



House of Commons
Communities and Local
Government Committee

**Government
interventions: the
use of Commissioners
in Rotherham
Metropolitan Borough
Council and the London
Borough of Tower
Hamlets**

Fourth Report of Session 2016–17



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relating to the report*

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Communities and Local Government Committee

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The current staff of the Committee are Mark Etherton (Clerk), Helen Finlayson (Second Clerk), Craig Bowdery (Committee Specialist), Tamsin Maddock (Committee Specialist), Tony Catinella (Senior Committee Assistant), Eldon Gallagher (Committee Support Assistant), Gary Calder (Media Officer) and Alexander Gore (Media Officer).

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Summary

Removing control of a local authority from democratically-elected representatives is a serious matter. But in both Rotherham and Tower Hamlets the Department for Communities and Local Government (DCLG)'s interventions are widely agreed to be justified. In Rotherham, the Council lacked the capacity to address its severe service failures and to protect the most vulnerable people in our society. In Tower Hamlets there had been a breakdown of normal democratic arrangements.

It is, fortunately, rare that DCLG has to intervene in a local authority. But when it does so, that intervention must be swift, effective, clear in its aims, and transparent. DCLG must therefore learn lessons from what has worked well in the interventions in Rotherham and Tower Hamlets, and from what could have been improved. Equally, lessons must be learned by DCLG, by the Local Government Association, and by local authorities across the country, about how to effectively monitor and mitigate the risk of financial, governance or service failure.

In particular, we would highlight the need for all local authorities to learn from Rotherham's experiences in relation to child sexual exploitation and ensure that vulnerable children are protected and safeguarded; from the experiences of both Rotherham and Tower Hamlets about the need to encourage and support whistleblowers and take their concerns seriously; and from both councils about the need to ensure that there are proper checks and balances and scrutiny arrangements in place to drive a culture of transparency and continuous improvement.

1 Introduction

1. The services local authorities provide are essential to their communities, who should be able to expect high standards of service, governance, and democratic accountability. In different ways, London Borough of Tower Hamlets and Rotherham Metropolitan Borough Council significantly failed to meet their responsibilities. There is, therefore, widespread agreement that the Department for Communities and Local Government (DCLG) was justified in intervening.

2. Our short, focused inquiry builds on the work of our predecessors after Rotherham's child sexual exploitation scandal.¹ We have also considered the intervention in Tower Hamlets, and looked more broadly at how DCLG monitors local authorities, how it makes decisions on whether to intervene, and the form of any intervention. The circumstances in the two authorities are different, the route to the interventions was different, and the roles of the Commissioners working with the two authorities are different. By comparing and contrasting the interventions, we have explored whether there are lessons to be learned for any future interventions.

3. We launched our inquiry in May 2016. We received more than 15 written submissions, and held two oral evidence sessions.² We are grateful to everyone who has contributed to our work.

1 Communities and Local Government Committee, Third Report of Session 2014–15, [Child sexual exploitation in Rotherham: some issues for local government](#), HC 648, November 2014 and Communities and Local Government Committee, Ninth Report of Session 2014–15, [Child sexual exploitation in Rotherham: Ofsted and further government issues](#), HC 1114, March 2015

2 Full details of the written and oral evidence we received are available on our [website](#).

2 The interventions in Tower Hamlets and Rotherham

4. To inform our consideration of the effectiveness or otherwise of the interventions in Rotherham and Tower Hamlets we have reflected on the background to each of them, and the progress each council has made since. We have not sought to assess their performance in detail, as this is more properly a matter for the Commissioners and the Secretary of State. The circumstances in Tower Hamlets and Rotherham differ not only from each other, but also from the circumstances which may be found in other local authorities across the country. Nevertheless, we are clear that there are learning points which could, and should, be taken on board by other local authorities. Our report seeks to identify some of these. **It is important that mechanisms are in place to support and encourage local authorities to share learning and best practice with each other. The LGA and DCLG each have roles to play in this, but local authorities must also take responsibility themselves for seeking out and sharing best practice.**

London Borough of Tower Hamlets

Background

5. The intervention in Tower Hamlets followed an independent best value report by Pricewaterhouse Cooper,³ commissioned by the then Secretary of State for Communities and Local Government, the Rt Hon Sir Eric Pickles MP, to investigate “a worrying pattern of divisive community politics and alleged mismanagement of public money by the Mayoral administration”.⁴ Commissioners were sent in by the Secretary of State to take over responsibility for grant-making, approval of sale or disposal of property, and council publicity. The council was initially given three months to prepare a strategy and action plan for how it would comply with its duty to act openly and transparently, serve all of its communities fairly, and secure value for money. The Commissioners are expected to remain in place until 31 March 2017, and are required to provide updates to the Secretary of State every six months.

Progress made to date

6. The evidence from the Lead Commissioner, the Executive Mayor and DCLG shows that progress in Tower Hamlets was initially very slow. Despite the intervention beginning in December 2014, the Lead Commissioner, Sir Ken Knight, told us that it was only since the election of Mayor John Biggs in June 2015, and the permanent appointment of three new statutory officers in the autumn of 2015, that it had been possible for the council to make progress.⁵ The intervention had been welcomed by the then opposition councillors who had recognised that things were, in Mayor Biggs’ words, “seriously out of control”,⁶ but Sir Ken ascribed the lack of initial progress to a sense of denial from the previous Mayor, his Cabinet and the council’s then senior officers. He told us that at a public

3 Pricewaterhouse Cooper, *Best Value Inspection of London Borough of Tower Hamlets Report*, October 2014

4 “*Inspectors appointed to investigate London Borough of Tower Hamlets*”, Department for Communities and Local Government press release, 4 April 2014

5 Sir Ken Knight, Lead Commissioner at Tower Hamlets ([LAC010](#)), para 32

6 Q24 [Mayor John Biggs]

meeting, officers had denied that there were problems at Tower Hamlets, and had blamed “the three Ps, which they said were “Panorama”, Pickles and PwC, and that it was no one else’s fault”.⁷

7. In March 2016 the Secretary of State acknowledged that progress was now being made, but stated that he was not yet persuaded that it was sufficient to enable the functions exercised by the Commissioners to be returned to the council.⁸ We understand the challenges presented by the previous administration’s initial resistance, but, nevertheless, it is disappointing that progress was initially so slow. We are encouraged, however, to hear from Tower Hamlets that over 80 per cent of the actions in the improvement plan agreed with the Secretary of State in March 2015 have now been completed,⁹ and to hear from Sir Ken that he believes that things have now changed, with new processes and procedures in place, including more open and transparent decision making.¹⁰

Rotherham Metropolitan Borough Council

Background

8. In February 2015, on the basis of Professor Alexis Jay’s report on child sexual exploitation¹¹ and Dame Louise Casey’s best value inspection,¹² the then Secretary of State imposed Commissioners to take over the council’s executive functions, and institute “a rapid improvement programme”.¹³ In a written statement, he said that Rotherham was “currently incapable of tackling its weakness without substantial intervention”, citing “a pervading culture of bullying, sexism, suppression and misplaced political correctness that has cemented the council’s failures”.¹⁴

Progress made to date

9. Cllr Chris Read, who was elected as leader of Rotherham council shortly after the intervention, told us that the council’s relationship with the Commissioners was evolving from the implementation of a Commissioner-developed improvement plan into one which was “much more owned by the council”.¹⁵ In written evidence, the council highlighted the improvements it had made to its partnership working arrangements as a key learning point arising from its previous failings. It said that it was working with other local authorities from its region to develop a more consistent approach.¹⁶ The Rotherham Commissioners agreed that significant and sustainable progress had been made since the intervention, especially in the development of robust partnership working for child safeguarding.¹⁷ This is welcome, but we are mindful of the note of caution sounded by

