

EXPLANATORY MEMORANDUM TO
THE NORTH YORKSHIRE (STRUCTURAL CHANGES) ORDER 2022
2022 No. 328

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order provides for the creation of a single tier of local government for North Yorkshire with effect from 1 April 2023. The existing seven district areas are to be abolished as local government areas (district of Craven, district of Hambleton, borough of Harrogate, district of Richmondshire, district of Ryedale, borough of Scarborough and district of Selby) and replaced by a single district area coterminous with the county. All seven district councils in North Yorkshire (Craven, Hambleton, Harrogate, Richmondshire, Ryedale, Scarborough and Selby) are to be wound up and dissolved. North Yorkshire County Council will become the sole principal authority for North Yorkshire from 1 April 2023, being known as North Yorkshire Council. There are to be appropriate arrangements for preparing to transition to the new council.

3. Matters of special interest to Parliament

Matters of Special Interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 Minister Kemi Badenoch has made the following statement regarding Human Rights:
“In my view the provisions of the North Yorkshire (Structural Changes) Order 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The Order is to be made under Part 1 of the Local Government and Public Involvement in Health Act 2007 (the Act) which provides for the making of local government structural and boundary changes in England. Section 2 provides that the Secretary of State may invite any principal authority to make a proposal for structural change for a single tier of local government.
6.2 Section 7 of the Act allows the Secretary of State to implement by order a proposal, with or without modification. An order may not be made unless the Secretary of State has consulted every authority affected by the proposal (except any authority who

made the proposal) and such other persons as he considers appropriate. The detail of what a section 7 order can include is set out in sections 11, 12 and 13. A section 7 order can, for example, create a new local government area or abolish an existing one; create a new council for the area or abolish an existing one and provide for a new name. A section 7 order can also make provision for “electoral matters” which, for example, include the total number of members (councillors) of the authority, the number and boundaries of electoral areas and the number of councillors to be returned by each area. A section 7 order can also include incidental, consequential, transitional or supplementary provision.

- 6.3 Section 14 of the Act enables the Secretary of State, by regulations of general application, to make incidental, consequential, transitional and supplementary provision to give full effect to the local government changes. A number of statutory instruments have been made under this power including the Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 (SI 2008/2113), the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 (SI 2008/2176), the Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 (SI 2008/2867) and the Local Government (Structural Changes) (Finance) Regulations 2008 (SI 2008/3022). The Secretary of State will consider whether any further provision is required, in consultation with the councils concerned.

7. Policy background

What is being done and why?

- 7.1 The Government’s policy is that unitarisation must be locally led and Government solutions will not be imposed on areas. On 9 October 2020 the then Secretary of State invited the principal councils in North Yorkshire, and the neighbouring unitary council of the City of York, to make proposals for replacing the current two tier system of local government in North Yorkshire. The criteria used to assess unitary proposals were set out in detail in this invitation and guidance including that proposals would be considered:
- which are likely to improve local government and service delivery across the area of the proposal, giving greater value for money, generating savings, providing stronger strategic and local leadership, and which are more sustainable structures;
 - which command a good deal of local support as assessed in the round overall across the whole area of the proposal; and
 - where the area of each unitary authority is a credible geography consisting of one or more existing local government areas with an aggregate population which is either within the range 300,000 to 600,000, or such other figure that, having regard to the circumstances of the authority, including local identity and geography, could be considered substantial.
- 7.2 Two proposals for unitarisation in North Yorkshire were received by 9 December 2020:
- a proposal for two unitary councils (the East West proposal) – the East unitary covering Ryedale, Scarborough, Selby and the current unitary of City of York and the West unitary covering Craven, Hambleton, Harrogate and Richmondshire; submitted by six of the district councils; and

