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STATUTORY INSTRUMENTS

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**2008 No. 1419**

**The Local Government (Structural and  
Boundary Changes) (Staffing) Regulations 2008**

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

4.—(1) Subject to paragraph (3), the 1993 Regulations and the 2001 Regulations shall apply to a preparing council, a shadow council (notwithstanding that it does not have the functions and full powers of a local authority) and a single tier council—

- (a) throughout the relevant period; and
- (b) as regards the post of head of paid service of a single tier council, as if—
  - (i) in paragraph 1 of Part 1 of Schedule 1 to the 1993 Regulations (standing orders relevant to appointment of chief officers), for the words from the beginning to “they shall”, there were substituted the words “Without prejudice to the right of any existing holder of the post of head of paid service to apply for it, the authority 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 under paragraph 1 may take effect before the date which, for the purposes of the Local Government (Structural and Boundary Changes) (Staffing) Regulations 2008, is the reorganisation date as regards the single tier council to whose service the person is appointed.”; and
  - (iii) any proposal for the dismissal of a head of paid service were excluded from the definition of “disciplinary action” in the 2001 Regulations.

(2) The functions of a preparing council, its succeeding single tier council or a shadow council relating to the recruitment, appointment and dismissal of any chief officer—

- (a) shall, in the case of a preparing council or its succeeding single tier council, be the responsibility of, and be discharged by, its Implementation Executive (until the dissolution of that Executive);
- (b) shall, in the case of a shadow council required by an order to hold an election of its councillors in 2008, as regards the period beginning on the date on which these Regulations come into force and ending at the end of the shadow period, be the responsibility of, and be discharged by, that council; and
- (c) shall, in the case of any other shadow council—
  - (i) as regards the period beginning on the date on which these Regulations come into force and ending on the fourth day after the next following day of election of councillors to that council, be the responsibility of, and be discharged by, its shadow executive;
  - (ii) as regards the period beginning on the fourth day after that election and ending at the end of the shadow period, be the responsibility of, and be discharged by, the shadow council,

but where the fourth day after that election is the day on which the shadow period ends, paragraph (ii) shall not apply.

(3) Where—

- (a) a preparing council has appointed a head of paid service of the single tier council pursuant to the 1993 Regulations (as modified by paragraph(1)); or
- (b) a shadow council has appointed a head of paid service of the single tier council pursuant to an order or the 1993 Regulations (as so modified),

the succeeding single tier council is not under a duty to make a further appointment to that post.

(4) In relation to chief officers, regulation 2(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000<sup>(1)</sup> shall have effect in relation to a preparing council, a shadow council or a single tier 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.

(5) In this regulation—

“chief officer”—

- (a) in relation to a preparing council or a shadow council with a mayor and cabinet executive<sup>(2)</sup>, 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 preparing council or a shadow council with a leader and cabinet executive<sup>(3)</sup>, 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”—

- (a) in relation to a shadow council required by order to hold an election of its councillors in 2009, means the period beginning on the date on which these Regulations come into force and ending on 31st March 2009;
- (b) in relation to a shadow council required by order to hold an election of its councillors in 2008, means the period beginning on the date on which these Regulations come into force and ending on 31st December 2008;
- (c) in relation to a preparing council that is the subject of an order commencing before the coming into force of these Regulations, means the period beginning on the date on which these Regulations come into force and ending on the date that falls twelve months after the reorganisation date; and
- (d) in relation to any other preparing council or shadow council, means the period beginning on the date on which the order concerned comes into force and ending on the date that falls twelve months after the reorganisation date.

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(1) *S.I. 2000/2853*, to which there are amendments relevant to these Regulations made by *S.I. 2001/2212*, regulation 2(b) and *S.I. 2004/2748*, regulation 2(a).

(2) *See* section 11(2) of the Local Government Act 2000 (c.22).

(3) *See* section 11(2A) of the Local Government Act 2000, inserted by section 62(1) and (4) of the 2007 Act, but where transitional and saving provisions apply by virtue of paragraph 2 of Schedule 4 to the 2007 Act, *see* section 11(3) of the Local Government Act 2000 as it applied prior to the amendments made by section 62(1) and (5) of the 2007 Act.