



BRIEFING PAPER

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Intervention in local government

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1. Intervention in local government

Following the Grenfell Tower tragedy on 14 June 2017, Sajid Javid, the Secretary of State for Communities and Local Government, announced that he was to appoint an “independent recovery taskforce” to “provide advice and practical and strategic support” to the Royal Borough of Kensington and Chelsea.¹ This followed a number of calls for the Government to intervene in the running of the council.

This note explains the legal and policy background to decisions to intervene in the running of a local authority, and provides details of the most recent interventions by the Government, in Doncaster (2010), Tower Hamlets (2014) and Rotherham (2015).

1.1 Kensington and Chelsea: the taskforce

The leader of the Royal Borough of Kensington and Chelsea, Nick Paget-Brown, resigned on 30 June 2017, and was replaced by Elizabeth Campbell. Separately, Nicholas Holgate resigned as chief executive of Kensington and Chelsea on 21 June 2017, and has been replaced on a temporary basis by Barry Quirk, chief executive of Lewisham Borough Council. The membership of the taskforce was confirmed on 26 July 2017:

- Aftab Chughtai, Chair of the West Midlands Police Independent Advisory Group
- Javed Khan, Chief Executive of Barnardo's
- Jane Scott, Leader of Wiltshire council
- Chris Wood, partner at Altair housing consultancy, and former director of housing for 3 London boroughs.²

[Its terms of reference](#) are to:

- Act as a sounding board and help drive the Council as they develop and implement their recovery plans
- Advise, scrutinise and where necessary challenge all Council recovery plans
- Help the Council to galvanise the local government sector nationally to support and work with them on recovery

¹ [HCWS27 2017-18](#)

² See DCLG, [New taskforce to support recovery from Grenfell fire disaster](#), 26 July 2017

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- Provide assurance to the Secretary of State for Communities and Local Government that the Council is able to deliver recovery
- Engage with survivors and the local community about the longer term recovery alongside the Council.

This taskforce does *not* constitute a statutory intervention in the running of Kensington and Chelsea. The terms of reference state:

The Taskforce is not responsible for the delivery of the recovery operation itself. It will support the Chief Executive and Leader to help drive the recovery effort. The Taskforce cannot make decisions on behalf of the Council.

The Housing Minister, Alok Sharma MP, stated in a debate on 5 July 2017 that the task force:

...will report directly to my right hon. Friend the Secretary of State. Its members, including the chair, are being identified, and we should be in a position to announce further details over the coming weeks. I want to be clear that the special focus of the recovery taskforce will be on housing, regeneration and community engagement.³

John Healey, for the Opposition, said:

Labour Members want the taskforce to work, but we doubt that it will. It can advise but it cannot act. It lacks the powers of decision or action that commissioners would bring. Public confidence in the council will not be restored by replacing one set of leaders with politicians from the same ruling group. What will be the tests for this taskforce, and what will be the tests of further council failings, before Ministers take the fuller intervention steps needed, as they have in other areas?⁴

The Mayor of London, Sadiq Khan, has called for the appointment of commissioners to Kensington and Chelsea.⁵ The Mayor himself has no formal powers to intervene in the running of a borough, though it is open to him to offer advice or support.

The taskforce is distinct from the Grenfell Tower *response team*, which is being co-ordinated by John Barradell, chief executive of the City of London Corporation.

1.2 Intervention: the legal position

Formal Government interventions in the running of local authorities are rare, and to date they have occurred in response to high-profile service failure or scandals, not to support disaster management. There is no fixed 'policy' in place regarding when interventions should take place. In recent years, interventions have consisted of the appointment of 'commissioners' to take over some or all of the functions of a council. In its evidence to an inquiry by the Communities and Local Government Committee in 2016, the Government stated that statutory intervention was very much a last resort:

Statutory intervention.. is part of wider strategies that the Government uses to monitor risk and ensure accountability in local government. ... It acts as an effective backstop should significant failings be identified.⁶

The legal power for the Government to intervene in the running of a local authority is broad and flexible, with few limits on the powers and approach that it may take. Intervention takes place under section 15 (6) of the [Local Government Act 1999](#). This provides that:

³ [HCDeb 5 Jul 2017](#) c1193

⁴ *Ibid.*, c1192

⁵ Fiona Simpson, "[Sadiq Khan calls for commissioners to take over Kensington and Chelsea Council in wake of Grenfell Tower disaster](#)", *Evening Standard*, 30 June 2017

⁶ DCLG, [Evidence submitted by the Department for Communities and Local Government](#), CLG Committee inquiry, June 2016

...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.

