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Lead Commissioner Sir Derek Myers

10<sup>th</sup> November 2016

The Rt Hon. Sajid Javid MP  
Secretary of State for Communities & Local Government  
Department for Communities & Local Government  
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The Rt Hon. Justine Greening MP  
Secretary of State for Education  
Department for Education  
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Dear Secretaries of State,

I write on behalf of the Rotherham Council Commissioners to report on the latest progress of Rotherham Council.

The Intervention is conducted under the terms of the Directions issued on 11<sup>th</sup> February 2016. These were revised Directions following the restoration of about one third of the Council's decision-making responsibilities following the first phase of Intervention.

Those Directions require Commissioners, and the Authority, every three months "to review whether it would be appropriate for any function exercisable by the Commissioners to be returned to the authority to exercise (and) to report this to the Secretaries of State".

In our last letter to you dated the 11<sup>th</sup> August 2016 we anticipated that given the progress since the all-out Elections in May 2016 we were likely to be able to recommend a further package of functions to be returned to the Council in this progress report.

In our May 2016 progress report we had previously recommended the restoration of the duties of the all-party Licensing Committee and the Secretary of State for Communities and Local Government has now written to say he is minded to accept this recommendation, subject to hearing local views.

In the last letter from the Secretaries of State dated 19<sup>th</sup> October 2016, there was a comment that the attendance rate of some Advisory Licensing Board Members is relatively low and asked for an update in this letter.

The Board comprises 21 Elected Members. The political group proportionality rules require there to be 17 Labour Members and 4 UKIP Members. This proportionality is then replicated on the Sub-Committee of 5 Elected Members (4 Labour, plus one UKIP). This sub-committee meets for the hearings.

The Council's Democratic Services make sure that for each and every case hearing chaired by Commissioner Ney, there is the necessary sub-committee of five Elected Members alongside her. A register of attendance is maintained and Councillors are contacted individually by rota to ensure that everyone has the opportunity to be involved and attend. The Chair of the Licensing Board is expected to attend and has done so on every occasion.

Commissioner Ney and the Advisory Board dealt with many more individual taxi driver cases than any comparable area in the country. In terms of Members' attendance, some Elected Members are more available, more frequently than others and a session can run into a number of hours. Some have daily work commitments, or other commitments in terms of Council business and meetings. This explains the apparent disparity in terms of the number of individual meetings attended by each Councillor.

This system replicates the arrangements which will exist in all other councils whereby each sub-committee is drawn from a wider pool of appropriately trained members. Commissioners do not think there are any councillors who are shirking their responsibilities to make themselves available when they can.

To illustrate progress more generally, I attach an evidence file that sets out the Council's own report on progress within the formal Improvement Plan (Appendix A) which has been sustained by the Council and supervised by Commissioners. As well as exercising decision-making responsibility for the functions not yet returned to the Council, Commissioners continue to support these improvements and the evidence file only contains information about improvements that we think are true and real.

It is the view of the Commissioner Team including the Commissioner for Children's Services specifically appointed by the Department for Education (DfE) that the time is not yet right for the restoration of Children's Services decision-making to the Council.

A letter from the Children's Services Commissioner in parallel to this letter sets out this conclusion in greater detail but the main factors influencing this conclusion are as follows:

1. The previous Children's Services Commissioner Mr. Malcolm Newsam had set down seven 'tests' which he thought would be the hallmark of a Council ready to take back the Children's Services function.

In August the Council fairly and self critically reviewed its then arrangements against those seven 'tests' and found that although good progress had been made there was still a further distance to travel.

2. There is a requirement to reduce expenditure in the Council caused by a lower grant from Central Government, notwithstanding the Council's decision in March 2016 to increase local council tax, including the 2% surcharge for Adult Social Care. The Council continues to face considerable challenge in reaching conclusions about its spending priorities for 2017/18 and beyond.

Within this there is active consideration being given to how the Children's Services budgets might be further increased to accommodate both the real costs of increased demands, including an increase in the number of 'looked after' children and a further desire to strengthen practice capability.