7 Q26 [Commissioner Sir Ken Knight]

8 Department for Communities and Local Government, [Government response to Tower Hamlets best value action plan updates](#), April 2016

9 London Borough of Tower Hamlets ([LAC013](#)), para 7.2

10 Q26 [Commissioner Sir Ken Knight]

11 Professor Alexis Jay OBE, [Independent Inquiry into Child Sexual Exploitation in Rotherham 1997–2013](#), August 2014

12 Dame Louise Casey CB, [Report of Inspection of Rotherham Metropolitan Borough Council](#), February 2015

13 [“Rotherham commissioners confirmed”](#), Department for Communities and Local Government press release, 26 February 2015

14 HC Deb, 26 February 2015, [HCWS313](#) [Commons written ministerial statement]

15 Q4 [Cllr Chris Read]

16 Rotherham Metropolitan Borough Council Commissioners ([LAC009](#)), para 4.2

17 Qq1 and 60 [Commissioner Mary Ney], Rotherham Metropolitan Borough Council Commissioners ([LAC009](#)), para 4.4

the former Commissioner for Children’s Social Care at Rotherham, Malcolm Newsam, who resigned in May 2016. He recognised the progress made and said that he was hopeful that “the current foundations will now be built upon into a more strategically sustainable platform”, but warned that it remained “fragile” because of a “lack of capacity in the Council to quickly resolve the longstanding issues in respect of workforce planning and financial management”.¹⁸

10. In February 2016, the Secretary of State announced that as some services were operating at an adequate standard and had sufficiently strong leadership in place, they would be returned to the council’s control. Approximately a third of functions were returned, with the others remaining under the Commissioners’ control, including, most notably, children’s social care.¹⁹ In May 2016, Rotherham Council announced its vision “for Rotherham to be a child-centred borough and for the council to be seen as a benchmark for other local authorities”.²⁰ However, the main opposition group on the council, UKIP, raised concerns about the ongoing performance of the council’s child safeguarding functions, suggesting in particular that the number of child suicides was abnormally high.²¹ In correspondence, Sir Derek Myers, the Lead Commissioner in Rotherham, stated that there was no evidence of a “cluster” of child suicides in Rotherham. He noted that the council’s Public Health service had appointed an independent expert to review the multi-agency response to child suicides, which had resulted in “some strengthened systems and local protocols which helped all parties, particularly schools who needed to be better equipped to understand any circumstances in which a ‘cluster’ of suicides might become a real risk”.²²

Child sexual exploitation

11. Our predecessors concluded in November 2014 that there was a “widespread problem of organised child sexual exploitation in England”, and that the Government should make sure that appropriate guidelines and benchmarks were in place for other local authorities to review their own arrangements.²³ The LGA told us that tackling child sexual exploitation had received greater attention and focus since the intervention in Rotherham, and advice for local authorities had been issued by DCLG and the LGA.²⁴ It was surprising, therefore, to hear from Cllr Read that neither the Government nor other local authorities had contacted him to ask how Rotherham was responding to the Jay recommendations.²⁵ We recognise that this does not necessarily mean that other councils are not reviewing their own arrangements, and indeed it was encouraging to receive evidence from Telford and Wrekin Council’s Children and Young People’s Scrutiny Committee about the significant work it has undertaken to assess its own practice and performance in relation to child sexual exploitation.²⁶

18 Malcolm Newsam, former Commissioner for Children’s Social Care ([LAC018](#)), para 12

19 [“Limited powers returned to Rotherham council”](#), Department for Communities and Local Government press release, 11 February 2016

20 [“Rotherham Council plans for children at the heart of everything it does”](#), Rotherham Metropolitan Borough Council press release, 27 May 2016

21 UKIP ([LAC014](#)), paras 27–30

22 [Correspondence from Sir Derek Myers, Lead Commissioner at Rotherham Metropolitan Borough Council, to the Chair of the Communities and Local Government Committee](#), 12 July 2016

23 Communities and Local Government Committee, Third Report of Session 2014–15, [Child sexual exploitation in Rotherham: some issues for local government](#), HC 648, para 17

24 Local Government Association ([LAC012](#)), para 8.1

25 Q58 [Cllr Chris Read]

26 Telford and Wrekin Council Children and Young People’s Scrutiny Committee ([LAC003](#))

12. It is also encouraging that some of the work undertaken in Rotherham is now being advocated by survivors of child sexual exploitation as best practice. We agree with Cllr Read that this provides some external validation for the council's work, and offers some confidence in the progress being made.²⁷ Commissioner Mary Ney, a supporting Commissioner in Rotherham, told us that the work the council was doing to support survivors of child sexual exploitation to become witnesses was helping to secure successful prosecutions.²⁸ We agree with our predecessors—other local authorities must learn lessons from Rotherham's failures and the work being done to improve. To that end, it is positive that Rotherham is evaluating its work in this area and sharing its learning by participating in conferences.²⁹

Taxi licensing

13. The concerns raised by both the Jay and Casey reports about taxi drivers relate only to a very small minority. Nevertheless, it cannot be denied that public confidence in the trade has been undermined. Commissioner Ney characterised her guiding principle as: "Would you trust this person to drive your child or your loved one alone in their taxi?". She said that the application of more stringent taxi licensing arrangements, including a requirement for CCTV cameras to be installed in taxis, was aimed at restoring public trust and confidence both in the taxi trade and in the council's ability to ensure that the service is safe.³⁰

14. However, taxi drivers continue to have concerns about the way in which licensing functions are delivered in Rotherham, feeling that action is being taken for action's sake. They also told us that, in some cases, the same council officers were still working in roles they had held before the intervention.³¹ Commissioner Ney said there had been significant staff changeover, and that where previous managers were still in place "they have now got a very good line of sight about the failings, and they have shown a very strong commitment to working with me to get good practice in place".³²

15. We were concerned to hear about a significant loophole—taxis licensed by other local authorities may still operate within Rotherham, even if the drivers have had their application for a Rotherham licence rejected. Commissioner Ney told us that this resulted in inconsistent standards, and created a problem for enforcement, as enforcement action can only be taken by the relevant licensing authority.³³ The Minister for Local Government, Marcus Jones MP, told us that Rotherham was trying to promote the benefits of choosing a Rotherham-licensed taxi.³⁴ This is an important interim step, but we remain concerned that young or vulnerable people using taxis in Rotherham may not always be in a position to take account of this or take assurance from it. Further action is required to close this damaging loophole and ensure that the efforts being made by the council, the Commissioners, and by the vast majority of Rotherham taxi drivers, to rebuild trust and confidence in the trade are supported, not undermined.

27 Q57 [Cllr Chris Read]

28 Q58 [Commissioner Mary Ney]

29 Qq58–59 [Commissioner Mary Ney]

30 Q8 [Commissioner Mary Ney]

31 Zulfqar Ahmed ([LAC005](#)) and Venture Taxis ([LAC015](#))

32 Q15 [Commissioner Mary Ney]

33 Q9 [Commissioner Mary Ney]

34 Q69

16. During Report Stage of the Policing and Crime Bill, the then Parliamentary Under-Secretary of State for the Home Department, Karen Bradley MP, said that “continued work with the taxi and private hire vehicles sector is needed to reduce the risk to children and young people of sexual exploitation by the very small number of cab drivers who seek to abuse their position of trust”, and made a commitment to bringing forward statutory guidance for all local authorities in respect of taxis and private hire vehicle licensing.³⁵ The Minister for Local Government confirmed to us that this guidance would seek to improve consistency, but said that he was not yet able to give details about what would be in the guidance or when it would be brought forward.³⁶ **We believe that local authorities must be able to apply particular measures in relation to taxi licensing in their areas, such as requiring taxis to have CCTV installed, without those measures being undermined by taxis coming in from other areas. We recommend that, in order to ensure that lessons are learned from experiences in Rotherham, DCLG works with the Home Office and the Department for Transport on the preparation of statutory guidance under the Policing and Crime Bill in relation to taxi licensing. That guidance should be brought forward without delay. Once the guidance has been introduced, the Government should monitor the extent to which it ensures consistently high standards in taxi licensing across the country, and also enables local authorities to put in place and enforce specific measures which are appropriate for their local circumstances. If guidance is not able to achieve this, the Government should consider legislation.**

