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STATUTORY INSTRUMENTS

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**2010 No. 998**

**The Exeter and Devon (Structural Changes) Order 2010**

**PART 3**

**TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE**

**Main transitional function and Implementation Executive**

4.—(1) On the coming into force of this Order until the end of the transitional period there shall be added to the functions of Exeter City Council and Devon County Council the function of preparing for and facilitating the economic, effective, efficient and timely transfer to Exeter City Council of Devon County Council's functions, property, rights and liabilities, in so far as they relate to Exeter ("the main transitional function").

(2) Throughout the transitional period, section 14 of the 2000 Act (discharge of functions: general)(1) shall have effect in relation to Exeter City Council and—

- (a) the main transitional function, and
- (b) the article 5 functions,

as if, in subsection (1), after the words "19 or 20," there were inserted "or under the Exeter and Devon (Structural Changes) Order 2010".

(3) Exeter City Council's executive arrangements shall provide for the discharge of the main transitional function and the article 5 functions to be the responsibility, throughout the transitional period, of a committee of the City Council's executive(2), 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 transitional period to, or in relation to, the Implementation Executive subject to paragraphs (5), (6) and (8) to (11) of this article and article 6(2) and (3); 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).

(5) The Implementation Executive shall consist of—

- (a) the person who, for the time being, is the leader of Exeter City Council's executive;
- (b) ten other persons nominated by that Council who, for the time being, are members of that Council; and
- (c) four persons nominated by Devon County Council who are for the time being members of that Council elected for any of the Exeter county electoral divisions.

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(1) Section 14 was amended by section 63 of the Local Government and Public Involvement in Health Act 2007 (c.28).

(2) As to the permitted forms of executive, see section 11 of the Local Government Act 2000 (c.22). Exeter City Council operates a leader and cabinet executive (England).

(6) In making the nominations referred to in paragraph (5)(b) and (c), Exeter City Council and Devon County Council shall, to the extent that it is practicable to do so, secure that at all times the Conservative Party, the Labour Party, the Liberal Democrat Party and the Liberal Party are each represented on the Implementation Executive by at least one member.

(7) It shall be the duty of Exeter City Council and Devon County Council to co-operate in the establishment of the Implementation Executive.

(8) The leader of the Implementation Executive shall be the person who is for the time being the leader of Exeter City Council's executive.

(9) The persons who, immediately before 1st April 2011, are members of the Implementation Executive by virtue of paragraph (5)(c) shall continue as members of the Implementation Executive notwithstanding that they cease on that date to be members of Devon County Council.

(10) The Implementation Executive shall regulate its own proceedings, but a question to be decided by that 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.

(11) 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 the Implementation Executive**

5.—(1) The other transitional functions which are to be exercisable only during the transitional period are—

- (a) the existing executive and non-executive functions of Exeter City Council and Devon County Council; and
- (b) such other functions (including functions conferred on or after the day on which this Order is made 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 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) (3),
- (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**

6.—(1) The discharge of the main transitional function and the article 5 functions shall be a responsibility, throughout the transitional period, of the Implementation Executive.

(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 the transitional period in relation to the Implementation Executive as if the reference to an officer of the authority included a reference to—

- (a) a sub-committee of the Implementation Executive, and
- (b) an officer of Devon County Council.

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(3) 1978 c.30.

(3) Section 14(6) of the 2000 Act (which enables the discharge of a function by a person despite that person having made arrangements for the discharge of that function by a different person) shall have effect in the transitional period in relation to arrangements made under subsection (5) of that section (as modified by paragraph (2) above) as if the reference to an officer of the authority included a reference to—

- (a) a sub-committee of the Implementation Executive, and
- (b) an officer of Devon County Council.

(4) Section 21 of the 2000 Act (overview and scrutiny) shall not apply during the transitional period in relation to any matter that is a responsibility of the Implementation Executive by virtue of paragraph (1).

(5) During the transitional period, 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 6(6) of the Exeter and Devon (Structural Changes) Order 2010”.

(6) During the transitional period, Exeter City Council and Devon County Council shall 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 that is a responsibility of that Executive by virtue of paragraph (1); and
- (b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any such responsibility.

(7) The joint committee established pursuant to paragraph (6) shall at least once in each period of three months during the transitional period inform Exeter City Council and Devon County Council of—

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

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

7.—(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 are in the opinion of the Implementation Executive necessary or desirable to secure the economic, effective, efficient and timely discharge of the main transitional function and the article 5 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of Exeter City Council’s functions on or after 1st April 2011.

(2) For the purposes of—

- (a) preparing, reviewing and revising the Implementation Plan,
- (b) discharging the main transitional function and the article 5 functions, and
- (c) discharging such other functions as may be conferred on it,

the Implementation Executive shall have regard to the information supplied by Exeter City Council to the Secretary of State in support of its proposal for single tier local government in Exeter 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(4).

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

- (a) the proper officer of Exeter City Council, or
- (b) the proper officer of Devon County Council,

require the council referred to in the notice to take such action relevant to the main transitional function and the article 5 functions as may be specified in the notice.

### **Implementation Team**

8.—(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 that Executive in the discharge of the main transitional and article 5 functions (“the Implementation Team”).

(2) The Implementation Team shall include officers from both Exeter City Council and Devon County Council.

(3) The leader of the Implementation Team shall be such member of that Team, being also an officer of Exeter City Council, as the Implementation Executive shall appoint.

(4) It shall be the duty of Exeter City Council and Devon County Council to co-operate 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 may reasonably require.

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(4) 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)).