On the 14th November the Council's Cabinet will consider the latest report on budget planning for the next three years. This proposes a further £8.346m to the Children's Services budget in

2017/8. Along with projected savings of £2.276m against £3.607m of investment, the required total net budget increase is £9.677m.

Responsibility for budget planning is now a Council function. The Council is not due to set its final budget until early 2017. Commissioners wish to see the budget settled before they can have confidence that the Council has shown that it is capable of prioritising Children's Services spending within this constrained resource base and yet still respecting its other essential statutory duties.

3. As a result of a change in its operating arrangements, Ofsted have now proposed four 'Monitoring Visits'. The first of these was completed on the 20<sup>th</sup> and 21<sup>st</sup> October and focused on Looked After Children, with the headline that progress has been made and the local authority knows what needs to be improved. Performance management and quality assurance is strong and compliance with statutory minimum standards has improved. However, social work practice and permanence arrangements is still too often poor. There are plans in place to address the issues and to improve the sufficiency of placements for LAC. The draft letter from Ofsted is in the evidence file (Appendix B). Three further Monitoring Visits are planned and Commissioners feel that at least the first two of these should be completed before this third-party assessment can be taken into the overall judgement about the Council's capabilities for managing Children's Services.
4. As of 10<sup>th</sup> May 2016 Councillor Patricia Bradwell, Deputy Leader of Lincolnshire County Council was appointed Commissioner for Children's Services and alongside her, Lincolnshire County Council Children's Services department was appointed as an Improvement Partner. Their preliminary judgement was that there was evidence that the Council had managed to improve much by May 2016, but it was equally evident that there was more to do.

The Improvement Partner has now agreed a series of contributions to that further work and it seems wise to allow a period of at least six months to deliver these impacts before the next judgement on progress of Children's Services is made.

For these reasons, the next assessment of whether Children's Services could be returned to the Council will be made in the periodic progress report due on 11<sup>th</sup> February 2017.

Overall progress in the Council within the returned functions since February 2016 continues to be satisfactory. Some examples are:

- There has been attention to school place and planning and appropriate provision for necessary expansion. An improvement plan is being implemented to improve the outcomes for children in Rotherham's primary schools. Current statistics show that the proportion of pupils attending a good or better school in Rotherham is 86.2% which is above national average. Rotherham is also above the national average and ranked first in the Yorkshire and Humber region for pupils achieving the expected standard in reading, writing and mathematics at Key Stage 2.
- There has been a new focus on ensuring that the recent increase in rent arrears is brought under control with the Council determining that further resources should be committed to ensure that the services that tenants need are not adversely affected by the inability or unwillingness of some tenants to pay their rent.
- The Council has been focussing on how it wants to arrange its neighbourhood working, although a final plan for revised working is still outstanding.

- The Council has competently responded to the need to reduce public health expenditure given the decrease in national grant and has consulted diligently with its local partners and the public.

The Commissioners can therefore confirm that there has been no failure in the Council's conduct of its returned functions and no breach of its Best Value duties in respect of these functions.

Eight public decision-making meetings have now been held, with Councillors and Commissioners making decisions after full discussion.

### **The External Auditor's judgement for 2015/6**

KPMG are the Council's appointed External Auditor safeguarding the public's interest. Their judgement on the 2015/16 accounts has been received. They conclude as they did last year that the fact of the Intervention has to automatically mean they cannot conclude the Council has on its own achieved "economy, efficiency and effectiveness in its use of resources". This is as expected. However the external auditor has reported "significant progress" and issued an unqualified opinion on the accounts with no significant matters to be reported to those charged with governance. The letter is in the evidence file (Appendix C).

Commissioners regard this as satisfactory in all the circumstances.

### **An external progress review**

In October 2016, Commissioners invited an independent Progress Review Panel (Appendix D), consisting of two experienced council chief executives and one former council Leader to visit, interview staff at all levels, interview executive and scrutiny Councillors and inspect documents. Their letter following this work is in the evidence file but in summary it concludes "proposals to return some further decision-making powers to the Council would be justified".