35 HC Deb, 13 June 2016, [cols 1573–4](#)

36 Q70

3 Issues arising from the interventions

Culture change

17. If the interventions in Rotherham and Tower Hamlets are ultimately to be effective, they must result in sustainable improvements. In our view, this can only be achieved through changes in the organisational culture. We asked the Minister how the Secretary of State could assess the sustainability of culture change. He acknowledged that having strategies in place was not sufficient to ensure that they were embedded or followed through, and said that it was something which the Secretary of State had to consider on a “case-by-case basis”.³⁷

18. In Rotherham, functions are divided between the council and Commissioners. Former Commissioner for Children’s Social Care, Malcolm Newsam, told us the return of functions in Rotherham demonstrated the significant progress made by the council, but said that he had been “concerned that as Members begin to resume responsibility for the delivery of some services, they do not become detached from their responsibilities towards children’s social care”.³⁸ Cllr Read told us that the “team approach” taken by the council and the Commissioners to drive improvements, to put in place proper management of and engagement with staff, and to model good behaviour at a senior level, meant that the division of responsibility did not hinder the development of a council-wide culture.³⁹ The Rotherham Commissioners agreed, and said that they had made particular efforts from the outset to build relationships with council staff, councillors and key partners in order to instil “better ways of working, good behaviour and a culture which wants to learn and improve”.⁴⁰

19. Tower Hamlets in particular had deeply embedded problems in its culture. Mayor Biggs’s view was that behavioural and cultural change would underpin the sustainability of the improvements, but that this might take considerable time and could not be assured until the council took ownership and the Commissioners were withdrawn.⁴¹ He acknowledged the benefit of the Commissioners’ external perspective in driving the process of culture change:

We have been through a very bumpy period. Although it would be easy and indeed tempting to cast it all away as being the behaviour of a particular person or a predecessor regime, it is apparent that there are a whole bunch of cultural issues in the way in which the authority has behaved. We needed a fundamental change in our senior management team [...] and we needed to dust down the customs and practices and issues like civility and the behaviour of members towards one another. It has provided a pause and maybe a space in which some things could be reflected upon. So it has been very helpful.⁴²

37 Qq67–68

38 Malcolm Newsam, former Commissioner for Children’s Social Care ([LAC018](#)), para 17

39 Q44 [Cllr Chris Read]

40 Q3 [Commissioner Mary Ney], Rotherham Metropolitan Borough Council Commissioners ([LAC009](#)), para 2.7

41 Q4 [Mayor John Biggs]

42 Q16 [Mayor John Biggs]

The circumstances in which Tower Hamlets found itself may be more extreme than those faced by other authorities, but we agree with the LGA that there is scope for lessons to be learnt from the work that the council has done to change its culture from one of denial and resistance to one of acceptance and willingness to work with the Commissioners.⁴³ **We understand Tower Hamlets’ initial focus on its own improvement, rather than identifying broader learning points,⁴⁴ but we believe that Tower Hamlets council and Commissioners should work with the LGA to identify learning from the council’s culture change work which may be applicable to other authorities, and to identify ways to share this learning.**

20. When asked about what mechanisms were in place to learn lessons and institute continuous improvement, Mayor Biggs told us that Tower Hamlets had adopted a “circular process of improvement” to learn from and continuously improve processes. Cllr Read said that Rotherham had adopted a similar approach, and had put in place better professional reviews for staff, and more engaged management to encourage people to come forward with suggestions and to take responsibility for the services they delivered. Both councils also told us about the importance of having effective corporate plans, and publishing performance data to monitor and assess progress.⁴⁵

Whistleblowing

21. We share the Minister’s view that “an effective and well-functioning council would have a process for dealing with whistleblowers who are raising important concerns”.⁴⁶ However, both Tower Hamlets and Rotherham councils have failed in the past to take whistleblowers seriously. We therefore welcome the evidence from Mayor Biggs and Cllr Read that they have reviewed their whistleblowing policies, and that their Commissioners have provided external validation.⁴⁷ We also welcome the assurance from Mayor Biggs that this work has been underpinned by changes to the council’s governance arrangements and work to build confidence in the senior management team.⁴⁸ We take some confidence from Cllr Read’s evidence that there are now instances in which staff are coming forward to raise their concerns when they would not have felt confident to do so in the past.⁴⁹

22. Neither council should become complacent. Councils are responsible for delivering services to some of the most vulnerable people in society, and those services must be delivered effectively, and sensitively, with regard to people’s dignity and well-being. Policies and procedures are only effective if they are properly used and embedded in the way a council operates. Some concerns about the response to allegations of poor practice in adult social care before the intervention were raised with us.⁵⁰ We understand from the Rotherham Commissioners that they are aware of these concerns, and that they have fully investigated the matters in question.⁵¹ As a Committee we are not in a position to investigate individual cases of whistleblowing or alleged poor practice, and it would not be appropriate for us to do so. Nevertheless, we take the view that potential whistleblowers

43 Local Government Association ([LAC012](#)), para 8.3

44 London Borough of Tower Hamlets ([LAC013](#)), para 8.1

45 Q55

46 Q74

47 Q53

48 Q53 [Mayor John Biggs]

49 Q56 [Cllr Chris Read]

50 Jayne Swallow ([LAC008](#)), UKIP ([LAC014](#)), para 30

51 Rotherham Metropolitan Borough Council Commissioners ([LAC023](#))

should be encouraged to come forward, and be able to feel confident that, when they do so, the concerns they raise will be properly investigated, and they will be properly treated and protected.

23. Andy Erlam, the lead petitioner in the Tower Hamlets election petition, told us that whistleblowers with evidence of misfeasance or illegal or unethical conduct needed to be encouraged to come forward.⁵² Sir Ken Knight acknowledged that whistleblowing continued to be challenging for Tower Hamlets, and that whistleblowers continued to approach the Commissioners because of a lack of confidence in the council. He explained that this could cause difficulties because Commissioners are not Prescribed Persons under the Public Interest Disclosure (Prescribed Persons) Order 2014. This means that whistleblowers approaching the Commissioners did not receive the same protections they would if they reported their concerns to their employer, their MP, or an external auditor.⁵³ We welcome the confirmation from the Minister that he is considering this point.⁵⁴

24. The objective should be to build public confidence and trust in the two authorities so that whistleblowers feel comfortable and able to raise their concerns directly with the councils themselves. However, when an authority has failed to such an extent as to require the imposition of Commissioners, there may be both a greater need for whistleblowers to be encouraged to come forward, and a lower level of confidence about the response they will receive. We strongly support the inclusion of DCLG-appointed Commissioners on the list of Prescribed Persons in the Public Interest Disclosure (Prescribed Persons) Order 2014 and call on the Minister to take the necessary legislative action as a matter of urgency.

