

2022 No. 331

LOCAL GOVERNMENT, ENGLAND

The Cumbria (Structural Changes) Order 2022

Made - - - - - *17th March 2022*

Coming into force - - - - - *18th March 2022*

CONTENTS

**PART 1
GENERAL**

1.	Citation, commencement, extent and application	3
2.	Interpretation	3

PART 2

ESTABLISHMENT OF SINGLE TIER OF LOCAL GOVERNMENT IN CUMBRIA

3.	Single tier of local government in Cumberland	4
4.	Single tier of local government in Westmorland and Furness	4
5.	Cumbria County Council and councillors of that Council	4

PART 3

SHADOW AUTHORITIES

6.	Shadow authorities	5
7.	Duties of shadow authorities: executive arrangements	5
8.	Duties of shadow authorities: code of conduct	6
9.	Duties of shadow authorities: appointment of certain officers	6
10.	Duties of shadow authorities: members' allowances for Cumberland Council and Westmorland and Furness Council	7
11.	Functions of shadow authorities: Implementation Plan	8
12.–18.	Other functions of the shadow authorities	8
19.	Discharge of shadow authorities' functions by shadow executives	10

PART 4

ELECTORAL MATTERS

20.	Cancellation of elections to the county of Cumbria, Cumberland and Westmorland and Furness Councils	11
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21.	Election of councillors of Cumberland Council and Westmorland and Furness Council in 2022 and subsequent years	11
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PART 5

FURTHER TRANSITIONAL AND SUPPLEMENTAL PROVISIONS

22.	Functions of the county council, the Cumberland councils and the Westmorland and Furness councils	13
23.	Joint committees	14
24.	Implementation Plans and further provisions relevant to the discharge of functions by joint committees	15
25.	Functions of joint committees relevant to codes of conduct	15
26.	Implementation Team	15
27.	General transitional duties of the county council, the Cumberland Councils and the Westmorland and Furness Councils	16
28.	Lords-Lieutenant	17
29.	Sheriffs	17

SCHEDULE	17
PART 1 — Wards of Cumberland	17
PART 2 — Wards of Westmorland and Furness	18

The Secretary of State for Levelling Up, Housing and Communities makes this Order in exercise of the powers conferred by sections 7, 11, 12, 13 and 15(2) of the Local Government and Public Involvement in Health Act 2007^(a) (“the 2007 Act”).

This Order implements a proposal, submitted to the Secretary of State in response to an invitation under section 2 of the 2007 Act, that there should be a single tier of local government for Cumbria.

In accordance with section 7(3) of that Act, the Secretary of State has consulted every authority affected by the proposal, except the authority which made it, and such other persons as the Secretary of State considers appropriate.

The proposal was made by Allerdale Borough Council and Copeland Borough Council.

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 240(6) of the 2007 Act.

^(a) 2007 c. 28.

PART 1

GENERAL

Citation, commencement, extent and application

1.—(1) This Order may be cited as the Cumbria (Structural Changes) Order 2022 and comes into force on the day after the day on which the Order is made.

(2) This Order extends to England and Wales and applies in England only.

Interpretation

2. In this Order—

“the 1972 Act” means the Local Government Act 1972(a);

“the 1989 Act” means the Local Government and Housing Act 1989(b);

“the 2000 Act” means the Local Government Act 2000(c);

“the 2007 Act” means the Local Government and Public Involvement in Health Act 2007;

“the 2011 Act” means the Localism Act 2011(d);

“2022 election” means an election required by article 21(1)(a) to be held in 2022;

“the 2022 election day” means the ordinary day of election of councillors in 2022(e);

“the article 22 functions” means the functions referred to in article 22;

“the county council” means the council of the county of Cumbria;

“Cumberland Council” means the district council to be established by article 3(2);

“the Cumberland councils” means Allerdale Borough Council, Carlisle City Council and Copeland Borough Council;

“the Cumberland districts” means the districts of Allerdale, Carlisle and Copeland;

“the Cumberland Joint Committee” is the committee to be established by article 23(1)(a);

“the Implementation Team” means the team required to be formed under article 26(1);

