



Ministry of Housing,
Communities &
Local Government

**Ministry of Housing, Communities &
Local Government**
2 Marsham Street
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Andrew Quincey
Acting Chief Executive
Northamptonshire County Council
One Angel Square
Angel Street
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Date: **27 March 2018**

Dear Mr Quincey,

On 15 March 2018, Max Caller CBE, having undertaken an inspection of your Authority's compliance with its Best Value duty, sent to your Authority a report setting out his findings. I am now writing to invite your Authority, if it wishes, to make to the Secretary of State **representations** about the report and about an intervention package that he is proposing. The District Councils and Borough Councils within your Authority's boundaries are also invited to make representations and this letter will be published on www.gov.uk.

The Secretary of State has carefully considered the report. He is satisfied on the basis of matters set out in the report that your Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the best value duty. On that basis, he is considering exercising the powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the best value duty. The package of measures which he is proposing to implement through appropriate Directions is set out in the attached Annex.

The proposed intervention package also includes an invitation to affected local authorities to make proposals for a local government restructuring within the boundaries of your Authority. This has been sent to all affected authorities separately and will be published on www.gov.uk. For the avoidance of doubt, representations in relation to restructuring are not sought at this stage.

Your Authority is now invited to make such representations as it wishes about the report and the Secretary of State's proposals. All such representations should be sent by email to mary.stallebrass@communities.gsi.gov.uk copied to alex.powell@communities.gsi.gov.uk, or in hard copy to the address below marked for the attention of Mary Stallebrass, so as to be received on or before Thursday 12 April 2018. They will then be carefully considered by the

Secretary of State in making a decision as to whether to make any and, if so, what Directions.

I am copying this letter to your Authority's Section 151 Officer, and to its Monitoring Officer.

Yours sincerely,

Alex Powell
Deputy Director
Local Government Stewardship

PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering exercising his powers of direction under section 15 of the Local Government Act 1999 (“the 1999 Act”) in relation to Northamptonshire County Council (“the Authority”) to secure its compliance with the best value duty. He is doing so in circumstances in which Max Caller CBE has conducted a thorough investigation and has produced a detailed report (“the Report”), which was submitted to the Secretary of State under cover of a letter of 15 March 2018. The Report sets out a picture of serious failings by the Authority, particularly focussed in the areas of governance and strategic financial management, leading to the conclusion that the Authority has failed in compliance with its best value duty over a number of years.
2. In the Report, Max Caller proposes that, over the next two to three years, the Authority’s area should be restructured to a unitary form of local government, with Commissioners put in place to ensure that the Authority can carry out its day to day business in a “safe, lawful and value for money way” whilst shadow authorities work to establish the proposed new unitary structure.
3. In the light of the conclusions and evidence in the Report, including the proposals made by the Inspector, the Secretary of State is minded to implement the intervention package set out below. He also intends to issue an invitation seeking proposals for local government restructuring, and work on any such proposal would be undertaken simultaneously.

Overall purpose and approach

4. The Secretary of State is considering whether further action is appropriate in response to the main finding of the Report that “the problems faced by NCC¹ are now so deep and ingrained that it is not possible to promote a recovery plan that could bring the council back to stability and safety in a reasonable timescale”. That is why he has stated his intention to issue a restructuring invitation. His proposals for intervention, therefore, are designed to ensure that the Authority is able to comply with its best value duty, in the first instance, over the next two to three years.
5. In the Report, the Inspector identified two key areas where he considers that the Authority is failing to deliver and which, together, have led to its failure to comply with its best value duty:
 - a. **Governance and scrutiny:** the Inspector reports weaknesses which affect both Lead Members and senior officers: “The inspection team heard from councillors, officers and partner organisations that NCC works in silos and does not communicate

¹ The Report uses “NCC” throughout to mean Northamptonshire County Council.

well internally or share common objectives.” And, elsewhere: “there was no sense that the group worked together as a team, seeking to share and jointly solve the Council’s problems”. Finally, “challenge and criticism was to be discouraged as senior members and officers knew best.” The Report also contains examples of failures to work well with external partners (waste and recycling) and of confusion caused by the structure of services managed by the Authority (LGSS and Highway repairs).

- b. **Strategic financial management and budgetary control:** the Report expresses very serious concerns around the capability of the Authority in this area: “For a number of years, NCC has failed to manage its budget and has not taken effective steps to introduce and maintain budgetary control. Instead it has pursued an organisational structure and operating concept which made it difficult to ensure a line of sight over costs and operational activity.” Further: “Living within budget constraints is not part of the culture of NCC.”