Each intervention is commenced via a formal direction notice. Typically powers are returned to the local authority after a period of years, and they may not all be returned at once. Some interventions have been preceded by reports based on ‘best value’ inspections, though this is not a legal requirement for an intervention to take place.

To date, seven interventions have taken place under the 1999 Act:

- London Borough of Hackney (2001-2007)
- Hull City Council (2003-2006)
- Stoke-on-Trent City Council (2008-2010)
- Doncaster Metropolitan Borough Council (2010-2014)
- London Borough of Tower Hamlets (2014-2017)
- Rotherham Metropolitan Borough Council (2015-present)
- Anglesey Council (2009-2013: intervention by Welsh Government)

In each case, the Secretary of State (the Welsh Ministers in Wales) appointed ‘commissioners’ to take over certain functions of the councils in question. The breadth of commissioner responsibilities has varied between the interventions.⁷

Report on use of commissioners

The Communities and Local Government Committee published a report in July 2016 entitled [*Government interventions: the use of Commissioners in Rotherham and Tower Hamlets*](#). These are the two most recent examples of Government intervention. This report contains additional detail of the Government’s approach to councils that may be struggling:

If local authorities are underperforming or experiencing difficulties, there should be avenues by which expertise can be accessed. We were therefore pleased to note the Minister’s confirmation that when DCLG becomes aware of potential early signs of service or financial failings, a first step is to “try to engage them with the LGA, who can support them with sector-led improvement. We also work with the particular government departments that are responsible for providing various functions to make sure that they are dealing with the particular local authorities as well to make sure that we deal with difficulties or stop them becoming greater”.⁸

Evidence provided to the Committee suggested that the DCLG has scaled back monitoring of local authorities in recent years. The issue of DCLG’s awareness of local authorities that are struggling either financially or in terms of governance and service provision was the subject of a 2014 National Audit Office report entitled [*Local government funding: assurance to Parliament*](#).

⁷ See Clive Grace, Steve Martin, Tim Allen and Mike Bennett, [*evidence to Communities and Local Government Committee*](#), June 2016

⁸ Communities and Local Government Committee, [*Government interventions: the use of Commissioners in Rotherham and Tower Hamlets*](#), HC42 2016-17, 20 July 2016, p.18. The quote is from the responsible Minister, Marcus Jones MP

1.3 Recent interventions

Doncaster Metropolitan Borough Council

The decision to intervene in Doncaster was announced in April 2010, by John Denham, then Secretary of State for Communities and Local Government.⁹ This followed a report from the Audit Commission that was critical of a number of aspects of the council's governance. On 15 June 2010 the incoming Secretary of State, Eric Pickles, announced his decisions to:

1. establish a team of well respected commissioners with powers to appoint, discipline or dismiss officers and ensure council decision makers do not fail to act or act against the advice of their statutory officers;
2. establish a non-executive Intervention and Recovery Board to support, challenge and monitor progress delivery, alongside the commissioners, reporting to the Secretary of State as necessary;
3. establish an experienced team of senior officers; the current Chief Executive of Kirklees Council Rob Vincent will be appointed as the new Chief Executive of Doncaster Council who will oversee the appointment of other key officers and secure value for money from its £450 million revenue budget.¹⁰

The commissioners were subsequently named as Sir John Harman, Julie Kenny and Jessica Crowe.¹¹

On the commissioners' recommendation, the Secretary of State changed Doncaster's pattern of elections to all-out elections every four years.¹²

This intervention was ended on 11 November 2014, in accord with a decision announced on 21 July 2014.¹³ This decision followed improvements identified by an independent peer challenge review.

London Borough of Tower Hamlets

On 4 April 2014, PriceWaterhouseCoopers (PwC) were appointed to undertake a best value review of Tower Hamlets.¹⁴ A Written Statement on 7 April 2014 gave further details of the remit of this inspection:

My Department has now received certain documents which make serious allegations about poor governance and financial management at [Tower Hamlets]. Having considered these carefully, on Friday 4 April, I ...appoint[ed] PricewaterhouseCoopers LLP (PwC) to carry out an inspection of the authority's compliance with its best value duty. A file has also been passed on to the Metropolitan Police for consideration.

