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STATUTORY INSTRUMENTS

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**2018 No. 648**

**The Bournemouth, Dorset and Poole  
(Structural Changes) Order 2018**

**PART 4**

**BOURNEMOUTH, CHRISTCHURCH AND POOLE: SHADOW  
AUTHORITY, ITS TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE**

**Interpretation of Part 4**

**10.** In this Part—

“shadow authority” means an authority (not being a local authority) which will become a local authority on 1st April 2019;

“shadow executive committee” has the meaning given in article 12(1); and

“the shadow period” means the period beginning with the day on which this Order comes into force and ending on the fourth day after the 2019 election day.

**Bournemouth, Christchurch and Poole Council as Shadow Authority**

**11.**—(1) During the shadow period Bournemouth, Christchurch and Poole Council is a shadow authority for the purposes of the following provisions of this Part.

(2) Subject to paragraph (5), the members of Bournemouth, Christchurch and Poole shadow authority are the persons who, on the coming into force of this Order, are—

(a) councillors of the Borough Councils; and

(b) councillors of the County Council for the Christchurch electoral divisions.

(3) Those persons are to be members of the shadow authority throughout the shadow period notwithstanding the dissolution of the Borough Councils and the County Council on 1st April 2019.

(4) The monitoring officer of Bournemouth and Poole Borough Councils must convene, and make all necessary arrangements for, the first meeting of the shadow authority, which is to be held not later than 14 days after the coming into force of this Order.

(5) Where, after the coming into force of this Order and before 1st October 2018, a casual vacancy arises in any ward of the Borough Councils or in any of the Christchurch electoral divisions, the person elected at a by-election held to fill the vacancy is to be a member of the shadow authority.

(6) Subject to paragraph (7), all questions coming or arising before the shadow authority shall be decided by a majority of the members of the authority present and voting at a meeting of the authority.

(7) Any member of the shadow authority who, on the coming into force of this Order or as a result of having been elected at a by-election referred to in paragraph (5), is a member of both the County Council and of Christchurch Borough Council shall have two votes on all questions coming or arising before the shadow authority.

## **Duties of shadow authority: executive arrangements, code of conduct and members' allowances**

12.—(1) At its first meeting, the shadow authority must—

- (a) elect the chairman of the shadow authority;
- (b) in accordance with paragraphs (2) and (3), create a leader and cabinet executive within the meaning of Part 1A of the Local Government Act 2000<sup>(1)</sup> (arrangements with respect to local authority governance) (“the shadow executive committee”).

(2) Section 9C of the 2000 Act has effect, for the purposes of paragraph (1), as if subsection (5) were omitted; and the shadow executive committee is to consist of—

- (a) eight persons nominated by Bournemouth Borough Council, each of whom is for the time being a member of that Council;
- (b) six persons nominated by Poole Borough Council, each of whom is for the time being a member of that Council; and
- (c) two persons nominated by Christchurch Borough Council, each of whom is for the time being a member of that Council.

(3) At its first meeting, the shadow executive committee must elect the chairman of the shadow executive committee, being the leader of the shadow authority’s executive within the meaning of Part 1A of the 2000 Act.

(4) Subsection (3)(a) of section 9C of the 2000 Act has effect, for the purposes of paragraph (3), as if, for the words “by the authority”, there were substituted “by the shadow executive committee”.

(5) The persons who, immediately before 1st April 2019, are the members of the shadow executive committee shall—

- (a) continue as members of that executive committee; and
- (b) on and after 1st April 2019, shall be the members of Bournemouth, Christchurch and Poole Council’s executive for the purposes of Part 1A of the Local Government Act 2000,

until the end of the shadow period, notwithstanding the dissolution on that date of the Borough Councils and the County Council by which they were nominated.

(6) If a member of the executive constituted as mentioned in paragraph (5)(b) ceases to be a member of that executive before the end of the shadow period, Bournemouth, Christchurch and Poole Council may in accordance with the terms of the constitution of the Council nominate another member of the Council to be a member of its executive.

(7) The Borough Councils and the County Council must co-operate in the establishment of the shadow executive committee.

(8) With the exception of Chapter 4 (changing governance arrangements) the provisions of Part 1A of the 2000 Act, to the extent that they relate to a leader and cabinet executive, have effect in relation to the shadow authority as if—

- (a) its executive were a leader and cabinet executive of a district council;
- (b) the executive arrangements that it makes were executive arrangements of a district council;
- (c) section 9E authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the Borough Councils.

(9) Chapter 7 of the Localism Act 2011<sup>(2)</sup> (standards) applies in relation to the shadow authority as if—

- (a) it were a district council (but not a principal authority in relation to a parish council); and

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(1) Part 1A was inserted by the Localism Act 2011 (c. 20), section 21 and Schedule 2.

(2) 2011 c. 20

(b) references to co-opted members were omitted.

(10) The shadow authority must prepare and adopt a scheme for the payment of allowances to its members; and the Local Authorities (Members' Allowances) (England) Regulations 2003<sup>(3)</sup>, other than regulations 6 and 17 and Part 5, apply in relation to the shadow authority and its members as they apply in relation to district councils and their members.

