
STATUTORY INSTRUMENTS

2008 No. 493

The County Durham (Structural Change) Order 2008

PART 3

TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

Main transitional function and Implementation Executive

6.—(1) On the coming into force of this Order there shall be added to the functions of the County Durham council the function, which is to be exercisable only during the first and second transitional periods, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Throughout the first transitional period, section 15 of the 2000 Act (discharge of functions: leader and cabinet executive) shall have effect in relation to the County Durham council and—

- (a) the main transitional function, and
- (b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "19 or 20," there were inserted "or under the County Durham (Structural Change) Order 2008,".

(3) The County Durham council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility, throughout the first transitional period, of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply throughout the first transitional period to, or in relation to, the Implementation Executive subject only to paragraphs (5), (6) and (8) to (10) of this article and article 8(2) to (4); and for this purpose "statutory provisions" includes —

- (a) any enactment contained in an Act passed after the making of this Order; and
- (b) any instrument made at any time under an enactment (including an enactment contained in an Act passed after the 2007 Act).

(5) The Implementation Executive shall consist of—

- (a) the person who is for the time being the leader of the County Durham Council,
- (b) nine other persons nominated by that Council who are for the time being members of that Council,
- (c) one other person nominated by that Council who is for the time being a Conservative Party member of that Council, and
- (d) seven persons nominated by the district councils, each of whom is nominated by one of the district councils and is for the time being a member of the council by which he is nominated (whether or not he is for the time being the leader of that council's executive).

(6) In making the nominations referred to in paragraph (5)(b) and (d), the County Durham council and the district councils shall, to the extent that it is practicable to do so, secure that at all times

the Conservative Party, the Labour Party and the Liberal Democrats are each represented on the Implementation Executive by at least one member.

(7) It shall be the duty of the County Durham council and each of the district councils to co-operate in the establishment of the Implementation Executive.

(8) The leader of the Implementation Executive shall be the person who is for the time being the leader of the County Durham council's executive; and that person shall preside at all meetings of the Implementation Executive at which he is present.

(9) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Executive) having one vote.

(10) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Executive) shall have a casting vote, in addition to any other vote the person may have.

Other transitional functions

7.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the first and second transitional periods, are—

- (a) such executive and non-executive functions of the County Durham council as exist on the date on which this Order is made; and
- (b) such other functions (including functions exercisable by all or any of the district councils, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as, by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(2) The means referred to in paragraph (1) are—

- (a) this Order,
- (b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)⁽¹⁾,
- (c) an order under section 20 of the 2007 Act (correction of orders), and
- (d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

Discharge of functions by Implementation Executive

8.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility, throughout the first transitional period, of the Implementation Executive, and shall not, during that period, be a responsibility of the executive of the County Durham council.

(2) Section 15(7) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an officer of the authority) shall have effect during the first transitional period in relation to the Implementation Executive as if—

- (a) references to functions included references to responsibilities, and
- (b) the reference to an officer of the authority included a reference to—
 - (i) a sub-committee of the Implementation Executive, and
 - (ii) an officer of any of the district councils.

(3) Section 15(9) of the 2000 Act (which enables a person who has made arrangements for the discharge by another person of any function of his, to discharge that function himself) shall have

(1) 1978 c.30.

effect during the first transitional period in relation to arrangements made under subsection (7) of that section (as modified by paragraph (2) above) as if —

- (a) references to functions included references to responsibilities, and
- (b) the reference to an officer of the authority included a reference to—
 - (i) a sub-committee of the Implementation Executive, and
 - (ii) an officer of any of the district councils.

(4) Section 21 of the 2000 Act (overview and scrutiny committees) shall not apply during the first transitional period in relation to any matter that is—

- (a) a responsibility of the Implementation Executive by virtue of paragraph (1), or
- (b) the responsibility of that Executive under arrangements made by the County Durham council under the 2000 Act.

(5) Section 13 of the 2000 Act (functions which are the responsibility of an executive) shall have effect as if, at the end of subsection (10)(c), there were added “or as mentioned in article 8(6) of the County Durham (Structural Change) Order 2008”.

