Miscellaneous

- 10.1 Subject to paragraph 1.6, both Parties agree to act at all times in good faith and in the spirit of mutual trust and co-operation in relation to the delivery of the project in accordance with the terms of this MoU.
- 10.2 The Parties shall agree the scope and confidentiality of the information sharing which shall take place during the period of this MoU, including access to the Council's financial and management reporting records and systems.
- 10.3 The Parties agree that the Council shall lead on all external communications in respect of this Project during the period of the MoU in consultation with the Secretary of State and the Commissioner. Save for the purposes of public decision making and/or where required by law, neither Party shall issue any public statements or announcements in respect of this Project without the prior agreement of the other Party.
- 10.4 The Parties may vary the terms of this MoU at any time by the agreement of both Parties in writing.
- 10.5 Any dispute that may arise as to the interpretation or application of this MoU shall be settled by discussion between the Parties. Both Parties agree to use all reasonable endeavours to seek to resolve any such dispute.

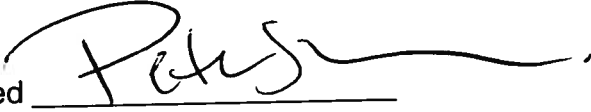
Signed Nick Whitfield

Nick Whitfield

The Commissioner for Children's Services (on behalf of the Secretary of State)

Date 28 March 2018

Classification: OFFICIAL-SENSITIVE

Signed 

Peter Sloman

Chief Executive

Reading Borough Council

Date 28th March 2018

Appendix A

The Direction

Direction to Reading Borough Council in relation to children's services:

STATUTORY DIRECTION TO READING 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 Reading Borough Council ("the Council") that performance in respect of children's social care services is 'inadequate' as detailed in Ofsted's inspection report of 5 August 2016 ("the 2016 Ofsted report").
2. The Council's failure led the Secretary of State to issue a statutory direction on 16 September 2016 ("the first direction"), requiring the Council to take a number of steps to improve the quality of services, including to work with Nick Whitfield, as the appointed Commissioner for Children's Services in Reading.
3. The Secretary of State has carefully considered:
 - a. Ofsted's inspection report of 5 August 2016, which found that children's services are 'inadequate'. The sub-judgments for children who need help and protection, children looked after and achieving permanence, and leadership, management and governance were all rated as 'inadequate';
 - b. The Children's Services Commissioner's report of 7 April 2017 ("the 2017 report"), which concluded that in order to provide sustainable improvements to children's social care services the council should move to an alternative model of delivery; and
 - c. Ofsted's letter of 30 June 2017 to the Council, recording the findings of its monitoring visit of 31 May 2017 – 1 June 2017, that the Council *'is still not making the expected progress in improving services for its children and young people'*.
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 Nick Whitfield as Commissioner for Children's Services in Reading ("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 him 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 he may reasonably require from time to time for the carrying out of his 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 develop and draft, in consultation and agreement with the Children's Services Commissioner:
 - i. a business case for the agreed alternative delivery model, and outline implementation plan, by 30 September 2017;
 - ii. an updated long-term improvement plan to address the findings of the 2017 report by 30 September 2017, and to include the proposed arrangements for monitoring progress and reviewing the improvement plan as appropriate;
 - e. To co-operate with the Secretary of State and her advisers, including by:
 - i. Attending and participating in reviews of progress on dates to be notified to the Council;
 - ii. Preparing and making available to the Secretary of State's advisers, when requested, up to date improvement plans and assessments of progress evidenced by performance data;
 - iii. Reporting to the Secretary of State on the nature and rate of improvement of children's services when instructed to do so.
8. In consequence of this direction, the Secretary of State for Education 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 black ink, appearing to read "Lunn". The signature is written in a cursive style with a large, looping initial letter.

SUZANNE LUNN

A Senior Civil Servant in the Department for Education
12 September 2017

Non-Executive Commissioner for Children's Services

Reading Borough Council

Terms of Reference – September 2017

Given the systemic failures in Reading, and the need to increase the pace of change, the Commissioner has been re-appointed to work with Reading Borough Council to oversee the establishment of an alternative delivery model for services in Reading, and to provide ongoing direction and assurance of service improvements ahead of the transition to the new delivery model.

