
EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment, on 1st April 2009, of a single tier of local government in two areas of the existing county of Cheshire (articles 3 and 4). Two new councils are created: the Cheshire East Council, for the same area as the existing boroughs of Congleton, Crewe and Nantwich, and Macclesfield, and the Cheshire West and Chester Council, for the same area as the existing City of Chester and the boroughs of Ellesmere Port and Neston, and Vale Royal.

The county of Cheshire and all of its districts are abolished as local government areas with effect from 1st April 2009. The county council and all of the district councils in the county are wound up and dissolved on that date (articles 3, 4 and 5).

The new councils, to which elections are to be held in 2008, will operate as “shadow authorities” until 1st April 2009 (article 6). A “shadow authority” is defined in article 2 as an authority (not being a local authority) that will become a local authority on 1st April 2009.

Part 3 of the Order (articles 6 to 11) deals with the shadow authorities and their functions. Their principal function is to prepare for the transition to single tier local government on 1st April 2009. On that date the members of the shadow authorities will become the first councillors of the single tier district councils.

At their first meeting, the shadow authorities must create an executive, adopt a code of conduct for their members and designate officers as their interim monitoring officer and chief finance officer (articles 7 and 8). In relation to their executive arrangements and code of conduct, they must adopt proposals made to them by a joint committee of the existing local authorities. (There is to be one joint committee for Cheshire East and another for Cheshire West and Chester; see articles 19 and 20.)

Not later than 31st December 2008, each of the shadow authorities must appoint persons to act as the monitoring officer, chief finance officer and head of paid service of the authority. Those persons will become the monitoring officer, chief finance officer and head of paid service of the Cheshire East and Cheshire West and Chester Councils on and after 1st April 2009. (article 8)

Articles 9 and 10 deal with general functions of the shadow authorities.

Article 11 provides for the payment of allowances to members of the shadow authorities. The allowances will be based initially on the scheme of members’ allowances made by Cheshire County Council for the financial year beginning on 1st April 2008.

Part 4 of the Order (articles 12 to 15) deals with electoral matters. Article 12 cancels the elections that would otherwise have taken place in 2008 for councillors of the existing district councils. The term of office of those councillors who would have retired after the 2008 election is extended to 1st April 2009. Any casual vacancies in any of the existing councils arising after 30th September 2008 and before 1st April 2009 are not to be filled.

Article 13 provides for elections to the new councils (which will then operate as shadow authorities until 1st April 2009) to be held in 2008. The Cheshire East Council will comprise 81 councillors and the Cheshire West and Chester Council will comprise 72 councillors. The election will be held on the basis of new district wards, whose areas and names will be the same as those of the existing county electoral divisions. The names of the new district wards are shown in the Schedule to the Order. Each new ward will return three councillors.

Article 14 requires the holding of elections to the Cheshire East Council and the Cheshire West and Chester Council in 2011 and in every fourth year after that.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Article 15 defers to 2011 the parish council elections that would otherwise have taken place in 2010. The term of office of parish councillors elected in 2006 or 2008, or at subsequent by-elections, is varied, expiring in 2011, when all parishes will hold elections. There will then be parish council elections in 2015 and in every fourth year after that.

Part 5 (articles 16 to 22) deals with other transitional arrangements. Article 16 requires all the existing councils in Cheshire to prepare for the transition to single tier local government on 1st April 2009. Until the first meetings of the new (shadow) councils after the 2008 elections, joint committees of the existing local authorities are to be responsible for discharging the authorities' functions under articles 16, 18 (implementation plans), 19 (proposals for executive arrangements) and 20 (proposals for codes of conduct).

In preparing budgets, plans and timetables, and discharging other transitional functions, the joint committees are required to have regard to the responses made to the Secretary of State by Chester City Council, Ellesmere Port and Neston Borough Council, Macclesfield Borough Council and Vale Royal Borough Council in support of their proposal for single tier local government in Cheshire (article 18(2)).

Article 21 provides for a team of officers drawn from the existing councils to assist the joint committees and, if required by the shadow authorities, those authorities.

Article 22 imposes on the existing councils general duties to consult and co-operate, to disclose relevant information and, generally, to further the purposes of the Order.

In Part 6, articles 23 to 26 amend the Borough of Congleton (Electoral Changes) Order 1998, the Borough of Crewe and Nantwich (Electoral Changes) Order 1998, the Borough of Macclesfield (Electoral Changes) Order 1998 and the City of Chester (Electoral Changes) Order 1998. In each case, the article that deals with parish elections is omitted. This is consequential on the new provisions for parish elections in article 15 of this Order. Savings are made for parish elections due to be held in 2008.

A full impact assessment has been produced for this and other orders that provide for a change to single tier local government. A copy of the assessment has been deposited in the Library of both Houses of Parliament and may be accessed at www.communities.gov.uk