Councillors, including Cabinet members, have also been going through an extensive programme of mentoring support sponsored by the LGA and a report is attached (Appendix E). It is clear that overall their confidence and knowledge has grown since the all-out elections in May, with the LGA offering further assistance as further powers are returned to the Council. Also encouraging is the conclusion to the Members Development Programme which is highlighted in the LGA's recent evaluation report (Appendix F). This draft report highlights that the training appears to have met most Councillors aims. many expressing very positive views about the programme and is an illustration of the extensive array of support on offer.

Annex B of the revised Directions dated 11<sup>th</sup> February 2016 records those functions still retained by Commissioners from that date which are now subject to further recommendation in this letter. They are as follows:

#### **1. Economic Growth**

The Council has been steadfast in its commitment to supporting the Sheffield City Region arrangements that are designed to promote economic growth. The Council has been enthusiastic about seeing an expansion of Higher Education on the local Campus. The Council has released a number of parcels of land which are designed to promote new business opportunities or pocket housing development. The Council has now agreed to purchase Forge Island, a key development site previously occupied by a large Tesco store, as part of the further revival of

Rotherham Town Centre. This will better enable the Council to drive the newly refreshed Town Centre Plan.

A large parcel of land – the location for several previous aborted schemes – has now been sold to a leisure developer.

The relevant Advisory Cabinet Member is Cllr Denise Lelliott who has grown in confidence and experience, working alongside Commissioner Julie Kenny, who has long been a local businesswoman and contributor to civic life.

This is a function which Commissioners now recommend can be returned to the Council.

### ***Town Centres***

Consultants have been appointed to finalise a Town Centre Masterplan. There has been widespread consultation with all stakeholders, including the public during the development of the plan, which is due to be adopted in May 2017.

The Town Centre won 'High Street of the Year' in 2015 and a plaque to this effect was unveiled by the Secretary of State on his visit to Rotherham on 8<sup>th</sup> September 2016.

The vacancy rate within the primary retail area has been stabilised, and High Street is now 100% occupied for the first time in 15 years reflecting the recent successful investment in this area.

Although Rotherham is the main focus for town centre regeneration, there has also been sympathetic consideration of other centres to review their retail viability and to look at sites which offer opportunities.

The relevant Advisory Cabinet Member is Cllr Denise Lelliott and Commissioners' commentary is as in (1) above.

This is a function which Commissioners now recommend can be returned to the Council.

## **2. External Partnerships**

Commissioner Julie Kenny, using all of her local knowledge and contacts, has been very helpful to the Council in re-imagining these partnerships and ensuring that the business community is more fully involved.

An interim Partnership Plan for 2016/17 is in operation and a final revised Community Strategy dating from 2017 to 2025 is due to be agreed by February 2017.

This year has been a series of confidence building initiatives including:

- The launch of the Rotherham Together partnership plan where 120 delegates attended and made pledges of support;
- "Let's get Rotherham...cleaning...shopping...talking...working" – a series of events with over 741 people attending 10 consultation and engagement sessions held with 508 people taking part to develop a new Community Strategy and feedback on progress made in the last year;
- 270 people took part in 'place-shaping' workshops with Thinkingplace to help create a new story to help sell Rotherham to investors, businesses, workers and visitors.

Other key partnerships include the Community Safety Partnership and the Health and Well-being Board and these are covered separately below.

The Advisory Cabinet responsibility for external partnerships is carried both by Cllr Chris Read as Leader of the Council and Cllr Taiba Yasseen, but other Cabinet Members/Advisory Cabinet Members also lead sub groups.

In particular Cllr Yasseen, though inexperienced as an 'executive' Councillor, is showing great enthusiasm and is growing in confidence.

Commissioners now believe that this function can be returned to the Council.

### **3. Community Safety**

In Rotherham there has been much dedicated work between the Council and South Yorkshire Police to bring to justice to those who were previously abused. The first major trial known as *Clower 1* led to 6 convictions in February 2016 with a total of 102 years in prison terms. There have been other individual trials but the second major multi-conviction trial – *Clower 2*, was decided on 17<sup>th</sup> October and an eight defendants were found guilty of a total of 19 sexual offences against three girls between 1999 and 2003 and sentenced to a total of 96 years custody. Beyond these high profile investigations and trials, there has been proper attention given to ensuring that the community safety function and duties carried jointly by the Council and the Police are better attended to with a revised strategy and an improved governance and performance framework to support delivery.