Specifically, the Commissioner shall:

1. Shape the Council's strategic vision for the transformed service and its scope of delivery;
2. Work with the Council in establishing a business case and outline implementation plan for the agreed alternative delivery model, by 30 September 2017;
3. Produce a high level project plan by 30 September 2017, detailing the proposed approach to provision of support and challenge throughout the establishment and implementation of an alternative delivery model, and ongoing service improvements;
4. Provide ongoing assurance and oversight to the implementation of the agreed new model, and the transition of services;
5. Advise on any senior appointments to the body and lead or participate in recruitment assessment processes as required;
6. Provide advice and direction to the Council to agree a long-term improvement plan to address the findings of his report of 7 April 2017; and provide ongoing monitoring and oversight of progress against implementation of the plan;
7. Support and challenge senior members, corporate senior management and senior partners to work together to create the culture and leadership necessary to bring about and sustain improvements in children's services;
8. Lead, on behalf of the DfE, a formal review of the Council's progress towards improvement within six months of appointment and thereafter on a six monthly basis; and making a recommendation to the DfE on whether progress has been sufficient;
9. Deliver six-weekly written evidence based reports on the authority's improvement progress to the DfE Contract Manager and more frequently if the pace of progress is not sufficient or if the Minister for Children and Families requires it; and
10. Deliver quarterly written updates on the 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.

Appendix B

Part A: The List of Transferring Services

- Single Point of Assessment (including Child Sexual Exploitation Hub and Multi Agency Safeguarding Hub)
- Access & Assessment
- Children in Need (including Edge of Care)
- Looked After Children (including Leaving Care and Contact)
- Fostering Services
- Residual adoption services (non-Regional Adoption Agency functions)
- Residential Units
- Independent Reviewing Officers & Child Protection Chairs
- Youth Service
- Youth Offending Service
- Early Help
- Early Years
- Children's Centres, Under 5s & Nurseries
- Special Education Needs & Disabilities
- Children & Young People with Disabilities
- Education Services & School Support Services (including School Admissions & Pupil Place planning)
- Virtual Head
- Educational Welfare
- Educational & Child Psychologists

Part B: Relevant Support Services (either transferring or being purchased from the Council as Support Services)

The Council and the Company will collectively determine which of these support services will be directly performed by the Company and which will be purchased by the Company from the Council via a support service arrangement.

1. Strategic HR – Advice
2. Employment and Recruitment
3. Learning and Workforce Development
4. Payroll & Pensions
5. Occupational Health
6. Finance
7. Accounts Payable and Receivable
8. Procurement
9. Audit and Investigations
10. ICT Services
11. Health and Safety
12. Legal and Democratic Services (incl. Information Governance)
13. Joint Legal Team
14. Housing and Property Services
15. School Services and Capital Programmes
16. Regulatory Services
17. Emergency Planning, Risk and Business Continuity
18. Building Cleaning Services
19. Transportation and Waste
20. Sustainability
21. Facilities Management (Incl. Pool Cars)
22. Marketing and Communications
23. Income and Assessment
24. Project and Change Management
25. Kennet Day Nursery
26. Customer Services (incl. Complaints)
27. Strategic Commissioning
28. Operations & Support
29. Performance and Data Management
30. Reviewing and Quality Assurance
31. Home to School Transport

11.0 BACKGROUND PAPERS

11.1 Putting Children First

<https://www.gov.uk/government/publications/putting-children-first-our-vision-for-childrens-social-care>

11.2 Direction Issued to Reading Borough Council September 2016

<https://www.gov.uk/government/publications/direction-issued-to-reading-borough-council>

11.3 Direction Issued to Reading Borough Council September 2017

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643864/Reading_Direction_Sept-2017.pdf

11.4 Independent Report to the Secretary of State September 2016

<https://www.gov.uk/government/publications/reading-childrens-services-report-to-the-secretary-of-state>

8 June 2018

Ms Kim Drake
Interim Director of Children's Services and
Head of Safeguarding
Reading Borough Council
Bridge Street
Reading
RG1 2LU

Dear Ms Drake

Monitoring visit of Reading Borough Council children's services

This letter summarises the findings of the monitoring visit to Reading Borough Council children's service on 15 and 16 May 2018. This was the sixth monitoring visit since the local authority was judged inadequate in June 2016. The inspectors were Nick Stacey and Lorna Schlechte, Her Majesty's Inspectors.