- a proposal for a single unitary for the whole of North Yorkshire county (the single unitary proposal) submitted by North Yorkshire County Council.
- 7.3 On 22 February 2021 the then Secretary of State launched the statutory consultation inviting views from all the principal councils in the area, principal councils neighbouring North Yorkshire, and all other bodies that he considered appropriate including the York and North Yorkshire Local Enterprise Partnership, North Yorkshire Police, Fire and Crime Commissioner, local health bodies, local universities and representatives of the voluntary sector – a full list is available online¹. He also welcomed views from any interested persons, including local residents and organisations. Full details are provided in Section 10.
- 7.4 On 21 July 2021, in a Written Ministerial Statement, the then Secretary of State announced that the proposal submitted by North Yorkshire County Council met the criteria and, subject to Parliamentary approval, should be implemented.⁵ The then Secretary of State also announced that he had decided not to implement the proposal for two unitary councils that had been submitted by the district councils since whilst that proposal met the “local support” criterion it did not meet the criteria on “improving local government” and “being a credible geography”.
- 7.5 This Order implements the proposal made by North Yorkshire County Council under section 2 of the Act. It establishes the new local government structure of a single principal authority for North Yorkshire and enables arrangements for a smooth transition of local government functions to the new council.
- 7.6 Part 2 of the Order establishes the new council as a continuing authority of North Yorkshire County Council, and provides for the new council to take on full local government functions and powers on the abolition of the existing councils on 1 April 2023 by:
- abolishing as local government areas the districts of Craven, Hambleton, Harrogate, Richmondshire, Ryedale, Scarborough and Selby;
 - winding up and dissolving all seven district councils in North Yorkshire – Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough Borough Council and Selby District Council;
 - creating a new, non-metropolitan, district of North Yorkshire, whose area is co-terminous with the existing local government area of the county of North Yorkshire; and
 - providing that all existing district councillors cease to hold office on 1st April 2023.
- 7.7 Part 3 confers functions on North Yorkshire Council, from the date that this Order comes into force, for facilitating the transition to the new single tier of local government including preparing for the transfer of the district councils’ functions, property, rights and liabilities. It establishes an Implementation Executive to be responsible for these functions during the first transitional period which ends on the fourth day after the ordinary day of elections in 2022 when councillors newly elected to North Yorkshire Council come into office, with the new executive formed taking on

¹ www.gov.uk/government/consultations/proposals-for-locally-led-reorganisation-of-local-government-in-cumbria-north-yorkshire-and-somerset/outcome/consultation-response-summary-local-government-reorganisation#annex-b-named-consultees

the responsibility to lead the implementation through the second transitional period which runs until 1 April 2023.

- 7.8 The Order defines the membership of the Implementation Executive as ten members from North Yorkshire Council including the leader and seven members from the district councils (one from each district). Part 3 also provides for an Implementation Plan to be prepared and provides for the establishment of an officer Implementation Team throughout both transitional periods. It sets out additional transitional functions for North Yorkshire Council during the second transitional period (from the fourth day after the election until 1 April 2023), including the power to initiate community governance reviews and the power to undertake the preparatory steps for a combined authority.
- 7.9 Part 4 of the Order establishes a duty on the North Yorkshire Council and each of the district councils to cooperate throughout both transitional periods.
- 7.10 Part 5 makes provisions regarding electoral matters. The Order establishes whole council elections in 2022 for North Yorkshire Council, cancels any district council elections in this year and extends the term of any councillors of those councils to 1 April 2023. It specifies the electoral cycle, with the second election in 2027 and then on a 4-year cycle. It provides that if a councillor vacancy occurs in any of the seven district councils between 30 September 2022 and 1 April 2023, then the council concerned will not be required to call a by-election to fill that council office. It also provides that a by-election must still be held to fill a vacancy in that period, if the number of vacancies on that council would exceed one third of the membership of that council. Schedule 1 to the Order provides for the electoral divisions and number of councillors to be elected to each division for the new council. Subject to Parliamentary approval of this Order, the Local Government Boundary Commission for England is expected to review the electoral divisions after 1 April 2023 and in time for the 2027 elections.
- 7.11 The Order also provides that any ordinary parish council elections due in 2023 and 2024 will not be held and those elections will be held in 2022 and 2027 and every four years thereafter. It makes consequential amendments to the terms of parish councillors due to end in 2023 and 2024.
- 7.12 Part 6 of the Order also makes provision for Charter Trustees in the unparished areas of Harrogate and Scarborough, ensuring that any historic rights and privileges associated with those local government areas which will be abolished can be maintained and vest in the Charter Trustees for the relevant area where there is no parish or town council. The Charter Trustees will be the councillors whose ward or part of whose ward is within the Charter Trustee area as set out in Schedule 2.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There is no requirement for consolidation as this instrument does not amend other legislation.