The return of functions

25. Progress is being made by both local authorities, but the aim of the interventions has to be to return the councils to normal democratic arrangements. The intervention in Tower Hamlets is scheduled to end by March 2017, and the intervention in Rotherham by 2019. However, the Minister told us that these timescales are a guide, and that the Secretary of State “will not give control of those authorities back to the elected members from the commissioners until he is absolutely sure that the best value test is being met”.⁵⁵

26. In February 2016, around a third of functions were returned to Rotherham council’s control. The Rotherham Commissioners explained that they had been able to recommend the return of these functions because of the “conscientious commitment and growing confidence that the Members of the Advisory Cabinet had shown; the leadership shown by the Council’s Leader and leading members”.⁵⁶ Cllr Read said the clarity shared by the council and the Commissioners from the outset about the Commissioners’ role underpinned the success of the Rotherham intervention to date.⁵⁷ However, the former Commissioner for Children’s Social Care, Malcolm Newsam, told us that demonstrating the required improvements in children’s social care without the rigour of a full Ofsted inspection would be challenging.⁵⁸

52 Tower Hamlets Election Petitioners ([LAC002](#)), paras 20–6

53 Q56 [Commissioner Sir Ken Knight]

54 Qq75–77

55 Q118

56 Rotherham Metropolitan Borough Council Commissioners ([LAC009](#)), para 2.10

57 Q23 [Cllr Chris Read]

58 Malcolm Newsam, former Commissioner for Children’s Social Care ([LAC018](#)), para 17

27. Andy Erlam, lead petitioner for the Tower Hamlets Election Petition, told us that he had been surprised that Mayor Biggs was apparently keen to see an early withdrawal of Commissioners as:

Mr Biggs would initially have had a limited idea of the problems he was about to inherit and even more surprising now as he had been made aware of massive problems in the administration. I would have thought that the mayor needed all the help he could get.⁵⁹

It is only natural that an authority subject to intervention will be keen to regain responsibility and control of the council's functions. Mayor Biggs explained that:

I think it is in the nature of the relationship that we should expect to be frustrated and to want to get on with doing our own job, because there is an overhead involved in having commissioners there, helpful as they are.⁶⁰

He added: "We will never be in the perfect state, but I suspect we are now in a better state than many local authorities that don't have the joy of commissioners".⁶¹ Commissioner Sir Ken Knight agreed that local authorities in receipt of interventions were "probably going to have to satisfy an even higher bar than a local council that is not, in order that there is not a risk of that council slipping back into some of the ways of working and culture".⁶² While a certain element of risk aversion in relation to the withdrawal of Commissioners is to be expected, we believe this needs to be offset by honest assessment of when a council has improved sufficiently to operate, and to continue to improve, without the presence of Commissioners.

28. Highlighting the possible tension between a council's view that it no longer required the Commissioners' presence to support or drive its improvement programme, and the Commissioners' view that further intervention continued to be required to mitigate the risk of any regression, Mayor Biggs suggested that confidence about any decision to return functions or bring the intervention to an end could be gained through "a degree of peer review or a third party observation on what [the Commissioners] have done and whether we have reached a point where they could go".⁶³ We note that in Rotherham, there is a degree of external validation, as before making recommendations to the Secretary of State for the return of functions, Commissioners test their conclusions with an independent panel and a lay panel.⁶⁴

29. Commissioner Ney explained that while some functions had been returned in Rotherham, the Commissioners could still offer advice in relation to those services, or intervene further if they felt there was a need to do so.⁶⁵ Asked whether DCLG would continue to use this model of ongoing Commissioner oversight after the initial return of functions, the Minister said "the Secretary of State will be confident enough to return

59 Tower Hamlets Election Petitioners ([LAC002](#)), para 21

60 Q24 [Mayor John Biggs]

61 Q34 [Mayor John Biggs]

62 Q47 [Commissioner Sir Ken Knight]

63 Q52 [Mayor John Biggs]

64 Rotherham Metropolitan Borough Council Commissioners, ([LAC009](#)), para 3.5. The membership of the independent panel includes representatives of the Local Government Association and experienced local government chief executives and leaders. The membership of the lay panel includes the independent members of the council's standards committee and two independent people appointed by the council to assist in the investigation of conduct matters.

65 Q50 [Commissioner Mary Ney]

the functions of these local authorities to the democratic members when the best value duty has been met, is fully embedded and is sustainable”.⁶⁶ However, he noted that he was considering whether, in order to provide assurance in the longer term about the impact of the interventions, there could be a role for the councils’ external auditors in overseeing continued best value.⁶⁷

30. Cllr Read told us that there would be little space for Rotherham to regress once the intervention came to an end, as he was “the most scrutinised council leader in the country”.⁶⁸ We do not doubt Cllr Read’s sentiment or his intention. **But, if the interventions in Tower Hamlets and Rotherham are to be successful in the long term, careful thought must be given to how functions are returned and how performance is monitored on an ongoing basis. We commend the Rotherham approach, under which Commissioners retain a monitoring and advisory role for the functions which have been restored to the council. Commissioners’ expertise, their local knowledge and their experience mean they are well placed to monitor the council’s performance in respect of its returned functions. However, even this level of intervention must eventually come to an end. In the longer term, once Commissioners have been fully withdrawn, suitable assurance mechanisms must be in place to ensure that there is no regression or lapse. *We recognise that there are costs associated with monitoring, but nevertheless, we believe that DCLG should consider arrangements for ongoing additional oversight measures for councils which are exiting from interventions. Such measures might include, for example, phased withdrawal of Commissioners, seeking assurance from the council’s external auditors, or peer review or monitoring by other local authorities.***

66 Q123

67 Q66

68 Q51 [Cllr Chris Read]

4 The intervention process

Monitoring and inspection

31. The National Audit Office (NAO) found in 2014 that central government was increasingly relying on local accountability systems for assurance on whether local authority spending was value for money. It was critical of this, stating that it had found that the monitoring information gave “limited insight” into whether the system was creating conditions for local authorities to achieve value for money.⁶⁹ This view was shared by Dr Laurence Ferry of Durham University, who told us that since 2010, the localism agenda meant that:

DCLG has less oversight of financial and service sustainability of local authorities who have greater control over their own spending decisions. To date the legal requirement on local authorities for balanced budgets has prevented wholesale financial failure, but financial pressure on an individual local authority is not as obvious. The framework is geared to prevent financial failure, which means financial pressure will more likely lead to service rather than financial impacts.⁷⁰

In June 2016, the NAO revisited DCLG monitoring of local authorities. It reported that, although it had not yet received full details of the new approach to collecting and analysing information to help it identify which local authorities had the strongest indicators of being at immediate risk in relation to financial resilience or service delivery, “in principle, the new arrangements appear more systematic and comprehensive than before”.⁷¹ However, while acknowledging the difficulty of monitoring local authority performance, Tower Hamlets council still questioned whether DCLG was collecting the right information to allow it to assess local authority performance:

Performance and financial information alone do not provide an overview of governance arrangements and organisational culture in local authorities. DCLG may need to consider other forms of intelligence to support their understanding of particular local authorities.⁷²

32. DCLG said it had sought to improve the way in which it monitored and assessed risks in the local government sector, and explained that this approach helped it to check that local accountability frameworks were working, and to understand the immediate pressures facing local government, as well as work with the LGA to ensure effective targeting of peer review. As a result, DCLG now reviews:

information from a wider range of sources (encompassing local authorities, sector bodies, and other government departments), and we use it to identify authorities which have high risk of financial or service failure. This provides assurance to DCLG’s Accounting Officer and enables the Department to better

69 National Audit Office, *Local Government funding: Assurance to Parliament*, June 2014, para 21

70 Dr Laurence Ferry ([LAC004](#))

71 National Audit Office, *Financial sustainability of local authorities: capital expenditure and resourcing*, June 2016, paras 3.32–3.36

72 London Borough of Tower Hamlets ([LAC013](#)), para 2.7

understand the most immediate pressures facing particular local authorities, and in severe cases, whether the Secretary of State should consider statutory intervention.⁷³

