

## Are children's services departments in danger of privatisation?

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**Local Government analysis: Birmingham's children's services department is to be run by a trust. Matthew Fletcher, barrister at 1 Garden Court Chambers, considers whether local authorities who underperform are in danger of losing control to external providers.**

### What has prompted Birmingham to take this radical step?

Birmingham City Council's children's services department has been rated as inadequate by Ofsted. It has an extremely poor reputation partly due to a number of high profile deaths of children. The local authority has had difficulty recruiting social workers. There has been a government-led review into its performance which although improvements have been noted the assessment by the Department for Education (DoE) is that children's services are not performing at a good enough standard. An independent trust free from political interference is to be put in place to try and improve the department's performance. This solution has been used with Doncaster and Slough Borough Council's children's services departments.

### What legal framework will be used to facilitate this arrangement?

The power for the DoE to intervene in children's services is to be found in section 497A of the Education Act 1996 (EA 1996). The powers contained in EA 1996, s 497A are likely to be strengthened and added to as the government has outlined changes to how children are to be looked after by local authorities.

The Children and Social Work Bill promises to tackle state failure and transform the outcomes of children in care, so that they have a better future. The DoE has also published information about reforming children's social care services (Children's Social Care Innovation Programme, Children's Social Care Reform: A vision for change). On 14 December 2015, David Cameron, announced reforms to social services indicating that councils who fail to 'transform' underperforming child protection services will be taken over by external providers (Children's social workers). We will therefore have to wait to see what legal framework emerges.

### What will this mean in practice for the social workers, childcare lawyers and people they provide services for in the Birmingham area?

It is too early to say at this stage as the framework for the trust and how it will operate are still being considered. The trust in Doncaster (on their own account) suggest that children's services run by a trust:

- can focus solely on children rather than wider political or administrative considerations
- are not part of a wider bureaucracy of the local authority
- can identify and implement decisions more swiftly

It is unlikely to mean much change for lawyers although social workers may notice changes in working methods.

### Who will fund this trust?

The details of this trust are not yet finalised but in the Doncaster model the council commissions services from the trust in that case for a minimum of five years. It could be termed a form of 'outsourcing' although currently not for profit.

### Birmingham is the largest local authority in England and has been having problems with children's service provision for many years, is this step likely to be repeated elsewhere?

A number of other local authorities have taken this step, as mentioned above Doncaster is run by a trust, as is Slough. There have been interventions in Norfolk, Sandwell and Sunderland. It is likely that children's social care departments will undergo radical changes in the future if the aims of the government's policy paper, Children's Social Care Innovation

Programme, to innovate and redesign service delivery and improve outcomes for children is implemented. The paper states that it does not think that the 'traditional operational arrangements for children's social care create the conditions that best enable social workers to do what we ask of them'.

### **Is it possible to assess whether this intervention is related to cuts to government financing of local authorities?**

It is difficult to attribute whether an intervention such as this is due to cuts in funding however, Kathy Evans, chief executive of Children England, said that, after the recent spending review failed to mention child protection and children in care:

'changing the management structure without addressing the systemic inadequacy of budgets to meet rapidly increasing levels of children's needs is an irresponsible political move that will leave early intervention abandoned and essential staff stressed and demoralised'.

*Interviewed by Evelyn Reid.*

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