The Council's proper working arrangements with South Yorkshire Police need to be persistent, demanding and principled. Commissioners have met periodically with the Police and Crime Commissioner to understand his aspirations and to ensure he knows of our concerns. Commissioners' first meeting with the new Chief Constable took place on the 7th November.

Commissioners place great importance on the top of the Council being suitably equipped to maintain this approach and we are satisfied the Council's relevant Advisory Cabinet Member and Chief Executive are suitably equipped and motivated.

The relevant Advisory Cabinet Member is Cllr Emma Hoddinott. She was for a few weeks Deputy Leader of the Council, seen locally as part of the team that could respond to the Casey Review. She is diligent and persistent.

Commissioners recommend this function can be returned to the Council.

### **4. Adult Social Care and the Council's Partnership with the NHS**

As set out in our August 2016 report, the Council faces similar challenges to other parts of local government with a rising bill for Adult Social Care, an ageing population and the need to ensure services are responsive to individual choice, and well integrated with the NHS.

Services locally have been more traditional than in other areas with an emphasis on directly managed provision offering traditional models of care.

Since it has been in Intervention, the Council has woken up to the need to challenge these assumptions and is now well placed to deliver a transformation programme which is designed both to radically reduce costs and to promote more choice and independence.

The Council has now moved from planning this transformation programme to delivering it and although there will be tensions to manage over the next few years, the Council is much assisted by the appointment of a new Strategic Director who comes with a good track record from North Yorkshire and the appointment of 2 new Assistant Directors.

The relevant Advisory Cabinet Member is Cllr David Roche and he shows good application, understanding and motivation to lead and support these changes.

As in other areas, the Council plans its work with the NHS and others through a Health and Well-being Board. This is well chaired by Cllr David Roche.

The Council plays a full part in the wider spatial planning known as the Sustainability and Transformation Plan process.

The Council has renewed its processes for supervisory arrangements for safeguarding vulnerable adults including a new independent chair of its Safeguarding Board.

Commissioners are satisfied that it is right to recommend this function can be restored to the Council. As with other services, Commissioners will maintain a supervisory role.

## **5. Asset Management**

The Council has become more proactive in using its assets to promote Best Value. The Council has a disposals programme (General Fund and HRA) amounting to £3.5m by the end of 2016/17. The Council has also revised its capital planning arrangements service to provide more objective prioritisation of capital investment. The Council has adopted a new revised 30 year HRA Business Plan to ensure its repair obligations and investment needs for the 21,000 Council houses are well considered.

Part of this HRA Business Plan reserves £12m for future housing growth investment.

However in line with the previous discipline for commissioning external reviews to check service quality, the Council arranged for CIPFA to do a 'Property Function Health Check'. This recommends there is much to do to ensure the Council gets best value from its assets and keep them in the best order possible.

Commissioners understand the Council intends to develop an Improvement Plan in response to the CIPFA review and this should secure necessary gains.

Commissioners have decided to consider this function again in their February report, and at present it is not recommended for return.

## **6. Performance Management**

This function was not returned to the Council in February 2016 because Commissioners were not satisfied that the revised internal staffing and system arrangements were far enough advanced. Since then there has been a Peer Review organised by the LGA which was helpful in confirming the proposed direction of travel. New staffing arrangements were agreed and are now expected to be in place by end November 2016.

A new Assistant Chief Executive was hired with effect from 1st March 2016 which was an extra post in the Council's structure to provide additional capability. Performance reporting has now restarted in public and Councillors are showing appropriate interest in learning how to use such performance data to drive improvement further.

This is largely a technical function which was retained by Commissioners, and there are rarely decisions to make about this particular system. Commissioners believe it is appropriate now to transfer this function back to the Council as it should underpin all other improvement activity.