### **Duties of shadow authority: appointment of certain officers, etc.**

**13.**—(1) At the first meeting of the shadow authority it must designate, on an interim basis, an officer of one of the Borough Councils—

(a) to be responsible for performing, in relation to the shadow authority, the duties imposed by—

(i) subsections (2) and (3) of section 5 (designation and reports of monitoring officer) of the Local Government and Housing Act 1989<sup>(4)</sup> (“the 1989 Act”), and

(ii) subsections (2) and (5) of section 5A of the 1989 Act (reports of monitoring officer - local authorities operating executive arrangements), as applied by paragraph (5) (the “interim monitoring officer”);

(b) to be responsible for the administration of the financial affairs of the shadow authority (the “interim chief finance officer”);

(c) to be head of the shadow authority’s paid service and, accordingly, to be responsible for performing, in relation to the shadow authority, the duties imposed by subsections (2) and (4) of section 4 (designation and reports of head of paid service) of the 1989 Act (the “interim head of paid service”).

(2) The shadow authority may, at any time before 1st April 2019, appoint a person to become, on and after that date—

(a) the Bournemouth, Christchurch and Poole Council’s monitoring officer;

(b) that Council’s chief finance officer;

(c) that Council’s head of paid service.

(3) If the power conferred by paragraph (2) is not exercised before 1st April 2019, the person who is on that date—

(a) the interim monitoring officer;

(b) the interim chief finance officer; or

(c) the interim head of paid service,

is responsible for performing, in relation to Bournemouth, Christchurch and Poole Council, the duties referred to in sub-paragraph (a) or (b) of paragraph (1) or the functions of head of paid service of a local authority; and is to perform those duties or such functions until the person to discharge those duties or perform those functions is appointed by that Council and takes up that appointment.

(4) A designation under paragraph (1) ceases to have effect on the day on which a person (which may be the same person as the designated officer) is appointed under paragraph (2) to discharge responsibilities equivalent to those of the designated officer.

(5) Subsections (2) to (7) of section 5 of the 1989 Act and subsections (2) and (5) of section 5A of that Act apply in relation to—

(a) the shadow authority;

(b) its interim monitoring officer; and

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(3) S.I. 2003/1021.

(4) 1989 c.42. Relevant amendments, including the insertion of section 5A, were made by S.I. 2001/2237, article 23.

(c) its executive arrangements,

as they apply in relation to a relevant authority and the monitoring officer and executive arrangements of a relevant authority as if references in those subsections were references to the shadow authority, its interim monitoring officer and the executive arrangements that it adopts pursuant to this Order.

(6) Sections 114 to 116 of the Local Government Finance Act 1988<sup>(5)</sup> apply in relation to the shadow authority and its interim finance officer as if—

- (a) references to the chief finance officer of a relevant authority included references to the interim chief finance officer of the shadow authority;
- (b) references to a relevant authority included references to the shadow authority; and
- (c) references to joint committees were omitted.

(7) Subsections (2) to (5) and (6) of section 4 of the 1989 Act apply in relation to the shadow authority and its interim head of paid service as they apply in relation to a relevant authority and its head of paid service as if references in those subsections to a relevant authority and its head of paid service were references to the shadow authority and its interim head of paid service.

(8) The shadow authority must designate an officer of one of the Borough Councils or of the shadow authority to act at the 2019 election as the returning officer<sup>(6)</sup>.

#### **Duties of shadow authority: proposals for executive arrangements, code of conduct and members' allowances relating to Bournemouth, Christchurch and Poole Council**

14.—(1) The shadow authority must formulate proposals for the executive arrangements that are to be operated by Bournemouth, Christchurch and Poole Council.

(2) In formulating proposals under paragraph (1) the shadow authority must comply with section 9B(2) of the 2000 Act and for that purpose is to assume that the Council's executive is to be a leader and cabinet executive within the meaning of section 9C(3) of that Act.

(3) The shadow authority must formulate proposals for the code of conduct to be adopted by Bournemouth, Christchurch and Poole Council.

(4) In formulating proposals under paragraph (3) the shadow authority must have regard to section 27 (duty to promote and maintain high standards of conduct) and section 28 (codes of conduct) of the Localism Act 2011.

(5) The shadow authority must formulate proposals for the scheme of members' allowances to be adopted by Bournemouth, Christchurch and Poole Council.

#### **Functions of shadow authority: Implementation Plan**

15.—(1) The shadow authority must prepare, keep under review, and revise as necessary, an Implementation Plan which must include—

- (a) such plans and timetables as are in its opinion necessary to secure the effective, efficient and timely discharge of its functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge, on or after 1st April 2019, of the functions that, before that date, are functions of the County Council (in respect of Christchurch) or of the Borough Councils.

(2) For the purposes of—

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(5) 1988 c. 41. Relevant amendments were made by the Local Government and Housing Act 1989, section 139 and Schedule 5, and by the Local Government Act 2003 (c. 26), section 30 and S.I. 2001/2237.

