

Chapter 0 – Intervention

Introduction

In September 2022, the Secretary of State for Levelling Up, Housing and Communities exercised his powers under sections 15(5) and (6) of the Local Government Act 1999 in relation to the Council to secure its compliance with the Best Value Duty. Sections 15(5) and (6) provide as follows:

- (5) *Where this section applies in relation to an authority the Secretary of State may direct the authority to take any action which he considers necessary or expedient to secure its compliance with the requirements of this Part.*
- (6) *this section applies in relation to an authority the Secretary of State may direct—*
- (a) *that a specified function of the authority shall be exercised by the Secretary of State or a person nominated by him for a period specified in the direction or for so long as the Secretary of State considers appropriate, and*
- (b) *that the authority shall comply with any instructions of the Secretary of State or his nominee in relation to the exercise of that function and shall provide such assistance as the Secretary of State or his nominee may require for the purpose of exercising the function.*

The Secretary of State has issued directions to the Council and has appointed Commissioners to oversee the exercise of the Council's functions.

The role of Commissioners

Commissioners have been appointed to provide intervention support to the Council. Their powers, which are summarised in this Chapter 0 and set out in full detail in the [Explanatory Memorandum](#) dated 16 March 2023 (as updated from time to time), supersede anything to the contrary in the Constitution.

The Commissioners have full powers, as necessary, to exercise the following functions:

- the governance, scrutiny and transparency of strategic decision making by the Council.
- the financial governance and scrutiny of strategic financial decision making by the Council.
- the requirement under section 151 of the Local Government Act 1972 to make arrangements for the proper administration of the Council's financial affairs (see below); and
- to instruct the Council to carry out improvement and transformation work

The intervention package includes the appointment of an independent Managing Director Commissioner, to support the Council's capacity to deliver against its improvement plan.

The Commissioners are accountable to the Secretary of State, in that they have been nominated by them and can have their nomination withdrawn by them. The Commissioners will report to the Secretary

of State on the progress of the intervention on a six-monthly basis, or at such other times as the Secretary of State might agree with the Commissioners.

The above interventions will remain in force until 1 September 2025, unless the Secretary of State considers it appropriate to amend or revoke them at an earlier date.

All references to the discharge of these functions and responsibilities in the Council's Constitution and Financial Procedure Rules should be considered in the context of the Directions summarised above. Although, in practice, most decisions are expected to be taken by the Council, Commissioners will expect to be involved in decisions affecting the Council's financial position and any proposed changes to corporate governance arrangements. The following additional requirements will also apply:

Managing Director Commissioner

For the duration of his appointment, the Managing Director Commissioner shall exercise the role, powers and duties of the Chief Executive, including Head of Paid Service. Any reference in this Constitution to the Chief Executive (including, for the avoidance of doubt, in the Scheme of Delegation) shall be read as a reference to the Managing Director Commissioner.

Section 114 report

Section 114(3) of the Local Government Finance Act 1988 requires that:

The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

On 19 December 2022, the Section 151 Officer issued a report under section 114(3). As a consequence, the Council is restricted from making any new expenditure, with the exception of expenditure required to safeguard vulnerable people, to provide statutory services, and to meet pre-existing financial commitments.

Permitted expenditure includes:

- existing staff payroll and pension costs;
- expenditure on goods and services that have already been received;
- expenditure required to deliver Council services to a minimum level;
- urgent expenditure to safeguard vulnerable residents;
- expenditure required under existing contracts and legal agreements;
- expenditure funded through ring-fenced grants; and
- expenditure required to achieve value for money and/or mitigate additional costs.

Measures in place following the section 114 report

Local authorities are under a duty to deliver a balanced budget. CIPFA guidance suggests that this is a financial plan based on sound assumptions which shows how income will equal spend over the short- and medium-term. While the Council is unable to do this, the following restrictions associated with the section 114 report will remain in effect:

1. Council purchasing will only be approved for essential items and as permitted under legislation. Any expenditure that is not essential, or can be postponed, should not be incurred, and essential spending will be monitored.
2. Treasury Management strategies will be focused on reducing Council borrowing and maximising capital receipts.
3. New capital expenditure will only be approved for essential purposes. Prudential borrowing should not be used to fund new commitments other than in very exceptional circumstances, as approved by the Chief Finance Officer.
4. The Council will implement spending control panels to reduce revenue and capital spending.

Guidance on how this is to be delivered in practice will be provided by the Chief Finance Officer and must be complied with by Officers.

The Commissioners' role in relation to these measures is to provide scrutiny, advice and challenge to the Council to ensure that it implements an effective savings plan, achieves financial sustainability, and closes the short- and long-term budget gaps identified in the Medium Term Financial Strategy.

Status of this Chapter 0

This Chapter 0 shall apply for the period during which powers are transferred to the Commissioners and/or the restrictions associated with the section 114 report remain in effect (as applicable). This Chapter 0 (or part thereof) may be disapplied by the Monitoring Officer when its provisions cease to apply. The Monitoring Officer may amend the provisions of this Chapter 0 as required, in consultation with the Chief Executive, the Chief Finance Officer and the Commissioners.

Approval of Full Council will not be required for the disapplication of, or amendment to, this Chapter 0. However, any such disapplication or amendment should be notified to Full Council at the next appropriate meeting.

Conflict of provisions

Where a provision of this Constitution (including, for the avoidance of doubt, in the Scheme of Delegation, the Finance Procedure Rules and/or the Contract Procedure Rules) conflicts or is inconsistent with this Chapter 0, the provisions of this Chapter 0 shall prevail.