

**EXPLANATORY MEMORANDUM TO**  
**THE CHESHIRE (STRUCTURAL CHANGES) ORDER 2008**

**2008 No. 634**

**1.** 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

2.1 The Order provides for single tiers of local government in the county of Cheshire with effect from 1st April 2009. A new non-metropolitan county and a new non-metropolitan district, each to be known as Cheshire East, are established for the same area as the existing boroughs of Congleton, Crewe and Nantwich, and Macclesfield. A new non-metropolitan county and a new non-metropolitan district, each to be known as Cheshire West and Chester, are established for the same area as the existing City of Chester and the boroughs of Ellesmere Port and Neston, and Vale Royal. Two new non-metropolitan district councils are to be established: the Cheshire East Council, and Cheshire West and Chester Council. The existing county and district councils are to be wound up and dissolved. On and after 1st April 2009, the two new councils will be the sole local authorities<sup>1</sup> for their respective districts.

2.2 The Order provides for the election in 2008 of a “shadow” authority for each of the new districts. The main function of each “shadow authority” will be to prepare for the transition on 1st April 2009 to single tier local government in its district. Each “shadow authority” will become the sole local authority for its district on 1st April 2009.

2.3 Pending elections to the “shadow” authorities in 2008, preparations for transition to the new structures are to be the responsibility of the existing district councils and the county council, working through two joint committees (one for Cheshire East and the other for Cheshire West and Chester). The joint committee for Cheshire East will consist of representatives of the County Council and the East Cheshire district councils. The joint committee for Cheshire West and Chester will consist of representatives of the County Council and the West Cheshire district councils.

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<sup>1</sup> For these purposes “local authority” does not include a parish council.

### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The Order is, in many respects, similar to those laid on 8th January 2008 relating to Cornwall, County Durham, Northumberland, Shropshire and Wiltshire. The main points of difference are that—

- this Order provides for two new districts and two new councils, each of which is to constitute a single tier of local government on and after 1st April 2009. Both Cheshire County Council and all of the existing district councils in Cheshire are to be wound up and dissolved on 1st April 2009; and
- “shadow” authorities, to which elections are to be held in 2008, are to be responsible for preparing for the transition to single tier local government on 1st April 2009. (The equivalents in the orders laid on 8th January are the Implementation Executives, which comprise county council and district council representatives.)

3.2 The Order is subject to the affirmative procedure; see section 240(6) of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”).

3.3 The Order will be classified as a “general” rather than “local” statutory instrument, notwithstanding that it affects only the area of an English county. This is accepted practice for orders of this nature.

3.4 The Order deals only with the essential elements of the new single tier local government structures; the abolition of the existing county and districts and the winding up and dissolution of the existing county and district councils, the creation of new districts and new councils for those districts, and the making of arrangements for preparation for transition to single tier local government. In particular, the Order contains no provisions about the transfer of the existing county or district councils’ functions, property, income, rights, liabilities and expenses. The Order will need to be supplemented by further orders under section 7 of the 2007 Act and/or regulations of general application under section 14 of that Act. The matters to be dealt with by such orders and regulations are the transfer, on or before the 1st April 2009 to the single tier authorities of the county and district councils’ functions, and the transfer of property, income, rights, liabilities and expenses to those authorities, or other bodies (for example, Charter Trustees) as, following discussions with the affected local authorities concerned, are considered appropriate. This also allows the possibility of agreements to be made by the affected local authorities under section 16 of the 2007 Act about the transfer of property, income, rights, liabilities and expenses. The further orders and/or regulations may deal with—

staffing arrangements, including the transfer and appointment of staff;

financial matters, including those relating to non-domestic rates and council tax, the setting of budgets for 2009/10 and reserves and assets;

the transfer of assets and liabilities, including property;

the establishment of implementation “milestones” for some activities;

ceremonial issues such as the creation of Charter Trustees and the transfer of ceremonial functions and regalia to Charter Trustees or parish councils.