(6) At any time during the first transitional period, the County Durham council and the district councils may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

- (a) reviewing or scrutinising decisions made, or other action taken, by the Implementation Executive in connection with any matter of a description mentioned in paragraph (4); or
- (b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any function or responsibility of that Executive.

(7) Where such arrangements as are mentioned in paragraph (6) are made, the joint committee shall inform the County Durham council and the district councils before the end of the first transitional period—

- (a) of the matters that it has considered, and
- (b) of the conclusions (if any) that it has reached concerning those matters.

Implementation Plan and further provisions relevant to discharge of functions by Implementation Executive

9.—(1) During the first transitional period, the Implementation Executive shall prepare, keep under review, and revise as necessary, an Implementation Plan which shall include—

- (a) such plans and timetables as the Implementation Executive considers necessary to secure the effective, efficient and timely discharge of the main transitional function and the article 7 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of the County Durham council’s functions on or after 1st April 2009.

(2) For the purposes of —

- (a) preparing, reviewing and revising the Implementation Plan,
- (b) discharging the main transitional function and the article 7 functions, and
- (c) discharging such other functions as may be conferred on it,

the Implementation Executive shall have regard to the information supplied by the County Durham council to the Secretary of State in support of its proposal for single tier local government in County Durham and, in particular, to the information supplied in relation to the matters specified in paragraphs 3.6 to 3.11 (strategic leadership, neighbourhood empowerment and value for money

services) of the guidance “Invitations to councils in England”, issued by the Secretary of State in October 2006(2).

(3) The Implementation Executive may, by written notice to—

- (a) the proper officer of the County Durham council, or
- (b) the proper officer of any of the district councils,

require the council referred to in the notice to take such action relevant to the main transitional function or any of the article 7 functions as may be specified in the notice.

(4) In paragraph (3), “the proper officer” means the officer appointed by the County Durham council or the district council concerned (as the case may be) for the purpose of receiving such notices.

Implementation Team

10.—(1) Not later than 21 days after the coming into force of this Order the Implementation Executive shall form a team of officers (“the Implementation Team”) for the purposes of—

- (a) during the first transitional period, assisting the Implementation Executive in the discharge of the main transitional function and the article 7 functions; and
- (b) during the second transitional period, assisting the executive of the County Durham council in the discharge of those functions.

(2) The members of the Implementation Team shall include officers from both the County Durham council and each of the district councils.

(3) The leader of the Implementation Team shall be an officer of the County Durham council.

(4) It shall be the duty of the County Durham council and each of the district councils to cooperate in the formation of the Implementation Team and to release the officers concerned from their normal duties at such times or for such periods as the Implementation Executive or the executive of the County Durham council may reasonably require.

Dissolution of Implementation Executive, etc and further provisions relevant to transition

11.—(1) The Implementation Executive, any sub-committee of that Executive and any joint committee established as mentioned in article 8(6) shall be dissolved on the fourth day after the 2008 election day.

(2) The discharge of the main transitional function and the article 7 functions in the second transitional period shall be an executive function of the County Durham council (falling to be discharged by that council’s executive in accordance with executive arrangements under the 2000 Act).

(3) Section 15(7) of the 2000 Act shall have effect in relation to the discharge of that executive function as if the reference to an officer of the authority included a reference to an officer of any of the district councils.

(4) Article 9 shall have effect in relation to the second transitional period as if—

- (a) the reference to the first transitional period were a reference to the second transitional period;
- (b) references to the Implementation Executive were references to the County Durham council’s executive; and

(2) The guidance was published by the Department for Communities and Local Government. Copies of the guidance may be obtained from Communities and Local Government Publications, PO Box 236, Wetherby, West Yorkshire, LS23 7NB, quoting Product Code 06 LGSRU 04198 (Tel: 08701 226 236; Email: [Email: communities@twoten.com](mailto:communities@twoten.com) or online at www.communities.gov.uk).

(c) paragraph (3)(a) were omitted.