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STATUTORY INSTRUMENTS

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**2018 No. 1128**

**The Local Government (Boundary Changes) Regulations 2018**

**PART 4**

**Staffing**

**Transfer of functions: staffing**

**10.** Notwithstanding regulation 3(5) of the Transfer of Undertakings (Protection of Employment) Regulations 2006<sup>(1)</sup>, the transfer of functions from a predecessor council to a successor council in consequence of a section 10 order shall be treated for all purposes as a relevant transfer within the meaning of those Regulations, whether or not, apart from this provision, those Regulations would otherwise apply.

**Heads of paid service and other chief officers**

**11.**—(1) Subject to paragraph (2), the 1993 Regulations and the 2001 Regulations shall apply to a shadow authority (notwithstanding that it does not have the functions and full powers of a local authority) and a successor council—

(a) throughout the relevant period; and

(b) as regards the post of head of paid service of a successor council, as if—

(i) in paragraph 1 of Part 1 of Schedule 1 to the 1993 Regulations (standing orders relating to appointment of chief officers), for the words from the beginning to “they shall”, there were substituted the words “Subject to paragraph 3A and without prejudice to the right of any existing holder of the post of head of paid service to apply for it, the shadow authority or successor council shall appoint a person to the post of head of paid service within the relevant period and shall”;

(ii) after paragraph 1 there were inserted—

“**1A.** An appointment as head of paid service may take effect before the date which, for the purposes of the Local Government (Boundary Changes) Regulations 2018, is the reorganisation date as regards the council to whose service the person is appointed.”

(iii) after paragraph 3 there were inserted—

“**3A.** Paragraphs 1, 2 and 3 do not apply where the shadow authority or successor council appoints a person to the post of head of paid service within the relevant period and the appointment is made exclusively from among existing officers of the shadow authority or a predecessor council.”; and

(iv) any proposal for the dismissal of a head of paid service were excluded from the definition of “disciplinary action” in the 2001 Regulations.

(2) Where a shadow authority has appointed a head of paid service of the successor council pursuant to a section 10 order or the 1993 Regulations (as so modified), the successor council is not under a duty to make a further appointment to that post.

(3) In relation to chief officers, regulation 2(1) of the 2000 Regulations shall have effect in relation to a shadow authority and successor council, as if paragraphs 37 (appointment of staff), 39 (arrangements for administration of financial affairs), 43 (designation of head of paid service) and 44 (designation of monitoring officer) of Section I (miscellaneous functions) of Schedule 1 to those Regulations were omitted.

(4) The modifications specified in paragraph (3) shall cease to have effect as regards a shadow authority and a successor council, on the date on which the shadow period ends.

(5) In this regulation—

“the 1993 Regulations” means the Local Authorities (Standing Orders) Regulations 1993(2);

“the 2001 Regulations” means the Local Authorities (Standing Orders) (England) Regulations 2001(3);

“chief officer”—

(a) in relation to a shadow authority or successor council with a mayor and cabinet executive, means an officer of any of the descriptions specified in sub-paragraphs (a) to (d) of paragraph 3 of Part 1 of Schedule 1 to the 2001 Regulations; and

(b) in relation to a shadow authority or successor council with a leader and cabinet executive, means an officer of any of the descriptions specified in sub-paragraphs (a) to (d) of paragraph 3 of Part 2 of that Schedule;

“relevant period” means—

(a) in relation to a shadow authority or successor council provided for under an existing section 10 order, the period beginning on the date on which these Regulations come into force and ending on the date that falls 12 months after the reorganisation date; and

(b) in relation to any other shadow authority or successor council, the period beginning on the date on which the section 10 order concerned comes into force and ending on the date that falls 12 months after the reorganisation date.

## **Redundancy payments**

**12.** A head of paid service—

(a) who is employed by a predecessor council; and

(b) whose employment would have continued but for the fact that his or her employer has, in accordance with the 1993 Regulations (as modified by regulation 11(1)), appointed another person to the post of head of paid service of the successor council,

shall be treated as being dismissed by reason of redundancy for the purposes of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006(4) and the Local Government Pension Scheme Regulations 2013(5), regardless of whether or not that person applies for the post of head of paid service of the successor council.

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(2) S.I. 1993/202; relevant amendments were made by S.I. 2001/3384.

(3) S.I. 2001/3384 amended by S.I. 2014/165 and S.I. 2015/881.

(4) S.I. 2006/2914.

(5) S.I. 2013/2356.

### **Local Government Pension Scheme**

**13.** A shadow authority shall, notwithstanding that it does not have the functions and full powers of a district council, be treated as falling within paragraph 1 of Part 1 of Schedule 2 (Scheme employers) to the Local Government Pension Scheme Regulations 2013.