- 3.5 The Order makes provision for elections to be held on the ordinary day of election of councillors in 2008 (normally the first Thursday in May) of councillors of the two “shadow” authorities: the new Cheshire East Council and the new City of Chester and Cheshire West Council.
- 3.6 The councils of the boroughs of Congleton, Crewe and Nantwich, Ellesmere Port and Neston, and Macclesfield, and of the city of Chester, elect one third of their membership in three years out of four, and elections are due on the ordinary day of election of councillors in 2008. The Order makes provision for the cancellation of those elections. Although there is no express power in the 2007 Act to cancel any local government election, cancellation has been a feature of many earlier local government structural change orders made under powers not materially different from those conferred by sections 11 and 12 of the 2007 Act, for example, section 17 of the Local Government Act 1992 (c.19). An example of an article cancelling local government elections may be found in article 8 of the Humberside (Structural Change) Order 1995 (S.I. 1995/600). In cases such as the Humberside Order, the result of the cancellation of elections was that in the councils concerned, the term of office of affected councillors was extended for some 10 months until the abolition of those councils. This is the same result as that provided for in the Order. Cancellation in the Humberside case also avoided district elections being held at the same time as elections to the new authorities. The parallel with the Order is that the cancellation of district council elections in 2008 means that they are not held at the same time as the elections to the “shadow” authorities. Any other course would have been very confusing for the electorate.
- 3.7 Additionally, on practical grounds, it would be very wasteful of public resources to hold in 2008 elections to district councils that are to be wound up and dissolved some 10 months later. It is probable that a much reduced number of people would want to stand for election in May 2008 to one of the district councils because the term of office would be short and the functions of newly-elected district councillors would exclude those that are to be discharged by the “shadow” authorities. For example, there would be an issue about the nature of such elections in that the key functions that members would normally be elected to undertake - such as setting the budgets and the council tax for the following year - would not be open to those being elected. It would also be potentially confusing, and indeed damaging to democracy, to provide for electors to vote for candidates whose powers once elected would be unusually limited both in terms of the functions they can undertake and their term of office.
- 3.8 The Order also provides for the cancellation of certain parish council elections that would otherwise be held on the ordinary day of election of councillors in 2010. This is to avoid the waste of public resources of holding parish elections on days where, as a result of the Order’s provisions, no other local government elections are to be held. Parish council elections are usually combined with other

local government elections. To avoid unnecessary disruption to parishes and to bring their election cycles into step with those to the new single tier authorities, parish elections will be held in 2011 and every four years after that.

#### **4. Legislative Background**

- 4.1 Part 1 of the 2007 Act provides for the making of local government structural and boundary changes in England. So far as is relevant to the Order that is the subject of this Memorandum, it enables provision to be made by order under section 7 for re-structuring an area in which there are two tiers of local government (a county council and district councils) into a single tier of local government. Section 1(2)(b) provides, for the purposes of Chapter 1 (structural and boundary change), that there is “a single tier of local government” for an area if “there is a district council and no county council for that area”.
- 4.2 Assuming that Parliament approves the Order and supplementary instruments to be made under the 2007 Act, the new single tier authorities will have new governance arrangements and new functions that extend well beyond those of any existing authority in the county. However, it is also helpful if reliance is placed, where appropriate, on established local government legislation which is well understood by the authorities most directly affected by the restructuring proposals. The Order has been prepared on that basis.
- 4.3 Sections 7 and 11 of the 2007 Act provide for the implementation of a proposal for a single tier of local government. The Order makes provision for the abolition of the existing county and district areas (section 11(3)(b)), the winding up and dissolution of the existing county and district councils (section 11(3)(f)) and the constitution of new county and district areas (section 11(3)(a)). The Order is concerned only with the preparations for the transfer to single tier local government on 1st April 2009. The actual transfers of functions (not all of which may be for the single tier authorities, as there may be functions going to charter trustees, for example), property, rights and liabilities are to be dealt with later.
- 4.4 The power to give the “shadow” authorities functions during the period from the fourth day after the ordinary day of election of councillors in 2008 to 1st April 2009 is conferred by section 13(1) of the 2007 Act. These transitional provisions rest on the fact that single tiers of local government are being established by the Order, and are not transitional on any transfer of functions (for which no provision is made at this stage). In particular, the Department does not seek to rely on 12(1)(k) of the 2007 Act.
- 4.5 The Order provides for the cancellation of district council elections that would otherwise have been held in 2008. The power to cancel district council elections is consequential on the abolition of the districts and the winding up and dissolution of the district councils on 1st April 2009. There is an additional dimension in Cheshire also in that, as set in paragraph 3.6, it would be confusing for the electorate to hold district elections at the same time as elections to the new shadow authorities. As explained in paragraph 3.6, similar provision has been included in structural change orders made since, at least, 1992 and, so far as the Department is aware, none has been questioned by either House and none has