“ordinary day of election of councillors” has the meaning given by section 37 of the Representation of the People Act 1983(f);

“the proper officer”, in relation to any purpose and any council, means the officer appointed for that purpose by that council;

“shadow authority” means an authority (not being a local authority) which will become a local authority on 1st April 2023;

“shadow executive” has the meaning given in article 7(1);

“the shadow period” means the period beginning with the fourth day after the 2022 election day and ending immediately before 1st April 2023;

“Westmorland and Furness Council” means the district council to be established by article 4(2);

“the Westmorland and Furness councils” means Barrow-in-Furness Borough Council, Eden District Council and South Lakeland District Council;

(a) 1972 c.70.

(b) 1989 c. 42.

(c) 2000 c. 22. Parts 2 and 3 of that Act were amended by Part 3 of the Local Government and Public Involvement in Health Act 2007 (c. 28). Part 1A and Schedule A1 were inserted by Schedule 2 to the Localism Act 2011 (c.20).

(d) 2011 c. 20.

(e) See section 37 of the Representation of the People Act 1983 (c.2).

(f) 1983 c. 2.

“the Westmorland and Furness districts” means the districts of Barrow-in-Furness, Eden and South Lakeland;

“the Westmorland and Furness Joint Committee” is the committee to be established by article 23(1)(b).

PART 2

ESTABLISHMENT OF SINGLE TIER OF LOCAL GOVERNMENT IN CUMBRIA

Single tier of local government in Cumberland

3.—(1) A new non-metropolitan county and a new non-metropolitan district, each to be known as Cumberland, are constituted comprising (in each case) the area of the Cumberland districts.

(2) A new district council, to be known as Cumberland Council, is established as the sole principal authority for the non-metropolitan district of Cumberland.

(3) Except for the purposes of Part 4 of this Order (electoral matters), until 1st April 2023—

- (a) Cumberland Council, is not a local authority for the purposes of the 1972 Act or for any other enactment relating to local government; and
- (b) subsection (2) of section 2 of the 1972 Act (constitution of principal councils in England) has effect in relation to that council, as if the words from “and the council” to the end of that subsection were omitted.

(4) In relation to the county of Cumberland, section 2(1) of the 1972 Act (which provides that every county shall have a council) does not apply.

(5) On 1st April 2023—

- (a) the Cumberland districts are abolished as local government areas; and
- (b) the Cumberland councils are wound up and dissolved.

Single tier of local government in Westmorland and Furness

4.—(1) A new non-metropolitan county and a new non-metropolitan district, each to be known as Westmorland and Furness, are constituted comprising (in each case) the area of the Westmorland and Furness districts.

(2) A new district council, to be known as Westmorland and Furness Council, is established as the sole principal authority for the non-metropolitan district of Westmorland and Furness.

(3) Except for the purposes of Part 4 of this Order (electoral matters), until 1st April 2023—

- (a) Westmorland and Furness Council is not a local authority for the purposes of the 1972 Act or for any other enactment relating to local government; and
- (b) subsection (2) of section 2 of the 1972 Act (constitution of principal councils in England) has effect in relation to that council, as if the words from “and the council” to the end of that subsection were omitted.

(4) In relation to the county of Westmorland and Furness, section 2(1) of the 1972 Act (which provides that every county shall have a council) does not apply.

(5) On 1st April 2023—

- (a) the Westmorland and Furness districts are abolished as local government areas; and
- (b) the Westmorland and Furness councils are wound up and dissolved.

Cumbria County Council and councillors of that Council

5.—(1) On 1st April 2023—

- (a) the County of Cumbria is abolished as a local government area;

(b) the county council is wound up and dissolved.

(2) The term of office of persons serving as councillors of the county council immediately before 1st April 2023 ends on that date.

(3) Subject to paragraph (4), nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) authorises the holding of an election to fill a casual vacancy in the office of councillor of the county council where that vacancy arises after 30th September 2022 and before 1st April 2023.

(4) Where, on the occurrence of a vacancy mentioned in paragraph (3) or in the case of a number of simultaneous vacancies, the total number of unfilled vacancies in the membership of the county council exceeds one third of the whole number of members of that council an election to fill the vacancy shall be held in accordance with section 89 of the 1972 Act.