The Minister explained that these information sources included contact with local authorities, relevant government departments, regulatory organisations, local authority websites, council minutes, and the local press.⁷⁴ Commissioner Sir Ken Knight told us that “One of the difficulties is that the Government will wish to see hard evidence before intervention, and sometimes it is the softer science and evidence that starts signalling a council or an authority getting into difficulties”.⁷⁵ We asked Rotherham and Tower Hamlets whether there were any factors which, in their experience, could indicate where there were problems within councils. They told us that where councils had weak corporate management, services like children’s services were the most likely to be fragile or at risk. The councils and Commissioners also suggested that warning signs might include the need for councillors to use Freedom of Information requests to access information from council officers, or ongoing temporary appointments for statutory officers.⁷⁶ Cllr Read said that he would advise councillors in other authorities to “trust their instincts on these things. They have to try to explore what might be going on within their organisation”.⁷⁷ **We believe that councillors, and officers, of local authorities have a responsibility to draw attention to, and pursue, issues which cause them concern, or which do not appear to be as they should. This goes hand in hand with the need for councils to take seriously the concerns which are raised with them, to treat whistleblowers properly, and to take action to investigate and address poor practice.**

33. We agree with the LGA that any intervention in a local authority must be proportionate to the failings which have been identified.⁷⁸ Cllr Read emphasised the level of expertise and experience which the Rotherham Commissioners had brought to the council, saying that:

The truth is that for an authority like Rotherham—a mid-sized authority—we would never have brought in senior staff with that kind of calibre and experience. We went from a situation where we had a change of leadership and a change of cabinet, some beginnings of change among senior staff, during the course of Louise Casey’s CGI inspection, which had not been enough to stop the rot, effectively. They had not been in a position, for any number of reasons, to turn it around; that was certainly not through a lack of will on their part.⁷⁹

We agree that it is likely that, without the skills and experience of the Commissioners, Rotherham would not have been able to turn around its poor performance. However, it would be concerning if the only way small or medium local authorities could access high-calibre expertise would be by hitting rock bottom and receiving an intervention. If local authorities are underperforming or experiencing difficulties, there should be avenues

73 Department for Communities and Local Government ([LAC016](#)), para 84

74 Q83

75 Q32 [Commissioner Sir Ken Knight]

76 Q32

77 Q57 [Cllr Chris Read]

78 Local Government Association ([LAC012](#)), para 4.8

79 Q17 [Cllr Chris Read]

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.⁸⁰

34. We note the Minister's confirmation that there were currently no authorities giving him such cause for concern that, if he did not see an improvement in their performance, he would have to consider intervention.⁸¹ Nevertheless, he confirmed that his Department was currently working to support some local authorities which were facing particular challenges, but was unable or unwilling to confirm—or even to estimate—how many such authorities there were.⁸² **We understand the Minister's reticence to name particular local authorities which may be receiving support or sector-led improvement, and would not ask him to do so. We also understand that any estimate of the number would represent a snapshot in time. However we are disappointed that he was unwilling to give even an estimate which could have helped us to gauge the extent or scale of any potential problem. We recommend that in his response to this report the Minister provides a broad indication of the number of local authorities which were, as at 29 February and 31 August 2016:**

- a) *receiving enhanced monitoring, particular support, or sector-led improvement;*
- b) *at risk of requiring some sort of intervention if there were no improvement in performance.*

35. The Department told us that it was committed to continuous improvement of the intervention process, and that it had learned a number of lessons from what had worked well in Tower Hamlets and Rotherham, particularly in relation to inspections, commissioner roles, the appointment of commissioners, governance, and stakeholder management.⁸³ The Minister acknowledged the importance of evaluating and learning lessons from the interventions, although he emphasised that there was a need to “work through the issues that are still ongoing first, and make sure that we concentrate at the moment absolutely on a situation where we are confident that both of these authorities can meet their best value duty”.⁸⁴ **We recommend that after the interventions have come to an end, DCLG reflects and reports on each intervention and the lessons which can be learned or best practice which can be shared in relation to the intervention process and service improvement. The evaluation reports should take into account this report, and the views of the Commissioners, councillors from across the political spectrum in each local authority, council officers, partner organisations and local residents.**

80 Q84

81 Qq98–99

82 Qq85–96

83 Department for Communities and Local Government ([LAC016](#)), paras 76–79

84 Q127

The appointment of Commissioners

36. To be successful, Commissioners must have the right balance of skills and experience to address the specific circumstances of the relevant local authority. DCLG acknowledges this, stating that: “Appointing the right individuals to lead and deliver the necessary improvements and to work together effectively is crucial to the long-term success of any intervention”.⁸⁵ The Minister told us that the Secretary of State chooses Commissioners on the basis of their skills, knowledge, integrity and independence, as well as their ability to drive change in failing authorities.⁸⁶ We welcome these criteria, which we believe are appropriate. However we also endorse Commissioner Ney’s view that consideration should be given to the value Commissioners place on local democracy, and the way in which they will operate as a team.⁸⁷

37. The Minister explained that the appointment of Commissioners is “not an open process, but the criteria for appointing Commissioners is very transparent”.⁸⁸ He told us that in all but the most difficult of circumstances, local authorities receiving interventions would be consulted on Commissioners’ appointments.⁸⁹ However, Cllr Read described the appointment process as “opaque”, and suggested that it could be improved through dialogue with the relevant local authority.⁹⁰ The LGA took a similar view on the need for dialogue, stating that “The effectiveness of the Commissioners is also likely to be enhanced the more that the process of selecting, appointing them and determining their brief is undertaken with the local authority concerned”. It added that its in-depth knowledge of the local government sector meant that it was “well placed to offer confidential advice to DCLG about potential commissioners”.⁹¹ Mayor Biggs agreed with this, and further suggested that there could be merit in a degree of peer oversight or involvement from neighbouring local authorities.⁹²

38. We have no doubts about the merits, competence and skills of the Commissioners in Tower Hamlets or Rotherham—that is reflected in the progress made by both authorities. ***Nevertheless, we believe that ordinarily DCLG should consult both the relevant local authority and the LGA as part of the process of identifying the required skills and appointing Commissioners.***

39. In both Rotherham and Tower Hamlets additional or replacement Commissioners have been appointed. In Tower Hamlets, the two original Commissioners were tasked with scoping the intervention. Following this, the Lead Commissioner, in discussion with DCLG, identified the need for additional expertise with regard to child protection, fraud and malpractice, and two additional Commissioners were appointed.⁹³ In Rotherham, following the resignation of former Commissioner Malcolm Newsam, Commissioner Patricia Bradwell was appointed. Whereas Mr Newsam’s background was as a director of children’s services, Commissioner Bradwell’s background is political—she serves as the Conservative deputy leader and lead member for Adult Care and Health Services and

85 Department for Communities and Local Government ([LAC016](#)), para 78

86 Q103

87 Q22 [Commissioner Mary Ney]

88 Q102

89 Q103

90 Qq19–21 [Cllr Chris Read]

91 Local Government Association ([LAC012](#)), paras 5.2–5.3

92 Qq21–23 [Mayor John Biggs]

93 Q22 [Commissioner Sir Ken Knight]

Children’s Services at Lincolnshire County Council. Cllr Read told us that Mr Newsam’s expertise had been valuable in turning Rotherham’s children’s services around, but that “that model took us further away from a kind of process of democratic decision making, or even a process that mirrored democratic decision making”. Noting that the initial focus provided by Mr Newsam had been necessary to transform the service, he explained that Commissioner Bradwell’s political perspective enabled her to model good behaviour for Rotherham council’s deputy leader and lead member for children’s services, despite the fact that they represent different political parties. He described the approach as “a good staging post to returning children’s services to democratic control”.⁹⁴

40. Any intervention will, if it is to be effective, need to respond to changing circumstances. During an intervention, additional failings or problems might be uncovered, requiring an additional response. Alternatively, as progress is made to bring about improvements in the authority, different skills or experience might be required to support continuous improvement. **On an ongoing basis throughout an intervention, Commissioners and DCLG, in consultation with the local authority and the LGA, should review the intervention’s aims and the local authority’s needs, and assess the Commissioners’ collective skills and expertise against them. Where appropriate, this might result in the appointment of additional Commissioners, the replacement of existing Commissioners whose expertise no longer aligned with the needs of the organisation, or the withdrawal of individual Commissioners as the local authority achieves sustainable improvements in particular functions.**