been challenged on that ground in any court. There are also practical reasons for cancelling elections, as set out at paragraph 3.7.

- 4.6 For the reasons explained in paragraph 3.8, the Order also provides for parish elections that would otherwise have been held in 2010 to be held instead in 2011. The Department relies on the powers in section 13(1) of the 2007 Act to require the holding of parish council elections in 2011.
- 4.7 Under the Order, responsibility for preparing for the transition to single tier local government is initially (before the election of the “shadow” authorities) made the responsibility of joint committees of the existing county and district councils (the Cheshire East Joint Committee and the Cheshire West and Chester Joint Committee). After the election of the “shadow” authorities, the responsibility is that of those authorities.
- 4.8 The Order makes provision for other transitional functions to be conferred by further orders under section 7 of the 2007 Act, by orders under section 20 of that Act (which enable corrections to be made that cannot be made by the usual means; amendment in reliance on section 14 of the Interpretation Act 1978, as applied to statutory instruments by section 23(1) of that Act), or by regulations of general application under section 14 of the 2007 Act.

## **5. Territorial Extent and Application**

- 5.1 The Order is relevant only to a single English county.

## **6. European Convention on Human Rights**

- 6.1 The Secretary of State for Communities and Local Government, Hazel Blears, has made the following statement:

“In my view the provisions of the Cheshire (Structural Change) Order 2008 are compatible with the Convention rights.”

## **7. Policy background**

### The White Paper and the Invitation to Councils

7.1 The Local Government White Paper, *Strong and Prosperous Communities*, (“the White Paper”) published on 26th October 2006, explained the Government’s intention to give councils in local government areas where both county and district councils exercise local government functions (“two-tier areas”) an opportunity to make proposals for the establishment of unitary authorities. A unitary authority exercises all local government functions in its area. The implementation of local government structural change has significant consequences for existing councils in the affected area, as well as being of importance to their staff, stakeholders and citizens.

7.2 The White Paper identified that councils in two-tier areas face additional challenges. In particular, it noted that “strong leadership and clear accountability is hard to achieve where for the same place there are two council leaders each with a legitimate

democratic mandate and often having different, sometimes conflicting agendas” (paragraph 3.50 of the White Paper). It concluded that that councils in all two-tier areas would be expected to find new governance arrangements which overcome the risks of confusion, duplication and inefficiency between tiers, and can meet the particular challenges faced by small districts with small budgets or tightly constrained boundaries (paragraph 3.54 of the White Paper).

7.3 The White Paper explained that in some counties there was a widely held view that moving to unitary structures would be the best way of overcoming the risks and challenges of two-tier arrangements, and would improve accountability and leadership, increase efficiency, and improve outcomes for local people (paragraph 3.55). In accordance with this policy, the Government published alongside the White Paper the *Invitation to Councils in England* (“the Invitation”), which invited councils to submit proposals for unitary structures. The Invitation also invited proposals from partnerships of councils wishing to pioneer innovative forms of two-tier working. It was a matter for councils whether they chose to respond to either (or, by way of alternatives, both) parts of the Invitation.

7.4 Following the publication of the White Paper and Invitation, on 12th December 2006 the Local Government and Public Involvement in Health Bill was introduced into Parliament. It received Royal Assent on 30th October 2007. Part 1 of the 2007 Act makes provision for the implementation of local government structural and boundary change. The changes made by this Order could not have been made by non-legislative means.

