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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**The Bedfordshire (Structural Changes) Order 2008**

**PART 3**

**BEDFORD: TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE**

**Interpretation of Part 3**

**6.** In this Part—

“article 8 functions” has the meaning given by article 7(2)(b);

“the Implementation Executive” means the committee established (whether before or after the coming into force of this Order) for the purposes of article 7(4);

“the main transitional function” has the meaning given by article 7(1); and

“the Mayor” means the person who is for the time being the Mayor of Bedford.

**Transitional functions of Bedford Borough Council and establishment of Implementation Executive**

7.—(1) On the coming into force of this Order there shall be added to the functions of Bedford Borough Council the function, which is to be exercisable only during the transitional period ending on 1st April 2009, of preparing for and facilitating the economic, effective, efficient and timely transfer of the county council’s functions, property, rights and liabilities so far as they relate to Bedford or the inhabitants of Bedford (“the main transitional function”).

(2) Section 14 of the 2000 Act (discharge of functions: mayor and cabinet executive) shall have effect in relation to Bedford Borough Council and—

(a) the main transitional function, and

(b) the other transitional functions referred to in article 8 (“the article 8 functions”),

with the modifications specified in paragraph (3).

(3) The modifications referred to in paragraph (2) are—

(a) in subsection (1), after the words “19 or 20,” insert “or under the Bedfordshire (Structural Changes) Order 2008,”;

(b) omit subsection (2); and

(c) in subsections (3) to (5), omit “, unless the elected mayor otherwise directs,”.

(4) Bedford Borough Council’s executive arrangements shall provide for the discharge of—

(a) the main transitional function, and

(b) the article 8 functions,

to be the responsibility of a committee of the Council’s executive, to be known as the Implementation Executive.

(5) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply to, or in relation to, the Implementation Executive subject only to paragraphs (6), (7) and (10) to (12) of this article and article 9(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).

(6) The Implementation Executive shall consist of—

- (a) the Mayor;
- (b) ten persons nominated by Bedford Borough Council, being persons who are for the time being members of that council; and
- (c) three persons nominated by the County Council each of whom is for the time being a member of the County Council for one of the Bedford electoral divisions.

(7) In making the nominations referred to in paragraph (6)(b) and (c), Bedford Borough Council and the County Council shall, to the extent that it is practicable to do so, secure that at all times there is on the Implementation Executive —

- (a) one member of the Conservative Party,
- (b) one person who is not a member of any registered party within the meaning of that term in the Political Parties, Elections and Referendums Act 2000(1),
- (c) one member of the Labour Party, and
- (d) one member of the Liberal Democrats.

(8) It shall be the duty of Bedford Borough Council and the County Council to co-operate in the establishment of the Implementation Executive.

(9) The leader of the Implementation Executive shall be the Mayor; and the Mayor shall preside at all meetings of the Implementation Executive at which he is present.

(10) The persons who, immediately before 1st April 2009, are members of the Implementation Executive by virtue of paragraph (6)(c) shall continue as members of the Implementation Executive notwithstanding that they cease on that date to be members of the County Council.

(11) 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 Implementation Executive) having one vote.

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

### **Other transitional functions of Implementation Executive**

**8.—**(1) The other transitional functions referred to in article 7(2)(b), which are to be exercisable only during the transitional period ending on 1st April 2009, are—

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

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(1) 2000 c.41. See the definition in section 160(1), and Part 2 of the Act.

as, by any of the means mentioned in paragraph (2), the Secretary of State specifies as a function or responsibility of the Implementation Executive.

- (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)(2),
  - (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**

9.—(1) The discharge of the main transitional function and the article 8 functions shall be a responsibility of the Implementation Executive, and shall not be a responsibility of the executive of Bedford Borough Council.

(2) Section 14(5) 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 in relation to the Implementation Executive as if—

- (a) references to functions included references to responsibilities,
- (b) the words “, unless the elected mayor otherwise directs,” were omitted, and
- (c) 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 the County Council.

(3) Section 14(6) 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 effect in relation to arrangements made under subsection (5) 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 the County Council.

(4) Section 21 of the 2000 Act (overview and scrutiny committees) shall not apply on or before 31st March 2009 in relation to any matter—

- (a) that is a responsibility of the Implementation Executive by virtue of paragraph (1), or
- (b) that is the responsibility of that Executive under arrangements made by Bedford Borough Council under the 2000 Act.

(5) Until 1st April 2009, 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 9(6) of the Bedfordshire (Structural Changes) Order 2008”.

(6) Bedford Borough Council and the County Council may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

- (a) reviewing (but not scrutinising) decisions made, or other action taken, by the Implementation Executive in connection with any matter relevant to the main transitional function or any of the article 8 functions; or

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(2) 1978 c.30.

(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 Bedford Borough Council and the County Council at least once in each period of three months beginning with the period ending on 31st March 2008 of—

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

(8) The Implementation Executive and any sub-committee of that Executive shall be dissolved on the fourth day after the 2009 election day.

(9) Any joint committee established as mentioned in paragraph (6) shall be dissolved on 1st April 2009.

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

**10.**—(1) The Implementation Executive shall prepare, keep under review, and revise as necessary, an Implementation Plan which shall include—

- (a) such plans and timetables as it considers necessary to secure the effective, efficient and timely discharge of the main transitional function and the article 8 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of Bedford Borough 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 8 functions, and
- (c) discharging such other functions as may be conferred on it,

the Implementation Executive shall have regard to the information supplied by Bedford Borough Council to the Secretary of State in support of its proposal for single tier local government in Bedford 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<sup>(3)</sup>.

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

- (a) the proper officer of Bedford Borough Council, or
- (b) the proper officer of the County Council,

require the Council specified in the notice to take such action relevant to the main transitional function or any of the article 8 functions as may be specified in the notice.

### **Implementation Team**

**11.**—(1) Not later than 21 days after the coming into force of this Order the Implementation Executive shall form a team of officers for the purpose of assisting the Executive in the discharge of the main transitional function and the article 8 functions (“the Implementation Team”).

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(3) 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: [communities@twoten.com](mailto:communities@twoten.com) or online at [www.communities.gov.uk](http://www.communities.gov.uk)).

(2) The members of the Implementation Team shall include officers from both Bedford Borough Council and the County Council.

(3) The leader of the Implementation Team shall be the person who is for the time being the Chief Executive of Bedford Borough Council.