(5) Where, in the circumstances mentioned in paragraph (4), the declaration mentioned in section 89(1)(a) of the 1972 Act has been made or the notice in writing mentioned in section 89(1)(b) of the 1972 Act has been given within thirty-five days of 1st April 2023 (computed in accordance with section 243(4) of the 1972 Act) an election shall not be held and any proceedings required by the Local Elections (Principal Areas) (England and Wales) Rules 2006(a) shall not be commenced.

PART 3

SHADOW AUTHORITIES

Shadow authorities

6. During the shadow period Cumberland Council and Westmorland and Furness Council shall each be a shadow authority for the purposes of the following provisions of this Part.

Duties of shadow authorities: executive arrangements

7.—(1) At its first meeting, each shadow authority must create a leader and cabinet executive within the meaning of Part 1A of the 2000 Act(b) (arrangements with respect to local authority governance in England) (“the shadow executive”).

(2) 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 a 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) in the case of the shadow authority for Cumberland, section 9E (discharge of functions: general) authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the county council and the Cumberland councils;
- (d) in the case of the shadow authority for Westmorland and Furness, section 9E authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the county council and the Westmorland and Furness councils.

(3) Chapter 7 of Part 1 of the 2011 Act (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
- (b) references to co-opted members were omitted.

(a) S.I. 2006/3304.

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

Duties of shadow authorities: code of conduct

8.—(1) Subject to paragraph (2), each shadow authority must adopt a code of conduct proposed pursuant to article 25(1) and (2) at its first meeting.

(2) In complying with paragraph (1), each shadow authority must make such amendments or modifications to the proposals submitted to it under article 25 as it considers necessary to secure that, when adopted, the code will satisfy the requirements of section 27 (duty to promote and maintain high standards of conduct) and section 28 (codes of conduct) of the 2011 Act.

Duties of shadow authorities: appointment of certain officers

9.—(1) At its first meeting, the shadow authority for Cumberland must designate on an interim basis—

- (a) an officer of the county council or an officer of one of the Cumberland councils 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 1989 Act(a); 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) an officer of the county council or an officer of one of the Cumberland councils to be responsible for the administration of the financial affairs of the shadow authority (the “interim chief finance officer”);
- (c) an officer of the county council or an officer of one of the Cumberland councils 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) At its first meeting, the shadow authority for Westmorland and Furness must designate on an interim basis—

- (a) an officer of the county council or an officer of one of the Westmorland and Furness councils 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 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) an officer of the county council or an officer of one of the Westmorland and Furness councils to be responsible for the administration of the financial affairs of the shadow authority (the “interim chief finance officer”);
- (c) an officer of the county council or an officer of one of the Westmorland and Furness councils 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”).

(3) Each shadow authority must before 31st December 2022 appoint a person to become, on and after that date—

- (a) in the case of Cumberland Council—

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

- (i) that council's monitoring officer;
 - (ii) that council's chief finance officer;
 - (iii) that council's head of paid service;
- (b) in the case of Westmorland and Furness Council—
- (i) that council's monitoring officer;
 - (ii) that council's chief finance officer;
 - (iii) that council's head of paid service.

(4) A designation under paragraph (1) or (2) ceases to have effect on the day on which a person (who may be the same person as the designated officer) is appointed under paragraph (3) 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) a shadow authority;
- (b) its interim monitoring officer; and
- (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 115, 115B and 116 of the Local Government Finance Act 1988(a) apply in relation to a shadow authority and its interim chief 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 a 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 a shadow authority and its interim head of paid service.

Duties of shadow authorities: members' allowances for Cumberland Council and Westmorland and Furness Council

10.—(1) The shadow authority for Cumberland must formulate proposals for the scheme of members' allowances to be adopted by Cumberland Council.

(2) The shadow authority for Westmorland and Furness must formulate proposals for the scheme of members' allowances to be adopted by Westmorland and Furness Council.

(3) Each shadow authority must prepare and adopt a scheme for the payment of allowances to its members.