### Timing

7.5 The Invitation was issued prior to the introduction of the Bill into Parliament, so that councils could work on their proposals, and the Secretary of State could begin the process of considering, consulting on and filtering proposals. Section 21 of the 2007 Act provides that where an invitation was made, guidance was given, a proposal was made or a consultation carried out, it is immaterial that it was done before the commencement of provisions of the 2007 Act dealing with structural and boundary change. The Government’s policy since the issue of the Invitation has been to keep to a minimum the period of uncertainty for councils, their staff, stakeholders and citizens which is inevitably generated by proposals for structural change. The then Secretary of State for Communities and Local Government, Ruth Kelly, explained at second reading of the Bill on 22nd January 2007:

“It was clear when we set up this process that local councils wanted us to provide a short window of opportunity for them to put forward proposals so that, after decisions have been made, they can get on with the business of delivering local government.”

7.6 The Secretary of State’s power to take these steps prior to the 2007 Act being commenced was challenged by way of judicial review in the case of *Shrewsbury and Atcham Borough Council v Secretary of State for Communities and Local Government*. Mr Justice Underhill dismissed the claim on all grounds on 10th October 2007. The case is the subject of an appeal which is listed for hearing in the week beginning 28 January 2008.

## The Invitation process

7.7 The Invitation set out guidance to councils as to the criteria which proposals had to meet. The five criteria set out in the Invitation were that if change is made and new unitary structures implemented: the change to future unitary structures must be affordable; be supported by a broad cross section of partners and stakeholders; future structures must provide strong, effective and accountable strategic leadership; deliver genuine opportunities for neighbourhood flexibility and empowerment; and deliver value for money and equity on public services.

7.8 The Invitation also outlined the process for handling councils' proposals. Firstly, proposals received by the 25th January deadline underwent a preliminary assessment against the criteria. 26 proposals were received by the deadline. After seeking further information from councils and assessing the proposals against the criteria, the Government announced on 27th March that it considered there was at least a reasonable likelihood that 16 of those 26 proposals would, if implemented, meet the criteria. The 16 proposals therefore progressed to stage two of the process, stakeholder consultation, *Proposals for Future Unitary Structures: Stakeholder Consultation*, launched on 27th March. Table 1 of Annex A lists the proposals which progressed to stakeholder consultation, and Table 2 lists those which did not. The consultation ran for twelve weeks until 22nd June.

7.9 The Department sent the consultation document to key partners and stakeholders identified as having an interest in, or responsibility for, various aspects of service delivery in the areas affected by the proposals. A list of these key consultees was posted on the Communities and Local Government website and can be found at p33 and 34 of the Summary of Responses, copies of which have been supplied to the Committees. Affected local authorities were also asked to bring this consultation to the attention of local stakeholders, and the consultation was available on the Department's website where it was open to anyone to respond to the consultation, commenting either on the proposal affecting their area or more generally (paragraphs 6 and 7 of the Stakeholder Consultation). All representations, and all other relevant material, were considered by the Secretary of State during the process of assessing the proposals.

7.10 Stakeholders were asked to consider the extent to which, in their view, proposals relevant to their geographic or functional area met the criteria as set out by the Government; to provide evidence-based facts in support of their assertions and, if relevant, to express a preference where competing proposals were being considered for an area. In particular, views were welcomed on the long-term outcomes specified by the strong leadership; neighbourhood empowerment; and value for money and equity on public services criteria. In areas, including Cheshire, where there was more than one proposal being consulted upon, the Government sought views on which of the alternative proposals would better achieve the long-term outcomes specified in the Invitation.

7.11 The Government received over 55,000 responses to this consultation, with 1,700 being submitted by organisations and 4,900 individual representations from members of the public. A further 49,000 responses were 'campaign responses', where the respondent had filled in a pro-forma distributed to them as part of an organised campaign, though there was considerable variation in the number of campaign responses received in relation to different areas.

7.12 The Department has published a summary of the consultation responses, and a copy of the summary has been supplied to the Committees<sup>2</sup>. In all areas, a wide range of views was expressed. The Department does not in this Memorandum seek to summarise further and thus risk omitting or misrepresenting the views of some consultees. Members of the Committee may therefore find it most helpful to read the introduction and relevant area sections of the published summary, as follows: paragraphs 9-23 of the Introduction, and pages 8 and 9 (Cheshire).