The cost of intervening

41. The LGA highlighted the significant costs which can arise from an intervention, including the payment of Commissioners, and resources for their activities and the responses to their concerns.⁹⁵ Before the Tower Hamlets intervention, the best value inspection undertaken by Pricewaterhouse Cooper cost the council £1million.⁹⁶ In addition to the costs of providing support to the Commissioners and resourcing their work, in both Tower Hamlets and Rotherham, the Commissioners are paid a daily rate of £800 for the Lead Commissioner and £700 for the other Commissioners. In Rotherham, between February 2015 and May 2016, this amounted to £577,920.68 in fees and expenses for 526.5 days work.⁹⁷ The Minister acknowledged that the cost “does appear to be high”, although in relation to Tower Hamlets, the council’s initial resistance to the intervention meant that the costs of the best value inspection and intervention were ultimately higher than they should have been.⁹⁸ However, he said that, in his view, the significance of each authority’s failings meant that not intervening would have been unjustifiable:

I have made the point several times that there being 1,400 children at risk of sexual exploitation in Rotherham meant something significant had to be done. Therefore we are now seeing in that authority that threat to young people is

94 Q18 [Cllr Chris Read]

95 Local Government Association ([LAC012](#)), para 7.2

96 London Borough of Tower Hamlets ([LAC013](#)), para 4.1

97 Rotherham Metropolitan Borough Council, *Total Commissioners Expenses*, 27 June 2016 [accessed 6 July 2016]. The total cost includes fees and expenses claimed by Commissioner Stella Manzie who worked full time as Managing Director Commissioner, but the total number of days worked does not include the number of days she worked. It does not include National Insurance Contributions paid by the council.

98 Q111

now far different from where it was before the intervention. If you are a parent of one of those young people who were at risk, you would think that what is happening in terms of the intervention is value for money.⁹⁹

Commissioner Sir Ken Knight acknowledged the costs of intervention, but emphasised that the intention was to return the council to its best value responsibility, not move it further away. He outlined demonstrable cash savings achieved by the work undertaken by the Commissioners with the council.¹⁰⁰ The Minister confirmed to us that details of such savings are reported to the Secretary of State as part of the progress reports from the Commissioners and the councils in order to demonstrate savings and service delivery improvements.¹⁰¹

42. When we asked the councils about the costs of the interventions, Cllr Read acknowledged that residents might be concerned about the costs, but said that they should be considered against the unquantifiable cost of a “dysfunctional” council.¹⁰² Both councils accepted that it was appropriate that they, as the recipients of the interventions, should bear the costs, although Cllr Read noted that the financial pressures currently facing local authorities meant that he would welcome an ongoing dialogue about the authority’s needs, including its financial needs.¹⁰³ Mayor Biggs highlighted the need to ensure there was a balance between ensuring Commissioners fulfilled their roles thoroughly and that the interventions were brought to an end at the right time.¹⁰⁴

43. Local authorities in receipt of interventions should be responsible for bearing the costs of such interventions. It is a matter for the local authority, working with its Commissioners, to undertake financial planning accordingly. We note the confirmation from the Minister that should the cost of an intervention lead to a rise in council tax above the 2 per cent threshold, the usual rules about local referendums for council tax rises in excess of 2 per cent apply.¹⁰⁵ We acknowledge that the costs of intervention can be considerable—particularly where, as was the case in Tower Hamlets, the local authority does not initially cooperate effectively with the Commissioners. **We recognise that local authorities are facing difficult economic circumstances and tightening budgets. Authorities which are failing to the point at which interventions are required may, in particular, face challenging financial decisions. We believe therefore that DCLG, the Commissioners and the local authorities should continue to monitor and report on the costs of intervention and any savings which are realised. Such reports should be publicly available to ensure that residents are able to see for themselves the financial impact of the interventions.**

99 Q111

100 Q31 [Commissioner Sir Ken Knight], [Correspondence from Sir Ken Knight, Lead Commissioner at London Borough of Tower Hamlets, to the Chair of the Communities and Local Government Committee, 1 July 2016](#)

101 Q112

102 Q31 [Cllr Chris Read]

103 Q34 [Cllr Chris Read]

104 Q34 [Mayor John Biggs]

105 Q113

Transparency, accountability and scrutiny

Accountability of Commissioners to the public

44. Commissioners are held to account for their performance by the Secretary of State through submission of progress reports and periodic meetings with the Secretary of State.¹⁰⁶ Commissioners from Tower Hamlets have met the Secretary of State three times since the intervention began in December 2014, and Commissioners in Rotherham have met the Secretary of State once since the intervention began in February 2015 (with a further meeting scheduled for July).¹⁰⁷ The Minister told us that he was confident that the Commissioners in Tower Hamlets and Rotherham were demonstrating their accountability to local people:

In Rotherham you have a situation where the decisions being made by the commissioners are being put out there in the public domain before those decisions are made, so they can get views of local people. They have also set a number of policies for the council, which have gone out for consultation with local people.

In Tower Hamlets, one of the functions that commissioners now hold is grant-making powers, where there were significant problems in that authority. In relation to grant-making, those decisions are being made in open, public session, where members of the public can come along and see those commissioners making those decisions on grants.¹⁰⁸

45. The Commissioners outlined to us the steps they had taken to make their decision-making processes open and transparent to the public, including the publication of decisions and progress reports, providing opportunities for the public to make submissions, and seeking where possible to mirror the usual decision-making processes—for example, making decisions on the basis of officer recommendations.¹⁰⁹ The evidence that we have received demonstrates that Commissioners in both authorities are modelling good practice in decision-making. For example Commissioners in Rotherham have established an Advisory Cabinet to shadow Commissioners, and to encourage and embed a change in leadership by modelling effective decision-making and behaviours.¹¹⁰ On taking up their roles, Rotherham Commissioners worked with the council to arrange an extensive consultation exercise, including 28 roadshows across the borough. They also produced and published protocols, in collaboration with councillors and officers, setting out how they would make decisions, how their powers would operate, and how they would work alongside the continued democratic responsibility of councillors.¹¹¹ Commissioner Ney told us that Commissioners needed to have a certain level of public visibility and accountability for their decision making, but that there also needed to be clarity about the council's role so that confidence and trust in the council could be rebuilt.¹¹²

106 Q105

107 Q62

108 Q107

109 Q28

110 Department for Communities and Local Government ([LAC016](#)), para 59

111 Rotherham Metropolitan Borough Council Commissioners ([LAC009](#)), paras 2.5 and 2.8

112 Q41 [Commissioner Mary Ney]

46. Tower Hamlets acknowledged the importance of transparency and accountability in how its Commissioners fulfilled their responsibilities, describing this clarity as “essential to allow local residents to understand the deviation from standard local democratic procedures and the associated costs and timescales”.¹¹³ However, while highlighting that “local democracy did not exist in any meaningful sense when Sir Eric sent in the Commissioners”, Andy Erlam, lead petitioner for the Tower Hamlets election petition, said that the Commissioners needed to be more visible to the public.¹¹⁴ We agree. For example, while there is information available about the intervention, the role of the Commissioners in Tower Hamlets, and the decisions that they take, it is not easy to find on the council’s website. This contrasts with the Rotherham council website, which includes a section on its front page containing information about the Commissioners, their roles and responsibilities, their decision-making processes, their expenses, and a monthly bulletin about their activities. Commissioner Sir Ken Knight and Mayor Biggs acknowledged that Commissioners and the council could work together more effectively to communicate the improvement work, the progress which had been made, and how this was connected to the work of the Commissioners and the council in driving the process.¹¹⁵