The matters to be covered initially by the inspection will in particular relate to: the authority's payment of grants and connected decisions; the transfer of property by the authority to third parties; spending and decisions of the authority in relation to publicity, and the authority's processes and practices for entering into contracts. The inspection will cover the period from Monday 25 October 2010 (when the mayoral form of governance was implemented in Tower Hamlets) to the present.¹⁵

⁹ DCLG, "[Government will intervene in Doncaster Council](#)", 19 April 2010

¹⁰ DCLG, "[Government sets out proposals to turn around failing Doncaster Council](#)", 2 June 2010

¹¹ See [HCDeb 30 Jun 2010 c44WS](#)

¹² See DCLG, "[Actions to strengthen governance in Doncaster council](#)", 17 July 2013

¹³ See [HCDeb 21 Jul 2014 c100WS](#)

¹⁴ PwC, [Best Value Inspection of London Borough of Tower Hamlets report](#), October 2014.

¹⁵ [HCDeb 7 Apr 2014 c3WS](#)

On the basis of PwC's report, the Government decided to intervene: this was announced on 4 November 2014, via a [Written Statement](#) and [a short debate on the floor of the House](#).¹⁶ The commissioners appointed in Tower Hamlets were as follows:¹⁷

- Sir Ken Knight, former London Fire Commissioner and chief Fire and Rescue Adviser to the Government (lead Commissioner);
- Max Caller, formerly chief executive of Barnet and Haringey borough councils, and Chair of Local Government Boundary Commission for England;
- Alan Wood, director of children's services at Hackney borough council and immediate past president of the Association of Directors of Children's Services;
- Chris Allison, former Metropolitan Police assistant commissioner.

The first two Commissioners were appointed in November 2014, with Alan Wood and Chris Allison being appointed on 29 April 2015.¹⁸ The original intervention package was intended:

1. to put an end to any of the Authority's activities that are not compatible with its best value duty,
2. to remove so far as possible the risk of further failures by the Authority to comply with the duty, and
3. to rebuild the governance and financial management capacity of the Authority to secure its future compliance with the best value duty.¹⁹

Full details of the directions given to the Commissioners by the Secretary of State can be found in an [explanatory memorandum](#) on the website of the Department for Communities and Local Government. In brief, the Commissioners were directed to take over powers over grant-making, and to give written permission for any property disposals: these were the two areas of Tower Hamlets' operations identified by the PwC report as being of most concern. In November 2014 the Secretary of State sought, and received, an assurance from Tower Hamlets that it would not dispose of any properties until commissioners were in place.

The commissioners were also directed to approve a plan, to be drawn up by the authority, for the exercise of its publicity functions. Tower Hamlets was one of a number of authorities that the Secretary of State directed to cease publishing a council newsletter more than quarterly during 2014, in line with the *Code of Recommended Practice for Local Authority Publicity*.²⁰

On 29 April 2015, the Secretary of State directed the council to appoint a head of paid service. This followed directions in the original intervention requiring the commissioners to make permanent appointments to the statutory officer posts within the council.²¹ The

¹⁶ HCDeb 4 Nov 2014 c42WS; HCDeb 4 Nov 2014 c663-677.

¹⁷ See the official documentation of the appointment of commissioners, in the form of [papers deposited with the House of Commons Library](#).

¹⁸ See DCLG, *Further intervention in London Borough of Tower Hamlets*, 29 April 2015

¹⁹ DCLG, *Council of the London Borough of Tower Hamlets: proposed intervention*, letter to Tower Hamlets, 4 November 2014, p. 3

²⁰ See the Library briefing paper [Local government transparency in England](#) for further background to this issue.

²¹ All local authorities must appoint a number of 'statutory officers': the requirements to make these appointments are spread across several Acts of Parliament. The most significant are the head of paid service, the monitoring officer (in effect, head of legal matters), and the 'section 151 officer' (the officer responsible for financial matters). The holders of these posts have certain statutory responsibilities that are distinct from those of the local authority as a body.

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Commissioners were also to take on the function of appointing a permanent electoral registration officer and returning officer.²²

Details of the decisions that the commissioners have made can be found under the heading "[Commissioners' Decision Making Meeting](#)" on the Tower Hamlets council website. The decisions made are mostly approving, or recommending further work upon, grant-making decisions recommended by officers' reports.