7.13 Following the stakeholder consultation, the third stage of the Invitation process was to further assess proposals against the criteria. The Government had regard to all representations which had been made to it, including the consultation responses, as well as to all further information available, for example, submissions from local authorities developing the detail of their proposals. Where consultees had provided comments or views on the content of a proposal, those responses were taken into account in the assessment of the proposals against the relevant criteria. All the consultation responses contributed to the assessment against the broad cross section of support criterion.

#### Decisions as to which proposals to implement

7.14 Following the reassessment of proposals, the Government announced on 25th July 2007 to Parliament that it was minded to implement nine unitary proposals. At that stage of the process, the Secretary of State considered that these nine proposals, including the proposal which is the subject of the Order, had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation. As regards Cheshire, the Secretary of State took the view that both alternative proposals that had proceeded to stakeholder consultation – a proposal from the county council for a single unitary county council and a proposal from a number of the district councils for a two-unitary Cheshire – had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation but that she was minded to implement the two-unitary proposal as she considered that proposal more likely to deliver to a greater extent the long-term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services. However, she recognised that there were risks to the two-unitary proposal achieving the outcomes specified by the affordability criterion and accordingly the district councils were invited to undertake further work and submit additional information on the financial viability of the proposal. They were advised that the Secretary of State would have regard to any additional information provided before taking a final decision. Letters were sent to the authorities submitting each proposal on 25th July stating the Secretary of State's reasons for her decision to opt for the two-unitary proposal. The text is set out in Annex B.

7.15 The Government announced on 5th December 2007 that the Secretary of State had decided to confirm her decision of 25th July in regard to the five areas where a single tier of local government was being created on the basis of existing county councils. The decision in relation to Cheshire was deferred in order to allow more time for consideration of the very large volume of detailed information and representations received since July about both proposals, including the additional financial information sought by the Secretary of State in her letter of 25th July.

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<sup>2</sup> The document is also available on the Department's website at:  
<http://www.communities.gov.uk/publications/localgovernment/unitarystructureresponses>.

7.16 The Government then announced on 18th December 2007 that the Secretary of State, having considered all the information and representations made to her, remained of the view that there was a reasonable likelihood that, if implemented, both proposals would meet the outcomes specified by each of the criteria set out in the Invitation of 26 October 2006. Overall, however, she decided to confirm her “minded to” decision of 25 July that it was more likely that the long term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services would be delivered to the greater extent by the proposal for a two-unitary Cheshire. Her decision further reflected the fact that the additional information requested had satisfied her in relation to the financial viability of the proposal.

7.17 The Government believes that the implementation of this proposal will establish new and innovative local governance in Cheshire, combining both strong, strategic councils and effective arrangements for empowering communities at the most local level. This takes further the concept of unitary local government developed in the 1990s. It provides for the creation of councils that will be able to lead the way in empowering citizens and communities, promoting prosperity and modernising local service delivery to achieve both greater efficiencies and better outcomes. It is expected to result in total estimated annual savings of over £16m per year. It is estimated that transitional costs will be approximately £25m in total. Overall, the number of councils in Cheshire will be reduced from 7 to 2.

#### Preparations for reorganisation

7.18 In March 2007, the Department convened a group of experts to consider the implementation issues associated with local government reorganisation. It comprised representatives from all the major local government trade unions, the Local Government Association (LGA), and Local Government Employers (a body established by the LGA to consider local government pay, pensions and employment contracts), and other professional bodies of local government. The Department continues to engage and consult with that group as decisions are taken on the content of the further secondary legislation which will be necessary to ensure a smooth transfer to a single tier of local government in the areas which are the subject of these or any future structural change orders.

7.19 Flowing from the work of that group, the Government published a discussion paper on 22nd August 2007, ‘*An approach to implementation*’. This set out, as a basis for dialogue with the potentially affected councils, the broad approach to implementation of structural change. Around 160 responses were received. In addition, the Department held meetings with local authorities in affected areas to discuss the implementation approach and the key issues to be included in these orders.