6. In light of the conclusions and evidence in the Report, the Secretary of State is minded to implement an overarching intervention package with a particular focus on governance and strategic financial planning to address the circumstances of the Authority until a longer term solution can be put in place (for instance through restructuring).

Commissioners

7. The proposed intervention package accordingly involves putting in place two Commissioners: a Lead Commissioner to focus primarily on governance and scrutiny across the Authority and another Commissioner to work closely with the Authority on strategic financial planning and budgetary control.
8. The following Directions are proposed in relation to the Commissioners. **The Secretary of State proposes to direct that the Authority’s functions listed below are to be exercised by the Commissioners who will act jointly or severally and that the Authority is to provide the Commissioners with such assistance and information, including any views of the Authority’s Members on the matter in question as the Commissioners may request.** It is envisaged that, in exercising any function, the Commissioners will have regard to any views of the Authority’s Members and officers arrived at through their normal processes of consideration.
9. The Secretary of State proposes that this Direction to the Authority should be in place for three years. If the Secretary of State considers at any time that it would be appropriate to change the Direction or withdraw it, then he will do so. His concern will be to ensure that the Direction operates for as long, but only as long, and only in the form, as he considers it should

operate in order to secure stability for the Authority until a longer term solution is in place.

Functions to be exercised by the Commissioners

10. For the reasons set out above, the Secretary of State considers that the proposed intervention should focus on three functions:

- a. All functions associated with the governance and scrutiny of strategic decision making by the Authority;
- b. All functions associated with the strategic financial management of the Authority, to include:
 - i. providing advice and challenge to the Authority in the setting of annual budgets for the Authority;
 - ii. scrutiny of all in-year amendments to annual budgets; and
 - iii. the power to amend budgets where Commissioners consider that those budgets constitute a risk to the Authority's ability to fulfil its best value duty.
- c. All non-executive functions relating to the appointment and dismissal of persons to positions the holders of which are to be designated as statutory officers, and the designation of those persons as statutory officers. For this purpose –
 - i. "statutory officer" means any of: the head of paid service designated under section 4(1) of the Local Government and Housing Act 1989; the chief financial officer designated as having responsibility for the administration of the Authority's financial affairs under section 151 of the Local Government Act 1972; the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989, (and the expressions "statutory officer" and "statutory office" are to be construed accordingly); and
 - ii. for the avoidance of doubt, the following are included: the functions of (a) designating a person as a statutory officer and removing a person from a statutory office; (b) the functions under section 112 of the Local Government Act 1972 of (a) appointing and determining the terms and conditions of employment of an officer of the Authority, insofar as those functions are exercised for the purpose of appointing a person as an officer of the Authority principally in order for that person to be designated as a statutory officer; and (b) dismissing any person who has been designated as a statutory officer from his or her position as an officer of the Authority.

11. In practice, most decisions will continue to be made by the Authority. However, where concerns are raised by a statutory officer, to ensure proper decision making, matters will be referred to the Commissioners for decision or advice. Commissioners will uphold proper standards and due process and recommend action to the Authority. The exercise of these functions should enable the Commissioners to bring the Authority's finances under control and allow robust service delivery to local residents. The proposed Directions, therefore, also require the Authority to:

- a. refer to the Commissioners, together with any recommendation the Authority wishes to make, any matter where the Authority does not agree with any recommendation made to it by a statutory officer or does not comply with and implement any such recommendation within the period specified by the statutory officer in the recommendation;
- b. comply with and implement any decision or recommendation of the Commissioners following such a reference; and
- c. comply with and implement any decision or recommendation of the Commissioners following a reference to the Commissioners by any statutory officer of a matter where the Authority has not complied with or implemented a recommendation by the statutory officer within the period specified by the statutory officer in the recommendation and the Authority itself has not complied with the obligation set out above to refer the matter to the Commissioners.

Directions to the Authority

12. The proposed Directions also set out actions which the Authority must undertake in order to support and facilitate the work of the Commissioners.

- a. To refer to the Commissioners any and all proposals for in-year amendments to budgets;
- b. To allow the Commissioners at all reasonable times, such access as appears to the Commissioners to be necessary— :
 - i. to any premises of the Authority;
 - ii. to any document relating to the Authority; and
 - iii. to any employee or member of the Authority,
- c. To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions,
- d. To pay the Commissioners' reasonable expenses, and such fees as the Secretary of State determines are to be paid to them;

- e. To provide the Commissioners with such assistance and information, including any views of the Authority on any matter, as the Commissioners may reasonably request; and
- f. To co-operate with the Secretary of State for Housing, Communities and Local Government in relation to implementing the terms of this Direction.

Duration of intervention

13. The Secretary of State proposes that the Commissioners will exercise their functions until the point at which it is anticipated that a long term solution such as the restructuring process is complete.