(6) Section 35 of the Representation of the People Act 1983 (c. 2) requires each district council in England to appoint an officer of the council to be the returning officer for the elections of councillors of the district.

- (a) preparing, reviewing and revising the Implementation Plan; and
- (b) discharging its functions,

the shadow authority must have regard to the information supplied to the Secretary of State by Bournemouth Borough Council, Dorset County Council, North Dorset District Council, Poole Borough Council, West Dorset District Council and Weymouth and Portland Borough Council in support of their proposals for a single tier of local government in Bournemouth, Dorset and Poole.

(3) The shadow authority may, by written notice to—

- (a) the proper officer of the County Council; or
- (b) the proper officer of any of the Borough Councils,

require the council referred to in the notice to take such action relevant to any of the functions referred to in articles 12 to 23 of this Order as may be specified in the notice.

### **Other functions of shadow authority**

**16.** During the shadow period the shadow authority has, in addition to the functions specified or referred to in articles 12 to 15, the functions referred to or specified in articles 17 to 21.

**17.** The shadow authority must take all such practicable steps as are necessary or expedient—

- (a) to commence and sustain its running as a shadow authority;
- (b) to prepare the authority for the assumption, as Bournemouth, Christchurch and Poole Council, of local government functions and full local authority powers on 1st April 2019;
- (c) to prepare any budgets or plans required by Bournemouth, Christchurch and Poole Council when those functions are assumed; and
- (d) to liaise with the County Council (in relation to its functions in respect of Christchurch) and the Borough Councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2019.

**18.** The shadow authority has all the other powers of a non-metropolitan county council or a non-metropolitan district council.

**19.** The powers conferred by article 18 may be exercised by the shadow authority only—

- (a) in the discharge of the functions specified or referred to in articles 12 to 15 and 17;
- (b) in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan county council or a non-metropolitan district council; and
- (c) where the exercise of the power would involve incurring expenditure or acquiring a liability—
  - (i) with the prior consent of the County Council, where the expenditure or liability relates to a matter which, before 1st April 2019, is the responsibility of that Council in respect of its functions in relation to Christchurch; or
  - (ii) where the expenditure or liability relates to a matter which, before 1st April 2019, is the responsibility of a Borough Council, with the prior consent of that council.

**20.** The total of the expenditure properly incurred by the shadow authority is to be divided among, and paid by, the Borough Councils and the County Council in such proportion as may be agreed between those councils; but, where the shadow authority notifies the Secretary of State that there is no such agreement, the Secretary of State may—

- (a) determine the proportion in which that expenditure is to be divided and paid; and
- (b) appoint an arbitrator for that purpose.

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

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**21.—(1)** The following provisions of the 1972 Act apply in relation to the shadow authority, notwithstanding that it does not have the functions and full powers of a local authority:

**Table 1**

<i>Part or section of 1972 Act</i>	<i>Description</i>
Section 3	Chairman
Section 5	Vice-chairman
Parts 5 and 5A	General provisions as to members and proceedings of local authorities, access to meetings and documents of certain authorities, committees and sub-committees
Section 103	Expenses of joint committees
Section 106	Standing orders
Section 146	Transfer of securities on alteration of area, etc
Section 178	Regulations as to allowances
Section 245	Status of certain districts, parishes and communities

(2) The shadow authority, notwithstanding that it does not have the functions and full powers of a local authority, is to be treated—

- (a) for the purposes of the Local Audit and Accountability Act 2014<sup>(7)</sup> as if it were a district council;
- (b) for the purposes of section 101 of the 2000 Act (indemnification of members and officers of relevant authorities), as a relevant authority;
- (c) for the purposes of Part 1 of the Local Government Act 2003<sup>(8)</sup> (capital finance etc and accounts), as a local authority; and
- (d) for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001<sup>(9)</sup>, as a relevant authority.

#### **Discharge of shadow authority's functions by shadow executive**

**22.—(1)** Except to the extent that any provision of any Act, this Order or regulations under section 9D (functions which are the responsibility of an executive) or 9DA (functions of an executive: further provision) of the 2000 Act requires otherwise, the functions conferred on the shadow authority by or under this Order are to be delegated to, and discharged by, the shadow executive committee.

(2) Paragraph (1) does not prevent the shadow executive committee from requesting the shadow authority to discharge any function specified in a notice given by the shadow executive committee to the proper officer of the shadow authority, and the shadow authority must comply with any such request within such period as the shadow executive committee may specify.

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<sup>(7)</sup> 2014 c.2.

<sup>(8)</sup> 2003 c.26.

<sup>(9)</sup> S.I. 2001/3384

### **Central Implementation Team**

**23.**—(1) Not later than 21 days after the coming into force of this Order, the shadow executive committee must form a team of officers (“the Central Implementation Team”) for the purposes of assisting it and, if so required by the shadow authority, that authority.

(2) The members of the Central Implementation Team are to comprise officers from each of the Borough councils.

(3) The leader of the Central Implementation Team is to be an officer of one of the Borough Councils or of the shadow authority.