7.20 The key issues raised were:

- concerns about the degree to which the new unitary authorities would be genuinely new and not simply a continuation of the existing councils;
- the nature and composition of the authority with responsibility for preparing for reorganisation, including their electoral mandate;
- staffing matters (whether, and if so how, to differentiate between front and back office staff, key appointments, staff transfers (who and when, and the protections for their terms and conditions), redundancy and compensation).

### New authorities

7.21 In Cheshire all existing councils will be abolished on 1st April 2009. It is the Government's intention that the members elected to the shadow councils at the 2008 elections will have a genuine opportunity to shape and design two entirely new unitary councils that can deliver better and more efficient services for local residents.

### *Elections and membership*

7.22 The Order makes provision for the creation of two joint committees of the relevant councils and the county council; one for Cheshire East and the other for Cheshire West and Chester. These committees will oversee the transitional process until the first meetings of the shadow councils, which are to be held not later than 14 days after the ordinary day of election of councillors in 2008.

7.23 The membership of the joint committees reflects discussions and agreements with the affected councils within Cheshire. The Department provided councils with the following guiding principles when considering the membership of the joint committees:

- As the process is based on the implementation of a proposal, the proposing authorities must be in the driving seat. The chair and, where practicable, a working majority should therefore come from the proposing authority;
- All of the affected local authorities and main local political parties must be able to make an input into the joint committee and have full voting rights;
- There needs to be an efficient and effective decision-making body able to provide the corporate leadership necessary to drive the transitional change through, and the joint committee should therefore not be too large.

7.24 In relation to elections, councils' views were sought on whether elections should be held in 2008 or 2009. There was unanimity amongst the Cheshire councils for a 2008 election. The key advantage of 2008 elections was that they would ensure that the new councils had a fresh democratic mandate in preparing for the transition.

### *Staffing matters*

7.25 The Government intends to deal with staffing matters in regulations under the 2007 Act to be laid before Parliament during 2008. The Government is engaged in consultation with councils and other stakeholders, including the Trade Unions, on this. It is worth noting that the Order empowers the shadow authorities to appoint staff by virtue of giving them access to powers in section 112 of the Local Government Act 1972. The Order also requires each shadow authority to appoint a permanent monitoring officer, a chief finance officer and a head of paid service by 31st December 2008. In advance of these permanent appointments, the Order requires each shadow council, at its first meeting, to designate officers of the existing councils to be its interim monitoring officer and interim chief finance officer.

### *Other matters*

7.26 The Government's intention is to ensure that the "shadow" authorities have the key powers and the staffing resources necessary to ensure that there is a smooth transition on 1st April 2009 to new unitary authorities which can begin work on the delivery of the

long-term outcomes envisaged in councils' proposals. The "shadow" authorities are therefore enabled to take all such practicable steps as are necessary or expedient to prepare for the assumption of full local government functions and powers on 1st April 2009 and to ensure continuity of public service delivery on and after this date. Before elections to the shadow councils, the existing councils are given the function of preparing for and facilitating the economic, effective, efficient and timely transfer of the county and district councils' functions, property, rights and liabilities. To this end, it is a duty of each joint committee to prepare an Implementation Plan, and in doing so to have regard to the information supplied by the councils whose proposals the Order implements, in particular in relation to strategic leadership, neighbourhood empowerment and value for money services. The "shadow" authorities are required to keep this plan under review when they come into being.

7.26 All affected local authorities are required to co-operate in achieving structural change and generally to exercise their functions in such a way as to further the economic, efficient, effective and timely transfer of functions to the new unitary authorities.

7.27 Detailed issues common to all affected areas will be dealt with in regulations during 2008. As well as the staffing issues referred to at paragraph 7.25, these regulations are likely to cover, for example, finance, asset transfers and the preservation of local ceremonial rights and privileges. The Secretary of State also intends to use her powers under section 24 of the 2007 Act to direct those councils which are being abolished to seek the consent of the shadow councils, or – before they come into being – the joint committees, before taking certain acts or entering into certain transactions, in order to prevent the new unitary authorities from becoming responsible for long-term liabilities that are not consistent with their plans for the future.