10. Consultation outcome

10.1 This Order relates to the implementation of a proposal that was subject to extensive consultation, as described below. In addition, the Government shared draft texts of provisions within this Order with the North Yorkshire councils during its development and this Order has been prepared having regard to representations from the councils about the detailed content of the Order.

10.2 Both of the unitary proposals submitted by councils in North Yorkshire stated that they had undertaken extensive engagement/consultation prior to submitting the proposal to Government and included supportive quotes within their proposals as evidence of this. As explained at paragraph 7.3, the Government launched a statutory consultation on the two proposals for unitary local government in North Yorkshire on 22 February 2021. The Act requires that, before a proposal for local government reorganisation can be implemented, the Secretary of State must first consult any local authority that is affected by a proposal (but which has not submitted it), and such other persons as he considers appropriate. The then Secretary of State consulted named consultees on both of the proposals he received from North Yorkshire councils and additionally he welcomed views from any interested persons including residents. A full list of named bodies consulted on each proposal is available online.²

10.3 The Government’s consultation was conducted online using “Citizen Space”, the department’s dedicated platform for consultations, with online capture of responses and an alternative option of email responses or post.

10.4 The consultation asked respondents questions directly related to the criteria for assessing the unitary proposals:

- whether a proposal would be likely improve local government and service delivery across each area;
- where it is proposed that services will be delivered on a different geographic footprint to currently, or through some form of joint arrangements, whether this would be likely to improve those services;
- whether a proposal would be likely to impact local public services delivered by others, such as police, fire and rescue, and health services;
- whether respondents supported a proposal; and
- whether respondents considered that a proposal had a credible geography.

10.5 A full summary of the consultation responses was published on gov.uk³ alongside the 21 July announcement of the then Secretary of State’s decision to implement the single unitary proposal and a copy placed in the House of Commons library.

² www.gov.uk/government/consultations/proposals-for-locally-led-reorganisation-of-local-government-in-cumbria-north-yorkshire-and-somerset/outcome/consultation-response-summary-local-government-reorganisation#annex-b-named-consultees

³ www.gov.uk/government/consultations/proposals-for-locally-led-reorganisation-of-local-government-in-cumbria-north-yorkshire-and-somerset/outcome/consultation-response-summary-local-government-reorganisation

- 10.6 The Government received a total of 4,297 responses regarding the two proposals for North Yorkshire. The majority of responses (3606, 84 per cent of total responses) were from residents living in the area affected, a further 150 from residents outside the area. 65 were from business organisations, 12 from education organisations, 240 from principal councils, 72 from parish/town councils and 31 from other local government organisations. There was one response each from police and fire organisations, 19 from health organisations, and 100 responses which identified themselves as “other”.
- 10.7 Overall, the consultation results showed that there was considerable support across the area for the single unitary proposal, which this Order implements. Of those responding to the consultation, the majority of residents supported the single unitary proposal with 53 per cent of residents living in the area supporting this proposal and 38 per cent not supporting this proposal. A large majority of respondents in the ‘principal councils’ who were mostly employees of the councils supported this model – with 80 per cent supporting the single unitary proposal. The response from public sector partners – education, health, police and fire organisations were in favour of the single unitary proposal – with 68 per cent of respondents from health organisations, 9 out of 12 respondents from education organisations and both police and fire organisations supporting this proposal. The response from business respondents was that 52 per cent of those responding to the consultation supported the single unitary proposal. Among parish and town councils 39 per cent of those responding to the consultation supported this proposal. The City of York Council and North Yorkshire County Council supported this proposal. However, a number of representations from residents and town and parish councils took the view that the area is too big and some parts of the new unitary would be too remote.
- 10.8 With regard to the “East West proposal” the consultation results showed that of those organisations responding to the consultation there was support from town and parish councils – with 50 per cent supporting this proposal and 32 per cent not supporting the proposal. There was fairly balanced support from business respondents who responded to the consultation – with 45 per cent supporting the East-West proposal and 40 per cent not supporting. There was some support from residents - with 22 per cent of residents living in the area supporting the proposal and 69 per cent not supporting the proposal. There was limited support from public sector partners - none of the health, police and fire organisations supported this proposal, and only 17 per cent of education organisations supported the proposal. All the district councils in North Yorkshire with the exception of Hambleton supported this proposal. Public sector partners expressed concern about the significant risks of disruption around service delivery for some major services during the transition period, in particular the disruption and loss of existing partnerships and some specific longer term risks around service delivery such as the longer term sustainability of adult social care. There was evidence from many residents, public sector partners and others who did not feel that the East West proposal had regard for the local identity of York, which would be subsumed into a wider area, and that the proposed geography would create disruption and cut across existing partnership arrangements.
- 10.9 With regard to evidence for the other two criteria, set out in para 7.1, as the summary to the consultation shows, the majority of residents (52 per cent) considered that implementing the single unitary proposal would be likely to improve local government and service delivery across the area; this compares to 27 per cent of residents considering that the East West proposal would. For business organisations the corresponding figures were 48 per cent and 28 per cent, and for parish councils 31