The relevant Advisory Cabinet Member is Cllr Saghir Alam. He is also responsible for the Council's finance function which was returned in February 2016 and he is capable and enthusiastic about receiving this function.

## **7. Human Resources**

As with other Councils, the professional management of a large staff, and proactive management of a large pay bill are fundamental parts of achieving good performance, sustaining best value and contributing to financial sustainability.

The Council has shown itself willing to consider changes to terms and conditions as part of reducing costs, though the Children's Commissioner has some concerns over effects on social workers. It has mature relationships with Trade Unions. Appraisal, which had fallen into disrepair, has restarted.

However some parts of the HR service need to develop and there is a lot resting on the appointment of a new Head of HR. Interviews held on 1st November led to an appointment of an officer, on promotion from Sheffield City Council who starts on 3rd January 2017.

Further attention to sickness absence management is appropriate.

Managers need to be more confident in getting the best out of staff.

Applying our four tests to this function leads to a conclusion that this function should not be recommended for return at this date.

## **8. Waste Collection**

Waste collection was subject to a peer review arranged by Commissioners in 2015. This set out recommendations for improved value and performance. The relevant action plan has been operating. The service is a directly managed workforce.

There is a Councillor level Working Group to oversee improvements, chaired by the Advisory Cabinet Member.

Rotherham Council is also in early stage discussions with other South Yorkshire councils to explore shared services or shared contracting. This report is due by the end of November.

The relevant shared waste treatment service recently won a national award.

There is a new Strategic Director and a new Assistant Director, both externally hired, in post to drive further change.



The relevant Advisory Cabinet Member is Cllr Hoddinott, about whom there is approving text at (3) above.

This function is now recommended for restoration to the Council.

## **9. Grounds Maintenance**

This service operates alongside Waste Collection. It is again a direct workforce service, though up until 2009, grounds maintenance was an externalised, contracted service.

Benchmarking through a relevant industry body concludes that Rotherham provides an average service at a cost lower than average.

The Council has in place mechanisms to performance manage the service. The same new management as for waste collection is in charge has useful experience from other councils. A further new hire of Head of Street Scene will strengthen capacity further.

The Advisory Cabinet Member is again Cllr Emma Hoddinott and as with Community Safety and Waste Management, her skills and commitment are not in doubt.

This is a function which Commissioners now recommend can be returned to the Council.

## **10. Audit**

This function was not returned to the Council in February 2016 because an independent review prior to that date commissioned from PwC suggested that audit standards within the authority were not sufficient. Since then the Assistant Director and Head of Audit have now left and a new Head has been hired externally.

Whilst the function of the Audit Committee was not originally in the scope of the Intervention, the Council agreed to enter into a voluntary Improvement Plan for the Audit Committee and its responsibilities. This has been enthusiastically taken forward and has included the recruitment of an Independent Member of the Audit Committee for the first time.

In discussions with the Council's external auditors, there was also a change of audit partner and external audit team members and this has injected more confidence and expectation to the local arrangements. The external auditor Mr Tim Cutler of KPMG now supports the return of the audit function to the Council.

The cross-party Audit Committee is chaired by Cllr Ken Wyatt, a longstanding Councillor who has chaired other Committees for other public bodies in the past and is therefore suitably experienced and equipped.

Commissioners now recommend the restoration of the audit function to the Council.

Further evidence supporting the restoration of all the above functions can be found at Appendix G.

## **Powers to be retained by Commissioners**

In addition to Children's Services, Asset Management and HR functions as discussed above, Commissioners recommend that the provisions by which they hold other functions relating to the appointment and dismissal of persons to positions as statutory officers should be retained.

A high performing authority needs well considered, appropriately demanding but mature arrangements between Councillors and statutory officers and officers sometimes have to deliver hard messages.

There have been past failures by the senior staff of Rotherham Council to appropriately and persistently advise Councillors as to their necessary actions to ensure their statutory duties are properly undertaken including the duty of Best Value.