## **8. Impact**

8.1 An Impact Assessment has been prepared for this Order, based on those provided for the White Paper and the Bill that became the 2007 Act.

8.2 The impact on the public sector will be limited to Cheshire. The Government expects that the implementation of single-tier local government will have a significant impact on improving the delivery of local services – achieving both efficiency gains and better outcomes – and on modernising the local governance arrangements. The one-off cost of transition to single-tier local government in Cheshire is to be funded by the authorities concerned, and is estimated by the proposing authorities to be in the order of £25m in total. Annual savings are estimated at over £16m.

## **9. Contact**

Terry Willows at the Department for Communities and Local Government (tel: 020 7944 4267, or email: [terry.willows@communities.gsi.gov.uk](mailto:terry.willows@communities.gsi.gov.uk)) can answer any queries regarding the Order.

## ANNEX A

**Table 1: Proposals that progressed to stakeholder consultation**

Councils Submitting Proposals	Proposed unitary structure
Bedford Borough Council	A unitary authority for Bedford
Bedfordshire County Council	A unitary authority for Bedfordshire
Cheshire County Council	A unitary authority for Cheshire
Chester City Council	Two unitary authorities for Cheshire
Cornwall County Council	A unitary authority for Cornwall
Cumbria County Council	A unitary authority for Cumbria
Durham County Council	A unitary authority for County Durham
Exeter City Council	A unitary authority for Exeter
Ipswich Borough Council	A unitary authority for Ipswich
Northumberland County Council	A unitary authority for Northumberland
The Northumberland District Councils	Two unitary authorities for Northumberland
Norwich City Council	A unitary authority for Norwich
North Yorkshire County Council	A unitary authority for North Yorkshire
Shropshire County Council	A unitary authority for Shropshire
Somerset County Council	A unitary authority for Somerset
Wiltshire County Council	A unitary authority for Wiltshire

**Table 2: Proposals that did not progress to stakeholder consultation**

Councils Submitting Proposals	Proposed unitary structure
Mid & South Bedfordshire District Councils	A unitary authority covering mid and south Bedfordshire
The Cornwall District Councils	A unitary authority for Cornwall
The Durham District Councils	A unitary authority for Durham
Ellesmere Port & Neston Borough Council	Three unitary authorities for Cheshire
East Riding of Yorkshire District Council	A unitary authority covering East Riding and Selby
Lancaster City Council	A unitary authority for Lancaster
Oxford City Council	Three unitary authorities for Oxfordshire
Burnley Borough Council	A unitary authority for Burnley
Preston City Council	A unitary authority for Preston
South Somerset District Council	Two unitary authorities for Somerset

## ANNEX B – Text of letter setting out reasons for the Secretary of State’s decision of 25th July 2007

Dear Chief Executive,

### PROPOSALS FOR FUTURE UNITARY STRUCTURES

In response to the Invitation to councils in England issued by the Secretary of State on 26 October 2006, Chester City Council submitted a proposal for future unitary structures before the 25 January deadline. I wrote to you on 8 February 2007 informing you that your council’s proposal conformed to the terms of the Invitation and on 27 March 2007 informing you that your proposal, together with the further information that you provided to explain and clarify it, would be proceeding to stakeholder consultation.

I am now writing to inform you that, in the Secretary of State’s judgement, there is a reasonable likelihood that, if implemented, the proposal would meet the outcomes specified by each of the criteria set out in the Invitation. However, the Secretary of State recognises that there are risks to the two-unitary proposals achieving the outcomes specified by the affordability criterion. You will, therefore, be invited to undertake further work and to submit additional information on the financial viability of your proposal. The Secretary of State will have regard to this information, together with any other relevant information, before taking a final decision if and when the Local Government and Public Involvement in Health Bill is enacted.