The local authority is gradually improving services for children in care, and many benefit from living in stable, caring homes and receive increasingly attentive and effective support from social workers. However, leaders and managers have considerably more to do to provide a consistently high standard of support and services to all children in care.

Areas covered by the visit

During the course of this visit, inspectors reviewed the progress made in the area of children in care, with a particular focus on:

- the quality of assessments, plans and support provided
- the impact of management oversight and the standard of recording on children's electronic case files
- responses to children in care who go missing from home
- the impact of the independent reviewing service.

A range of evidence was considered during the visit, including electronic case records, supervision notes and other information provided by managers. In addition, we spoke to a range of staff, including social workers, independent reviewing officers (IROs), managers and other staff.

Overview

The quality of early planning for children in care is not yet consistently good enough, with some children, including infants, experiencing delays in planning for permanence. Oversight of pre-, and court, proceedings is insufficiently rigorous and does not prevent children experiencing delay.

The majority of children in care are allocated in the two specialist children in care teams, where they are seen by social workers regularly. The quality of direct work with children in these teams is improving: work is planned, thoughtful and effective. IROs are strengthening their oversight of children's plans and children's progress towards permanent, settled homes. Children are given good support to meet their health and educational needs.

The children in care council (CiCC) has recently broadened its scope, offering more children opportunities to participate in activities, provide feedback and influence the priorities of the corporate parenting board.

Overall, progress in addressing pertinent recommendations of the 2016 inspection has been too piecemeal and fragmented, but plans for accelerating and embedding improved services for children in care are now realistic and achievable.

Findings and evaluation of progress

When children first come into care, their cases are held in the safeguarding and court teams, and the quality of work with children at this early stage is variable. Despite recent measures to strengthen early permanence planning, parallel care planning is not always in place. Inspectors saw delays in early, pro-active planning for possible adoptive placements for some infants, and for older children who had not been formally matched with their long-term foster carers.

Oversight of children who are in pre-proceedings or in care proceedings is insufficient and does not ensure that all assessments are 'front loaded' and completed within prescribed timescales. For some children, assessments of family members during care proceedings are delayed, extending the proceedings. Only just over a quarter of care proceedings are completed within 26 weeks.

Social workers in the specialist children in care teams, where the majority of children in care cases are allocated, carefully build trusting and meaningful relationships with children. Manageable caseloads and a dedicated focus on children in care allows social workers to do more structured and planned work. Social workers use a range of interactive approaches to engage with children of different ages. Social workers work with children to understand their feelings about being in care, their relationships and contact with their families, and how to promote their educational

achievement and engagement in leisure activities. Social workers' records of the visits are improving and some demonstrate well how important objectives of children's care plans are being met. Social workers are exercising more care and attention when they record their direct work with children in care. In many cases, this provides a clear understanding of children's views, achievements, concerns and worries. Examples were seen of children's wishes being actively considered, for example in changing contact arrangements with family members. Social workers, children and their families are generally clear about contact arrangements. However, these are not consistently recorded and should be clearly detailed in children's care plans.

In many cases seen during the visit, life-story work was in progress, but social workers could not always show evidence of this work on children's case files. Some life-story work starts too late. Managers and IROs are aware of this and plans are in place to provide training to staff to support them to complete this important work.

Social workers' reports to children's looked after reviews are helpful information updates, but the majority are not evaluative assessments. This means that children's progress in relation to important objectives of their care plans is unclear. Children's care plans are typically retrospective and repetitive accounts of the circumstances resulting in their entry to care, and a review of their needs rather than a forward-looking, specific and measurable plan. The local authority recognises this shortfall and is on the cusp of launching a new care plan format, the content of which has been helpfully informed through consultation with social workers.