(4) The Local Authorities (Members' Allowances) (England) Regulations 2003(b), 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.

(a) 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.

(b) S.I. 2003/1021.

Functions of shadow authorities: Implementation Plan

11.—(1) After the dissolution of the Cumberland Joint Committee, the shadow authority for Cumberland must keep under review, and revise as necessary, the Implementation Plan prepared by that Committee.

(2) After the dissolution of the Westmorland and Furness Joint Committee, the shadow authority for Westmorland and Furness must keep under review, and revise as necessary, the Implementation Plan prepared by the Westmorland and Furness Joint Committee.

(3) Article 24(2) applies in relation to each shadow authority as if—

- (a) the word “preparing” were omitted;
- (b) for “the article 22 functions” there were substituted “the main transitional functions”; and
- (c) for “each Joint Committee” there were substituted, as the circumstances require, “the Cumberland Council” or “the Westmorland and Furness Council”.

(4) Article 24(3) applies in relation to the shadow authority for Cumberland as if—

- (a) for “Each Joint Committee”, there were substituted, “The Cumberland Council”;
- (b) the words “or the Westmorland and Furness councils” are omitted; and
- (c) for “the article 22 functions” there were substituted “the main transitional functions”.

(5) Article 24(3) applies in relation to the shadow authority for Westmorland and Furness as if—

- (a) for “Each Joint Committee”, there were substituted “The Westmorland and Furness Council” ;
- (b) the words “the Cumberland councils or” are omitted; and
- (c) for “the article 22 functions” there were substituted “the main transitional functions”

(6) In article 24(2) and (3), as applied by paragraphs (3), (4) and (5) “the main transitional functions” means the functions referred to in article 13(1) and—

- (a) as regards the shadow authority for Cumberland, the function referred to in article 13(2); and
- (b) as regards the shadow authority for Westmorland and Furness, the function referred to in article 13(3).

Other functions of the shadow authorities

12. During the shadow period the shadow authorities have, in addition to the functions specified or referred to in articles 7 to 11, the functions referred to or specified in articles 13 to 18.

13.—(1) Each shadow authority must take all such practicable steps as are necessary or expedient—

- (a) to commence and sustain their running as shadow authorities;
- (b) to prepare the authorities for the assumption, as Cumberland Council or Westmorland and Furness Council, of local government functions and full local authority powers on 1st April 2023;
- (c) to prepare any budgets or plans required by Cumberland Council or Westmorland and Furness Council when those functions are assumed; and
- (d) to liaise with the county council and the other shadow authority for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2023.

(2) The shadow authority for Cumberland must also take all such practicable steps as are necessary or expedient to liaise with the Cumberland councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2023.

(3) The shadow authority for Westmorland and Furness must also take all such practicable steps as are necessary or expedient to liaise with the Westmorland and Furness councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2023.

14. The shadow authorities have all the other powers of a non-metropolitan county council or a non-metropolitan district council.

15. The powers conferred by article 14 may be exercised by a shadow authority only—

- (a) in the discharge of the functions specified or referred to in articles 7 to 11, 13, 17 and 18;
- (b) in the case of the powers of a non-metropolitan county council, in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan county council;
- (c) in the case of the powers of a non-metropolitan district council, in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan district council; and
- (d) 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 2023, is the responsibility of that council; or
 - (ii) where the expenditure or liability relates to a matter which, before 1st April 2023, is the responsibility of a district council, with the prior consent of that council.

16. The total of the expenditure properly incurred by the shadow authorities is to be divided among, and paid by, the county council, the Cumberland councils and the Westmorland and Furness councils in such proportion as may be agreed between those councils; but, where either of the shadow authorities 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; or
- (b) appoint an arbitrator for that purpose.