The Secretary of State similarly took the view that in respect of the proposal for a single unitary authority for Cheshire, there was also a reasonable likelihood that, if implemented, the proposal would meet the outcomes specified by each of the criteria set out in the Invitation. However, she took the view that, on balance, your proposal for two-unitary authorities for Cheshire would deliver to a greater extent the long-term outcomes specified by the criteria around strategic leadership, neighbourhood empowerment and value for money and equity on public services. Consequently, she is minded to implement your proposal if and when the Local Government and Public Involvement in Health Bill is enacted, rather than that for a single unitary authority – subject, of course, to being satisfied about the risks to your proposal’s financial viability.

These decisions were reached having regard to your council’s proposal, the further information that you have submitted, the responses to the stakeholder consultation and all other relevant information available. In relation to each of the five criteria, the Secretary of State reached the following views on your proposal:

#### **Strong, Effective and Accountable Strategic Leadership**

The Secretary of State recognises that the new authorities would be better able to align their policies and programmes within the natural economic focus of Manchester and Liverpool. She considers that partnerships would be simplified – two unitaries would have a broad degree of co-terminosity. Whilst she notes concerns about the potential capacity risks associated with the appointment of a single director for children’s services and health and social care, the Secretary of State recognises the increased potential for joint appointments and commissioning through the proposed “People” services block. Overall, therefore, she concluded that there is a reasonable likelihood of your proposal achieving the outcomes specified by the criterion.

#### **Neighbourhood Flexibility and Empowerment**

The Secretary of State notes that there is strong potential for neighbourhood empowerment with a powerful role for area committees. She also recognises that many partners consider that questions remain on the precise structure and functions of area committees although she considers that the appointment of a cabinet member with overall responsibility for neighbourhood arrangements will aid delivery of the proposals. She also notes the concerns that the proposed size of electoral divisions present a potential risk to councillors’ capacity to engage with the electorate, but acknowledges that members, as frontline councillors will be supported by area facilitators. On balance, therefore, she concluded that there is a reasonable likelihood of your proposal achieving the outcomes specified by the criterion.

#### **Value for Money and Equity on Public Services**

The Secretary of State considers that simpler means of contact and the provision of neighbourhood based contact centres means that local people will benefit from more efficient and effective services. She also considers that the proposal appears to provide the potential for significant improvements in service delivery through the proposed

reconfiguring and co-ordinating of services across three themes (people, places and performance). Accordingly, she concluded that there is a reasonable likelihood of your proposal achieving the outcomes specified by the criterion.

### **Affordability**

The Secretary of State notes that the creation of two unitary authorities out of the seven councils that currently exist should produce savings. On balance, she concluded that, if implemented, there is a reasonable likelihood of your proposal achieving the outcomes specified by the criterion. However, she considers that there are risks in the financial case as set out in the proposal. These relate to the potential diseconomies of scale inherent in disaggregating county services and the identified potential savings that new unitary councils could achieve. As set out above, you will therefore be invited to undertake further work and to submit additional information on the financial viability of your proposal.

### **Supported by a Cross Section of Partners and Stakeholders**

The Secretary of State notes that there appears to be mixed evidence of a broad-cross section of support. She notes that the bid has strong support amongst other principal councils with four of the districts offering their support for the proposal in one form or another, whilst the remaining two districts oppose both Cheshire unitary options. Finally, whilst the districts carried out polling which came down heavily against both unitary proposals in Cheshire, she considers that the climate in which the polls took place, including the information that was available to voters either directly or as a result of press debate suggests that the results need to be viewed with caution. On balance, therefore, she concluded that there is a reasonable likelihood that the outcomes specified in this criterion will be achieved by your proposals.

### **Conclusion**

In judging between the two proposals for Cheshire, the Secretary of State considered which of the proposals were likely to deliver to the greater extent the outcomes on leadership, neighbourhood empowerment and public services. The Secretary of State took the view that there is a natural East-West split in Cheshire and the two new unitaries would ensure strategic alignment with the natural economic focus of Manchester and Liverpool, and, therefore, your proposal would be more able to provide effective strategic leadership. . She also notes that two unitaries will not be as remote as a single unitary and will better meet the needs of community engagement and local accountability, and hence will be more able to deliver neighbourhood empowerment.