47. While Commissioners are accountable to the Secretary of State, they are also accountable to the residents of the local authorities with whom they are working, and there must therefore be sufficient transparency to ensure that residents are able to understand who is taking decisions, and how. We are not persuaded that this is necessarily always the case. *We note the steps taken by the Commissioners and councils, particularly in Rotherham, to engage with the public and make information about the interventions available to them. While the circumstances in the two authorities are different, we believe there is scope for good practice to be shared between them on issues such as communicating with residents, providing information about the interventions and the ways in which the councils work, and ensuring there are opportunities available for residents to hold the council and Commissioners to account. We welcome the holding of joint meetings between the Commissioners in the two local authorities, and suggest that this could be an appropriate forum for sharing good practice.*

Scrutiny of Commissioners

48. The LGA argued that, where possible, Commissioners should mirror the ways of working expected of councillors, in order to embed ways of working which would facilitate the smooth return of powers, including that “Local transparency and scrutiny arrangements should be at least as strong as those applying to councils”.¹¹⁶ There are, however, elements of the usual scrutiny processes which do not apply to Commissioners. For example, both Tower Hamlets and Cllr Read emphasised the lack of a call-in process for Commissioner decisions.¹¹⁷ Tower Hamlets also noted that Commissioners cannot be required to attend the Overview and Scrutiny Committee.¹¹⁸ **The nature of the Commissioner model of intervention means that it may not always be appropriate at the beginning of an intervention for elected members to fulfil the same scrutiny role in relation to the Commissioners as they usually would in relation to the council**

113 London Borough of Tower Hamlets ([LAC013](#)), para 5.2

114 Tower Hamlets Election Petitioners ([LAC002](#)), paras 3 and 26

115 Qq40–41

116 Local Government Association ([LAC012](#)), paras 2.8 and 6.2

117 Q30 [Cllr Chris Read], London Borough of Tower Hamlets ([LAC013](#)), para 6.2

118 London Borough of Tower Hamlets ([LAC013](#)), para 6.2

leadership. However, in the same way that Commissioners seek to model good practice in terms of ways of working and decision-making in order to embed good practice and prepare for the return of functions, they should also seek to model good practice in terms of scrutiny and accountability and should, as far as possible, mirror normal scrutiny arrangements. This may require arrangements for scrutiny of Commissioners to change and develop throughout the duration of an intervention, as the council is prepared for its return to democratic control.

Development of scrutiny arrangements and capacity

49. Mayor Biggs told us that one of the key lessons arising from the failings in Tower Hamlets was the need for appropriate systems of checks and balances to be in place to hold the Mayor to account, including suitable arrangements for reporting, appropriate roles for auditors and statutory officers, and defined decision-making and recording frameworks.¹¹⁹ He outlined the steps which were being taken by him as Executive Mayor and by the council's Overview and Scrutiny Committee to operate more openly and transparently, but acknowledged that there was more which could be done to involve the wider public in the accountability arrangements.¹²⁰ As part of the preparation for the return of functions and the operation of normal democratic accountability, the two councils must develop and embed cultures of effective scrutiny. We were encouraged to hear from Cllr Read that in addition to strengthening the scrutiny arrangements in Rotherham, pre-decision scrutiny is being introduced.¹²¹ We agree that this should help to facilitate a more open and transparent culture within the council.

50. Cllr Read told us that Rotherham was receiving support from the LGA to develop its scrutiny, including the provision of mentors for some of the scrutiny chairs, and a "quite intensive programme of training for members to develop their skills, their questioning skills and their understanding of particular subjects".¹²² However, the Rotherham Council UKIP Group criticised the quality of information available to help them hold the council and Commissioners to account. They told us that, despite concerns raised by Dame Louise Casey about the lack of challenge from opposition councillors, they believed there had been insufficient training for opposition councillors.¹²³ In correspondence, the Rotherham Commissioners outlined the training which had been provided to councillors since the intervention began, including council briefings and an intensive programme provided by the Centre for Public Scrutiny. The Commissioners also noted that before the 2016 council elections, they had provided independently-run workshops for potential candidates. Of the 24 councillors elected for the first time in May 2016, 12 had attended the workshops.¹²⁴ **For scrutiny to be effective, councillors must have adequate information, support and training to undertake their roles. We welcome the progress which has been made at Rotherham to establish and develop a culture of scrutiny, including the steps taken by Commissioners to deliver training and development for current and potential councillors. We recommend that DCLG and the Rotherham Commissioners continue to**

119 Q57 [Mayor John Biggs]

120 Q30 [Mayor John Biggs]

121 Q30 [Cllr Chris Read]

122 Q30 [Cllr Chris Read]

123 UKIP ([LAC014](#)), paras 7–9

124 [Correspondence from Sir Derek Myers, Lead Commissioner at Rotherham Metropolitan Borough Council, to the Chair of the Communities and Local Government Committee](#), 12 July 2016

work with opposition councillors and the LGA to identify training needs, and to build the skills, information and support required for the development of effective scrutiny in Rotherham.

51. In their November 2014 report, our predecessors concluded that a key lesson emerging from the Jay report in Rotherham and the best value review in Tower Hamlets was the need for local government to improve scrutiny and challenge within council governance.¹²⁵ We agree that local government scrutiny is fundamentally important, and the adequacy and effectiveness of local authority scrutiny is a subject we are likely to return to later in this Parliament. As part of any future work in this area, we may well return to Rotherham and Tower Hamlets to see what progress has been made to embed robust, effective and transparent scrutiny and accountability arrangements, to develop cultures which value and encourage scrutiny, and to ensure that councillors from across the political divide have the skills and information they need to provide constructive challenge and hold the executive to account.

¹²⁵ Communities and Local Government Committee, Third Report of Session 2014–15, [Child sexual exploitation in Rotherham: some issues for local government](#), HC 648, para 37

Conclusions and recommendations

The interventions in Tower Hamlets and Rotherham

1. It is important that mechanisms are in place to support and encourage local authorities to share learning and best practice with each other. The Local Government Association and Department for Communities and Local Government each have roles to play in this, but local authorities must also take responsibility themselves for seeking out and sharing best practice. (Paragraph 4)
2. We believe that local authorities must be able to apply particular measures in relation to taxi licensing in their areas, such as requiring taxis to have CCTV installed, without those measures being undermined by taxis coming in from other areas. *We recommend that, in order to ensure that lessons are learned from experiences in Rotherham, the Department for Communities and Local Government works with the Home Office and the Department for Transport on the preparation of statutory guidance under the Policing and Crime Bill in relation to taxi licensing. That guidance should be brought forward without delay. Once the guidance has been introduced, the Government should monitor the extent to which it ensures consistently high standards in taxi licensing across the country, and also enables local authorities to put in place and enforce specific measures which are appropriate for their local circumstances. If guidance is not able to achieve this, the Government should consider legislation.* (Paragraph 16)

Issues arising from the interventions

3. We understand Tower Hamlets' initial focus on its own improvement, rather than identifying broader learning points, but we believe that Tower Hamlets council and Commissioners should work with the Local Government Association to identify learning from the council's culture change work which may be applicable to other authorities, and to identify ways to share this learning. (Paragraph 19)

Whistleblowing

4. The objective should be to build public confidence and trust in the two authorities so that whistleblowers feel comfortable and able to raise their concerns directly with the councils themselves. However, when an authority has failed to such an extent as to require the imposition of Commissioners, there may be both a greater need for whistleblowers to be encouraged to come forward, and a lower level of confidence about the response they will receive. *We strongly support the inclusion of Department for Communities and Local Government-appointed Commissioners on the list of Prescribed Persons in the Public Interest Disclosure (Prescribed Persons) Order 2014 and call on the Minister to take the necessary legislative action as a matter of urgency.* (Paragraph 24)