Following the ousting of Lutfur Rahman as Mayor of Tower Hamlets as a result of a court judgment of 23 April 2015, an additional general direction to the Tower Hamlets administration was given by the Secretary of State on 6 May 2015, to:

undertake in the exercise of any of its functions any action that the Commissioners may reasonably require

a. to ensure compliance with the Directions of 17 December 2014 and 29 April 2015, or

b. to avoid so far as practicable incidents of poor governance or financial mismanagement that would, in the reasonable opinion of the Commissioners, give rise to the risk of further failures by the Authority to comply with the best value duty.²³

These additional directions lapsed on 31 October 2015.²⁴ DCLG then wrote to the new Mayor of Tower Hamlets, John Biggs, on 12 April 2016, stating that some progress had been made but that the return of functions to the Mayor and cabinet was "some way off".²⁵

In the event, all powers were returned to Tower Hamlets by 28 March 2017.²⁶ Formal directions remain in place requiring the Mayor and the council report progress directly to the Secretary of State every 3 months, overseen by a Best Value Improvement Board, including councillors and independent representatives.

Rotherham Metropolitan Borough Council

In late 2014, concerns were raised about child sexual exploitation in Rotherham. The then Secretary of State, Eric Pickles, announced a best value inspection of the borough council.²⁷ Louise Casey's report, based on the inspection, was published on 4 February 2015.²⁸ This was separate from the report of the [independent inquiry into child sexual exploitation in Rotherham](#), led by Professor Alexis Jay, which was published in August 2014.

The report found "widespread failings across the council's culture and services". Mr Pickles decided on 26 February 2015 to appoint a team of commissioners. These were:

- Sir Derek Myers (to March 2017), the former joint Chief Executive of the London Borough of Kensington and Chelsea and Hammersmith and Fulham, as lead commissioner;
- Stella Manzie CBE (to February 2016), responsible for the day to day running of all services until the Commissioners appoint a new permanent chief executive;

²² DCLG, [Council of the London Borough of Tower Hamlets: proposed intervention](#), letter to Tower Hamlets, 4 November 2014, p. 8

²³ DCLG, [Further Directions to the council of the London Borough of Tower Hamlets](#), 6 May 2015

²⁴ DCLG, [Letter to Tower Hamlets council in response to their first best value action plan progress report](#), 23 October 2015

²⁵ DCLG, [Tower Hamlets progress but no powers returned – Greg Clark](#), 12 April 2016

²⁶ DCLG, [Return of full democratic accountability to Tower Hamlets confirmed](#), 28 March 2017

²⁷ [HCDeb 10 Sep 2014 c37WS](#)

²⁸ DCLG, [Report of inspection of Rotherham metropolitan borough council](#), 4 February 2015

- Malcolm Newsam (to April 2016), who had already been in place as Children’s Social Care Commissioner;
- Patricia Bradwell (from May 2016)
- Mary Ney (lead commissioner from March 2017);
- Julie Kenny CBE.

The directions to the Commissioners have effect until March 2019. The directions also made specific provisions, leading to:

1. the commissioners exercising all the authority’s executive functions (i.e. the functions which are the responsibility of the authority’s cabinet) and certain other functions in particular all licensing functions, including taxi licensing, and responsibility for appointing the authority’s 3 statutory officers, the Chief Executive, the Chief Finance Officer and the Monitoring Officer
2. the authority being required under the direction and oversight of commissioners to prepare and implement improvement and action plans in order to deliver rapid and sustainable improvements in governance, leadership, culture, the exercise of the overview and scrutiny functions and in the performance of services; every 6 months the authority must report progress to me and my Rt Hon friend the Education Secretary
3. an improvement panel or panels, as the commissioners agree, being put in place to hold the authority publicly to account for the progress it makes on securing future compliance with the best value duty and securing that its children’s social care functions are performed to the required standard
4. the authority being required to cease to pay special responsibility allowances to members of its executive whilst they have no functions to exercise.²⁹

A number of functions were returned to elected councillors on 11 February 2016. Those that were retained by the commissioners included children’s social care (including all services relating to child sexual exploitation); adult social care; audit; and licensing.³⁰ The Commissioners published a report in August 2016 recommending the return of a number (though not all) of these services to local control by the end of 2016.³¹

In March 2017, DCLG issued an updated direction returning powers to Rotherham Council over adult social care and the Council’s partnership with the NHS, external partnerships, economic growth, town centre, grounds maintenance and audit, and the power of appointment of Council representatives to external bodies.³²

²⁹ [HCWS313 2014-15](#)

³⁰ DCLG, [Limited powers returned to Rotherham council](#), 11 February 2016

³¹ [Commissioners’ 18-month progress report: letter to Secretary of State](#), 11 August 2016

³² DCLG, [Rotherham intervention: return of 7 additional functions](#), 21 March 2017

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