17. The following provisions apply in relation to a shadow authority, notwithstanding that it does not have the functions and full powers of a local authority—

- (a) the following provisions of the Local Democracy, Economic Development and Construction Act 2009^(a)—
 - (i) section 108 (review by authorities: new combined authority)^(b);
 - (ii) section 109 (preparation and publication of scheme: new combined authority)^(c);
- (b) section 82 of the 2007 Act (council’s power to undertake review) in relation to the area of any of the district councils;
- (c) section 86 of the 2007 Act (reorganisation of community governance);
- (d) section 87 of the 2007 Act (constitution of new parish);
- (e) section 88 of the 2007 Act (existing parishes under review);
- (f) section 89 of the 2007 Act (new council: consequential recommendations);
- (g) section 90 of the 2007 Act (council retained: consequential recommendations);
- (h) section 91 of the 2007 Act (grouping or de-grouping of parishes);
- (i) section 92 of the 2007 Act (county, district or London borough: consequential recommendations);
- (j) section 93 of the 2007 Act (duties when undertaking a review);
- (k) section 94 of the 2007 Act (recommendations to create parish councils);
- (l) section 95 of the 2007 Act (electoral recommendations: general considerations);
- (m) section 96 of the 2007 Act (publicising outcome); and

^(a) 2009 c. 20.

^(b) 2009 c. 20. Section 108 was amended by section 6 of the Cities and Local Government Devolution Act 2016 (c. 1).

^(c) Section 109 was amended by sections 6 and 12 of the Cities and Local Government Devolution Act 2016 (c. 1).

(n) section 98 of the 2007 Act (orders and regulations under this chapter).

18.—(1) The following provisions of the 1972 Act apply in relation to a 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>	
Section 3	Chairman
Section 5	Vice-chairman
Part 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) Each 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(a) and any regulations made under that Act 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(b) (capital finance etc and accounts), as a local authority;
- (d) for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001(c), as a relevant authority;
- (e) for the purposes of the Data Protection Act 2018(d), as a public authority; and
- (f) for the purposes of the Freedom of Information Act 2000(e), as a public authority.

Discharge of shadow authorities' functions by shadow executives

19.—(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), 9DA (functions of an executive: further provision) or 13(f) (functions which are the responsibility of an executive) of the 2000 Act requires otherwise, the functions conferred on a shadow authority by or under this Order are to be delegated to, and discharged by, its shadow executive.

(2) Paragraph (1) does not prevent a shadow executive from requesting its shadow authority to discharge any function specified in a notice given by the shadow executive 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 may specify.

(a) 2014 c.2.

(b) 2003 c.26.

(c) S.I. 2001/3384.

(d) 2018 c.12.

(e) 2000 c.36.

(f) Section 13 was amended by Schedule 3 of the Localism Act 2011 so that it applies to Wales only from 4th May 2012. The Local Authorities (Functions and Responsibilities) (England) Regulations (S.I. 2000/2853) made under section 13 continue to apply to England.

PART 4
ELECTORAL MATTERS

Cancellation of elections to the county of Cumbria, Cumberland and Westmorland and Furness Councils

20.—(1) Notwithstanding section 7(8) and (9) of the 1972 Act (elections of councillors)—

- (a) ordinary elections are not to be held in 2022 for the return of councillors to the county of Cumbria, any of the Cumberland councils or the Westmorland and Furness councils;
- (b) the term of office of councillors serving as councillors of any of those councils ends on 1st April 2023;
- (c) ordinary elections are not to be held in 2023 for the office of the elected mayor of Copeland; and
- (d) the term of office of the elected mayor of Copeland ends on 1st April 2023.

(2) Subject to paragraph (3), nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) authorises the holding of an election to fill a casual vacancy in the office of councillor of any of the Cumberland councils or the Westmorland and Furness councils where that vacancy arises after 30th September 2022 and before 1st April 2023.

(3) Where, on the occurrence of a vacancy mentioned in paragraph (2) or in the case of a number of simultaneous vacancies, the total number of unfilled vacancies in the membership of one of the Cumberland councils or one of the Westmorland and Furness councils (as the case may be) exceeds one third of the whole number of members of that council an election to fill the vacancy shall be held in accordance with section 89 of the 1972 Act.

(4) Where, in the circumstances mentioned in paragraph (3), the declaration mentioned in section 89(1)(a) of the 1972 Act has been made or the notice in writing mentioned in section 89(1)(b) of the 1972 Act has been given within thirty-five days of 1st April 2023 (computed in accordance with section 243(4) of the 1972 Act) an election shall not be held and any proceedings required by the Local Elections (Principal Areas) (England and Wales) Rules 2006(a) shall not be commenced.