The current statutory officers of Rotherham – the Chief Executive, Monitoring Officer, Director of Children’s Services, Director of Finance and Director of Adult Social Care are all new to the authority and Commissioners are satisfied that it is a useful and necessary safeguard for them to continue to have a responsibility for deciding whether or not they are doing their jobs adequately and to ensure that Councillors are not tempted to threaten their positions, if the advice they give is not welcome.

This is a precautionary arrangement rather than a response to a clear and present risk but nevertheless is a recommendation by Commissioners.

### **Other matters**

With encouragement and assistance from Commissioners the Council and the National Crime Agency (NCA) have together made a bid to Government for additional financial assistance with costly demands arising directly from the quest for delayed justice on behalf of the large number of adults who may have been previously criminally abused.

These investigations are led by the NCA. As they proceed, witnesses need to be supported. Often these women, now adults, have their own families and having to relive past traumas is frightening and disturbing. Their ability to go through arduous trials depends upon first class professional support. Secondly, any suspects or those charged, need to have their home circumstances assessed to consider whether they pose a risk to any current family members.

The NCA is working hard to bring all past perpetrators to justice but the cost of recovering past police deficits is now adding to the total cost of looking after today’s residents in need. The NCA has stated that as of the end September 2016, they have currently designated 38 people as suspects and have 11,000 lines of enquiry.

Government has asked a specialist contracted outfit called the CSE Reponse Unit, jointly funded by the Home Office and DfE to work with the Council to consider this issue further.

Commissioners have monitored closely any instances of poor behaviour by Councillors which warrant referral to the Council’s Standards and Ethics Committee. Since the Intervention started there have been no such matters. Currently one Councillor is facing a criminal charge for an indecent assault on an adult. Commissioners are told he is suspended from the Labour Party. He is not attending Council meetings except for a brief appearance at one Council meeting.

One other Councillor is subject to an investigatory process after external complaints about non-Council duties.

There are no other concerns.

## **Revised Intervention arrangements and the costs of the intervention**

Commissioners are paid a day rate. There is a maximum number of days that can be claimed set down in the Directions. To the end of September a total of 189.5 days have been claimed against a ceiling of 320 days for the year. This averages about 31 days per month. All fees and other costs have to be met by the Council

Re-setting the Commissioner contribution to focus on supervising the Council rather than decision-making will reduce costs. The total number of days and associated costs will fall. This should allow the Council to plan for a reduced cost for 2017/8 and beyond.

As the Council is currently trying to bridge a gap of £24m for 2017/8 this is a small but important contribution to protecting front-line services.

Commissioners offer a description of how revised arrangements for Phase 3 ( if the recommended functions described in this letter are returned) should operate and this is included in the evidence file (Appendix H).

## **Conclusion**

By mid November the Intervention will have run for 90 weeks. The Council is a substantially changed institution.

Commissioners have considered carefully their duty to recommend where functions can be returned and the return of a further nine functions will see the Council having resumed control of over three quarters of its functions and its licensing powers, measured by its net budget.

Improved arrangements for asset management and HR can be expected in the first half of 2017.

Commissioners have requested the Council do its own self-assessment of the benefits of looking at alternative management arrangements for children by end March 2017. By April 2017 DfE want to be assured of sufficient Children's Services improvement or all understand that the Secretary of State reserves the right to direct such change.

Returning these functions allows additional focus on what remains under Commissioner control, but also maintains Commissioner influence over the whole Council.

The Council continues to co-operate fully with the Intervention.

I thank you both for your continued interest, civil servants in both departments for their diligence and my fellow Commissioners for their hard work.

As with previous reports, in order to sustain public confidence, I put this letter and supporting evidence in the public domain. I would like to do this by 30th November 2016.

Yours sincerely



Sir Derek Myers  
Lead Commissioner

Encs.

Appendix A - Progress of the Council's Improvement Plan

Appendix B - Ofsted Monitoring Visit – draft letter

Appendix C - KPMG Annual Audit Letter 2015/16

Appendix D - Independent Progress Review Letter

Appendix E - LGA Mentoring Progress Review

Appendix F - LGA Member Development Programme Evaluation

Appendix G - Restoration of Functions Evidence Table

Appendix H - Preparations for Phase 3 Intervention