per cent and 39 per cent. Reasons given for considering the single unitary would do this include savings and value for money, efficiency, the County Council’s excellent existing service delivery, stronger strategic and local leadership, reduced duplication, integrated and streamlined working, and that it would be easier for the public. And with regards to credible geography, 53 per cent of residents considered the single unitary to have a credible geography, compared to 32 per cent considering the East West proposal does. Business respondents were finely balanced in their views and parish and town councils were more likely to consider the East West proposal had a credible geography (40 per cent vs 33 per cent) in part due to their concerns on scale set out in 10.8 above.

10.10 The then Secretary of State carefully considered the consultation responses, all representations received, and all the relevant information available to him in reaching his decision on which proposal to implement, subject to Parliamentary approval. The then Secretary of State concluded that both proposals had a good deal of local support, but that the East West proposal but did not meet the criteria on “improving local government” and “being a credible geography” as set out in para 7.4.

10.11 Following the then Secretary of State’s announcement on 21 July 2021, the North Yorkshire councils were given an opportunity to make representations on a number of aspects of the Order, in particular:

- the name of the council,
- the legal basis of the new unitary council: whether to establish an entirely new legal entity (a non-continuing council); or to provide that an existing legal entity becomes the new unitary council (a continuing council);
- electoral arrangements – council size and warding pattern and whether to reschedule parish council elections to align with the new unitary council elections; and
- the make-up of the elected member transitional decision-making bodies and officer Implementation Team.

10.12 The electoral arrangements set out here reflect the County Council’s preferred proposal on electoral arrangements, which was developed with input from the district councils. The councils also provided their views on matters relating to the transitional period and the Order has been prepared having regard to these representations. While the councils were mostly in agreement on the way forward there were different views expressed on a number of issues by different councils, including potential political balance on the Implementation Executive, the length of the period prior to the election in which by-elections to the district councils should not be required, and the detail of some of the individual electoral boundaries.

10.13 The Secretary of State considered all the representations he received in deciding on the content of the Order. He concluded that the County Council’s approach was the more straight forward and reliable, and was one that most parties were in support of and that has not been objected to once a decision was reached.

11. Guidance

11.1 No guidance is necessary to accompany this instrument. The local authorities are considered to be best placed to deliver the new councils and the DLUHC will work closely with those responsible for implementing the provisions of this Order.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is a simplification to the system of local government in North Yorkshire, with a reduction in the number of councils from eight to one. In making their proposal North Yorkshire County Council estimated savings of £31.9 million per annum.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact on business.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that the new councils will be democratically accountable for their performance to their local electorates, and subject to the audit and accountability regimes applicable to the generality of local government.
- 14.2 The instrument does not include a statutory review clause. Officials are working with the North Yorkshire councils on taking forward implementation in line with the provisions of this Order, which give effect to changes in local government structure which are completed on 1 April 2023.

15. Contact

- 15.1 Louise Beckingham at the Governance Reform and Democracy Unit, DLUHC Telephone: 0303 444 4336 or email: louise.beckingham@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul Rowsell, Deputy Director and Head of Governance Reform and Democracy Unit at the DLUHC can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kemi Badenoch MP, Minister of State at the DLUHC can confirm that this Explanatory Memorandum meets the required standard.