
DRAFT STATUTORY INSTRUMENTS

2022 No.

The Somerset (Structural Changes) Order 2022

PART 3

TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

Main transitional function and Implementation Executive

6.—(1) On the coming into force of this Order there is to be added to the functions of the Somerset Council the function, which is to be exercisable only during the first and second transitional periods, of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities ("the main transitional function").

(2) Throughout the first transitional period, section 9E of the 2000 Act⁽¹⁾ (discharge of functions: general) has effect in relation to the Somerset Council and—

- (a) the main transitional function, and
- (b) the other transitional functions referred to in article 7 ("the article 7 functions"),

as if, in subsection (1), after the words "section 9EA or 9EB" there were inserted "or under the Somerset (Structural Changes) Order 2022".

(3) The Somerset Council's executive arrangements shall provide for the discharge of the main transitional function and the article 7 functions to be the responsibility, throughout the first transitional period, of a committee of the council's executive, to be known as the Implementation Executive.

(4) Such statutory provisions as apply to, or in relation to, committees of a local authority's executive shall apply throughout the first transitional period to, or in relation to, the Implementation Executive subject only to paragraphs (5) to (7) and (9) to (11) of this article and article 8(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.

(5) The Implementation Executive shall consist of—

- (a) the person who is for the time being the leader of the Somerset Council's executive;
- (b) four other persons nominated by the Somerset Council who are for the time being members of that Council, and
- (c) the persons who are for the time being the leaders of the district council's executives.

(6) The Somerset Council must nominate five persons, each of whom is for the time being a member of that council, to act as members of the Implementation Executive in the absence of the leader of the Somerset Council and the persons nominated in accordance with paragraph (5)(b).

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

(7) Each of the district councils must nominate one person, each of whom is for the time being a member of that council, to act as members of the Implementation Executive in the absence of those members appointed in accordance with paragraph (5)(c).

(8) It is the duty of the Somerset Council and each of the district councils to cooperate in the establishment of the Implementation Executive.

(9) The leader of the Implementation Executive is the person who is for the time being the leader of the Somerset Council's executive; and that person shall preside at all meetings of the Implementation Executive at which they are present.

(10) 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 Executive) having one vote.

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

Other transitional functions

7.—(1) The other transitional functions referred to in article 6(2)(b), which are to be exercisable only during the first and second transitional periods, are—

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

as by any of the means mentioned in paragraph (2), the Secretary of State may specify.

(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

8.—(1) The discharge of the main transitional function and the article 7 functions shall be a responsibility, throughout the first transitional period, of the Implementation Executive, and shall not, during that period, be a responsibility of the executive of the Somerset Council.

(2) Section 9DA(3) of the 2000 Act (functions of an executive: further provision) has effect as if, at the end of subsection (3)(c), there were added “or as mentioned in article 8(6) of the Somerset (Structural Changes) Order 2022”.

(3) Section 9E(5)(4) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an area committee or officer of the authority) has effect during the first transitional period in relation to the Implementation Executive as if—

- (a) references to functions included references to responsibilities, and

(2) 1978 c. 30.

(3) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(4) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

- (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 any of the district councils.

(4) Section 9E(7)(5) of the 2000 Act (arrangements made for the discharge of functions do not prevent the exercise of those functions by those making the arrangements) has effect during the first transitional period in relation to arrangements made under subsection (2) 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 any of the district councils.

(5) Section 9F(6) of the 2000 Act (overview and scrutiny committees: functions) does not apply during the first transitional period in relation to any matter that is—

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

(6) At any time during the first transitional period, the Somerset Council and the district councils may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

- (a) reviewing or scrutinising decisions made, or other action taken, by the Implementation Executive in connection with any matter of a description mentioned in paragraph (4); or
- (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 must inform the Somerset Council and the district councils before the end of the first transitional period—

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

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

9.—(1) During the first transitional period, the Implementation Executive must prepare, keep under review, and revise as necessary, an Implementation Plan which must include—

- (a) such plans and timetables as the Implementation Executive considers necessary to secure the effective, efficient and timely discharge of the main transitional function and the article 7 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of the Somerset Council's functions on or after 1st April 2023.

(2) For the purposes of —

- (a) preparing, reviewing and revising the Implementation Plan;
- (b) discharging the main transitional function and the article 7 functions; and
- (c) discharging such other functions as may be conferred on it,

(5) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

(6) Added by paragraph 1 of Part 1 of Schedule 2 to the Localism Act 2011 c. 20.

the Implementation Executive must have regard to the information supplied by Somerset County Council to the Secretary of State in support of its proposal for single tier local government in Somerset(7).

- (3) The Implementation Executive may, by written notice to—
- (a) the proper officer of the Somerset Council, or
 - (b) the proper officer of any of the district councils,

require the council referred to in the notice to take such action relevant to the main transitional function or any of the article 7 functions as may be specified in the notice.

(4) In paragraph (3), “the proper officer” means the officer appointed by the Somerset Council or the district council concerned (as the case may be) for the purpose of receiving such notices.

Implementation Team

10.—(1) Not later than 21 days after the coming into force of this Order the Implementation Executive must form a team of officers (“the Implementation Team”) for the purposes of—

- (a) during the first transitional period, assisting the Implementation Executive in the discharge of the main transitional function and the article 7 functions; and
 - (b) during the second transitional period, assisting the executive of the Somerset Council in the discharge of those functions.
- (2) The Implementation Team shall consist of—
- (a) the person who for the time being is the head of paid service of the Somerset Council;
 - (b) the persons who are for the time being the head of paid service of each of the district councils;
 - (c) the Somerset Council’s monitoring officer;
 - (d) the Somerset Council’s chief finance officer; and
 - (e) the Somerset Council’s programme director.

(3) The leader of the Implementation Team is the person who is for the time being the Head of Paid Service of the Somerset Council.

(4) It is the duty of the Somerset Council and each of the district councils to cooperate in the formation of the Implementation Team and to release the officers concerned from their normal duties at such times or for such periods as the Implementation Executive or the executive of the Somerset Council may reasonably require.

Dissolution of Implementation Executive, etc and further provisions relevant to transition

11.—(1) The Implementation Executive, any sub-committee of that Executive and any joint committee established as mentioned in article 8(6) shall be dissolved on the fourth day after the 2022 election day.

(2) The discharge of the main transitional function and the article 7 functions in the second transitional period shall be an executive function of the Somerset Council (falling to be discharged by that council’s executive in accordance with executive arrangements under the 2000 Act).

(3) Section 9E(5) of the 2000 Act has effect in relation to the discharge of that executive function as if the reference to an officer of the authority included a reference to an officer of any of the district councils.

(7) Copies of the information supplied are available at <https://newsomersetcouncil.org.uk/wp-content/uploads/2021/11/Business-Case-Final-Submission.pdf> or upon request from the Department for Levelling Up, Housing and Communities, 2 Marsham Street.

- (4) Article 9 has effect in relation to the second transitional period as if—
- (a) the reference to the first transitional period were a reference to the second transitional period;
 - (b) references to the Implementation Executive were references to the Somerset Council's executive; and
 - (c) paragraph (3)(a) were omitted.