Children in care are supported by an effective virtual school, working closely alongside social workers. Emotional and behavioural impediments to learning are considered in addition to careful targets and support to improve attainment levels. Personal education plan meetings are held regularly and the plans are quality assured, resulting in more refined and measurable targets. The pupil premium is used well to provide both additional tuition and emotional and behavioural support to help children to focus on learning.

Children in care have their health needs assessed and reviewed promptly and regularly. Assessments include a welcome focus on healthier eating and regular exercise. Many assessments are comprehensive, holistic reviews of children's physical, emotional and mental health. Most recommendations are subsequently met through attendance at designated appointments. A dedicated child and adolescent mental health service for children in care facilitates swift access to therapeutic assessments and interventions. However, this service is not available to the majority of children in care who are looked after outside Reading.

The impact and scale of IRO oversight and challenge is increasing through midway checks and visits to children in care. This is in addition to timely reviews and regular contact with social workers to seek updates on the progress of review recommendations. Recommendations are largely detailed, specific and achievable. Review minutes are written in an accessible, child-friendly style, but many take too

long to be uploaded to children's case files. The volume of IRO challenges has significantly increased over the last year, but the tracking of responses to them is not rigorous enough. Senior managers acknowledge this and are tackling the issues raised to generate targeted learning and service improvements.

Although the council has successfully recruited more local foster carers, the percentage of distant and out-of-borough placements has increased. The provision of residential therapeutic placements for older children with complex and challenging needs is often determined by availability rather than diligent, needs-led matching. This results in a small number of children's placements repeatedly breaking down. The required approval of the director of children's services for out-of-borough, 'distant' placements is not clearly evident in children's case files.

The response to a small number of children in care who repeatedly go missing is largely effective. For children living in or close to Reading, a commissioned local provider undertakes return home interviews and additionally deploys creative approaches to engage children in activities that help divert them from risky behaviours. For children living outside Reading return, interviews are 'spot' purchased, although only a small number of interviews are completed as the majority of children refuse them. Imaginative and pragmatic efforts are subsequently made, however, to secure information about missing episodes from carers and others who know the children concerned. The circumstances of and risks to children who refuse interviews are known and monitored.

In some return home interview records, considerable detail is recorded about the missing episode, but this does not consistently lead to a concise analysis of 'push and pull' forces. This means that an informed projection of the likelihood of further missing episodes and a credible risk reduction plan are absent in some cases. Strong multi-agency operational arrangements for reviewing and tracking missing children at higher and lower levels of risk are evident, but decisions and recommendations of these meetings are not reliably and promptly uploaded to children's case files.

The corporate parenting panel closely considers performance information concerning children in care, but the response to challenges arising and issues raised by the children in care council is too slow and unwieldy. The action plan and 'traffic light' system are not achieving timely improvements. More children have participated in the CiCC over the last year through activity-based events promoting greater engagement.

The workforce is increasingly stable. It is positive that 64% of social workers, and 70% of frontline managers, are now permanent members of staff. This is the highest proportion since the inspection. Most third-tier management posts are now also filled with permanent members of staff. Many locum social workers have been in their posts for lengthy periods.

Inspectors observed a calm, purposeful working environment in the teams they visited. This included the safeguarding service, where significant difficulties in

workloads are being purposefully addressed. Morale was positive and workloads considered manageable by social workers. Frontline managers were regarded as accessible and supportive. The children with disabilities team has made substantial progress in addressing the findings of an earlier monitoring visit. A social worker in the team is undertaking effective and important work with a highly challenging young person in care who has a recent history of numerous placement breakdowns.

Management oversight of children in care is largely regular, but there are significant delays in loading notes to children's case files. In a significant minority of cases, considerable gaps in supervision are evident. This was more prevalent where children's cases are not allocated in the two specialist looked after children's teams. Supervision recordings identify tasks to be completed and concise directions are helpful for social workers. However, supervision records do not show how children's changing needs are analysed or how social workers are supported in approaching direct work with children

I am copying this letter to the Department for Education.

Yours sincerely

Nick Stacey
Her Majesty's Inspector