The return of functions

5. If the interventions in Tower Hamlets and Rotherham are to be successful in the long term, careful thought must be given to how functions are returned and how performance is monitored on an ongoing basis. We commend the Rotherham approach, under which Commissioners retain a monitoring and advisory role for the functions which have been restored to the council. Commissioners' expertise, their local knowledge and their experience mean they are well placed to monitor the council's performance in respect of its returned functions. However, even this level of intervention must eventually come to an end. In the longer term, once Commissioners have been fully withdrawn, suitable assurance mechanisms must be in place to ensure that there is no regression or lapse. *We recognise that there are costs associated with monitoring, but nevertheless, we believe that the Department for Communities and Local Government should consider arrangements for ongoing additional oversight measures for councils which are exiting from interventions. Such measures might include, for example, phased withdrawal of Commissioners, seeking assurance from the council's external auditors, or peer review or monitoring by other local authorities.* (Paragraph 30)

The intervention process

6. We believe that councillors, and officers, of local authorities have a responsibility to draw attention to, and pursue, issues which cause them concern, or which do not appear to be as they should. This goes hand in hand with the need for councils to take seriously the concerns which are raised with them, to treat whistleblowers properly, and to take action to investigate and address poor practice. (Paragraph 32)
7. We understand the Minister's reticence to name particular local authorities which may be receiving support or sector-led improvement, and would not ask him to do so. We also understand that any estimate of the number would represent a snapshot in time. However we are disappointed that he was unwilling to give even an estimate which could have helped us to gauge the extent or scale of any potential problem. *We recommend that in his response to this report the Minister provides a broad indication of the number of local authorities which were, as at 29 February and 31 August 2016:*
 - a) *receiving enhanced monitoring, particular support, or sector-led improvement;*
 - b) *at risk of requiring some sort of intervention if there were no improvement in performance.* (Paragraph 34)
8. *We recommend that after the interventions have come to an end, the Department for Communities and Local Government reflects and reports on each intervention and the lessons which can be learned or best practice which can be shared in relation to the intervention process and service improvement. The evaluation reports should take into account this report, and the views of the Commissioners, councillors from across the political spectrum in each local authority, council officers, partner organisations and local residents.* (Paragraph 35)

The appointment of Commissioners

9. *We believe that ordinarily the Department for Communities and Local Government should consult both the relevant local authority and the Local Government Association as part of the process of identifying the required skills and appointing Commissioners. (Paragraph 38)*
10. On an ongoing basis throughout an intervention, Commissioners and the Department for Communities and Local Government, in consultation with the local authority and the Local Government Association, should review the intervention's aims and the local authority's needs, and assess the Commissioners' collective skills and expertise against them. Where appropriate, this might result in the appointment of additional Commissioners, the replacement of existing Commissioners whose expertise no longer aligned with the needs of the organisation, or the withdrawal of individual Commissioners as the local authority achieves sustainable improvements in particular functions. (Paragraph 40)

The cost of intervening

11. We recognise that local authorities are facing difficult economic circumstances and tightening budgets. Authorities which are failing to the point at which interventions are required may, in particular, face challenging financial decisions. We believe therefore that the Department for Communities and Local Government, the Commissioners and the local authorities should continue to monitor and report on the costs of intervention and any savings which are realised. Such reports should be publicly available to ensure that residents are able to see for themselves the financial impact of the interventions. (Paragraph 43)

Transparency, accountability and scrutiny

12. *We note the steps taken by the Commissioners and councils, particularly in Rotherham, to engage with the public and make information about the interventions available to them. While the circumstances in the two authorities are different, we believe there is scope for good practice to be shared between them on issues such as communicating with residents, providing information about the interventions and the ways in which the councils work, and ensuring there are opportunities available for residents to hold the council and Commissioners to account. We welcome the holding of joint meetings between the Commissioners in the two local authorities, and suggest that this could be an appropriate forum for sharing good practice. (Paragraph 47)*
13. The nature of the Commissioner model of intervention means that it may not always be appropriate at the beginning of an intervention for elected members to fulfil the same scrutiny role in relation to the Commissioners as they usually would in relation to the council leadership. However, in the same way that Commissioners seek to model good practice in terms of ways of working and decision-making in order to embed good practice and prepare for the return of functions, they should also seek to model good practice in terms of scrutiny and accountability and should, as far as possible, mirror normal scrutiny arrangements. This may require

arrangements for scrutiny of Commissioners to change and develop throughout the duration of an intervention, as the council is prepared for its return to democratic control. (Paragraph 48)

14. For scrutiny to be effective, councillors must have adequate information, support and training to undertake their roles. We welcome the progress which has been made at Rotherham to establish and develop a culture of scrutiny, including the steps taken by Commissioners to deliver training and development for current and potential councillors. *We recommend that the Department for Communities and Local Government and the Rotherham Commissioners continue to work with opposition councillors and the Local Government Association to identify training needs, and to build the skills, information and support required for the development of effective scrutiny in Rotherham.* (Paragraph 50)

Formal Minutes

Wednesday 20 July 2016

Members present:

Mr Clive Betts, in the Chair

Helen Hayes

Mary Robinson

David Mackintosh

Draft Report (*Government interventions: the use of Commissioners in Rotherham Metropolitan Borough Council and the London Borough of Tower Hamlets*) proposed by the Chair, brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 51 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned until Monday 5 September at 3.45 p.m.]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Monday 27 June 2016

Question number

John Biggs, Mayor, London Borough of Tower Hamlets, **Sir Ken Knight**,
Lead Commissioner, London Borough of Tower Hamlets, **Mary Ney**,
Supporting Commissioner, Rotherham Metropolitan Borough Council and
Councillor Chris Read, Leader, Rotherham Metropolitan Borough Council

[Q1–65](#)

Monday 4 July 2016

Marcus Jones MP, Parliamentary Under Secretary of State and Minister for
Local Government, Department for Communities and Local Government

[Q66–128](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

LAC numbers are generated by the evidence processing system and so may not be complete.

- 1 Cllr Peter Golds ([LAC0022](#))
- 2 Department for Communities and Local Government ([LAC0016](#))
- 3 Dr Laurence Ferry ([LAC0004](#))
- 4 Gerry O'Leary ([LAC0021](#))
- 5 Local Government Association ([LAC0012](#))
- 6 London Borough of Tower Hamlets ([LAC0013](#))
- 7 Malcolm Newsam, former Commissioner for Children's Social Care ([LAC0018](#))
- 8 Mr Zulfqar Ahmed ([LAC0005](#))
- 9 Ms Jayne Swallow ([LAC0008](#))
- 10 RCS ([LAC0007](#))
- 11 Rotherham MBC ([LAC0011](#))
- 12 Rotherham MBC Commissioners' Office ([LAC0009](#))
- 13 Sir Derek Myers ([LAC0023](#))
- 14 Sir Ken Knight ([LAC0010](#))
- 15 T Appleyard ([LAC0017](#))
- 16 Telford & Wrekin Council's Children and Young People's Scrutiny Committee ([LAC0003](#))
- 17 Tower Hamlets Election Petitioners ([LAC0002](#))
- 18 UKIP ([LAC0014](#))
- 19 Venture Taxis ([LAC0015](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

Session 2016–17

First Report	100 per cent retention of business rates: issues for consideration	HC 241
Second Report	Pre-appointment hearing with the Government's preferred candidate for the post of Chair of the Homes and Communities Agency	HC 41
Third Report	Homelessness	HC 40

Session 2015–16

First Report	Devolution: the next five years and beyond	HC 369
Second Report	Housing associations and the Right to Buy	HC 370
Third Report	Department for Communities and Local Government's consultation on national planning policy	HC 703
First Special Report	Child sexual exploitation in Rotherham: Ofsted and further government issues: Ofsted Response to the Committee's Ninth Report of Session 2014–15	HC 435
Second Special Report	Private rented sector: the evidence from banning letting agents' fees in Scotland: Government Response to the Committee's Eighth Report of Session 2014–15	HC 434