Election of councillors of Cumberland Council and Westmorland and Furness Council in 2022 and subsequent years

21.—(1) Whole council elections of councillors of Cumberland Council and Westmorland and Furness Council are to be held—

- (a) on the ordinary day of election of councillors in 2022;
- (b) on the ordinary day of election of councillors in 2027;
- (c) every fourth year thereafter.

(2) For the purposes of the elections of councillors of Cumberland Council—

- (a) Cumberland is to be divided into wards;
- (b) the names of the new wards are those indicated in column 1 of the table set out in Part 1 of the Schedule to this Order;
- (c) the area of each new ward is to be the same as that of the county council electoral division, as that electoral division exists on 31st March 2022, and as indicated in column 2 of that Table;
- (d) each new ward is to return the number of councillors indicated in column 3 of that Table.

(3) For the purposes of the elections of councillors of Westmorland and Furness Council—

- (a) Westmorland and Furness is to be divided into wards;

(a) S.I. 2006/3304.

- (b) the names of the new wards are those indicated in column 1 of the table set out in Part 2 of the Schedule to this Order;
 - (c) the area of each new ward is to be as indicated in column 2 of that Table;
 - (d) each new ward is to return the number of councillors indicated in column 3 of that Table.
- (4) For the 2022 elections—
- (a) the returning officer for Cumberland is the head of paid service of Allerdale Borough Council (“the Cumberland Council returning officer”); and
 - (b) the returning officer for Westmorland and Furness is the head of paid service of Barrow-in-Furness Borough Council (“the Westmorland and Furness Council returning officer”).
- (5) The Cumberland Council returning officer and the Westmorland and Furness Council returning officer must take such steps as are necessary or appropriate to prepare for the 2022 elections.
- (6) The total of the expenditure properly incurred by the Cumberland Council returning officer and the Westmorland and Furness Council returning officer in relation to the holding of the 2022 elections is to be divided among, and paid by, the county council, the Cumberland councils and the Westmorland and Furness councils in such proportion as may be agreed between them; but, where the Cumberland Council returning officer or the Westmorland and Furness Council returning officer notifies the Secretary of State that there is not such agreement, the Secretary of State may—
- (a) determine the proportion; or
 - (b) appoint an arbitrator for that purpose.
- (7) In relation to the 2022 elections, “the appropriate officer” in Parts 1 and 2 of the Representation of the People Act 1983^(a) does not have the meaning given by section 67(7) of that Act but means the Cumberland Council returning officer or the Westmorland and Furness Council returning officer.
- (8) All councillors elected in 2022 or any later year are to retire on the fourth day after the ordinary day of election of councillors in the year of retirement and the newly-elected councillors are to come into office on the day on which their predecessors retire.
- (9) In this article “the year of retirement”—
- (a) in relation to councillors elected in 2022 means 2027;
 - (b) in relation to councillors elected in 2027 or in any later year means the fourth year after the year of election of those councillors.
- (10) The Cumberland Council returning officer must convene, and make all necessary arrangements for, the first meeting of the shadow authority for Cumberland, which must be held not later than 14 days after the ordinary day of election of councillors in 2022.
- (11) The Westmorland and Furness Council returning officer must convene, and make all necessary arrangements for, the first meeting of the shadow authority for Westmorland and Furness, which must be held not later than 14 days after the ordinary day of election of councillors in 2022.
- (12) Where, during the shadow period, a casual vacancy occurs in the office of councillor for Cumberland Council or Westmorland and Furness Council and an election is required to be held in accordance with section 89 of the 1972 Act—
- (a) the returning officer for an election to Cumberland Council is that council’s head of paid service or (if an appointment has not been made under article 9(3)(a)(iii)) the interim head of paid service of the shadow authority for Cumberland appointed in accordance with article 9(1)(c);
 - (b) the returning officer for an election to Westmorland and Furness Council is that council’s head of paid service or (if an appointment has not been made under article 9(3)(b)(iii)) the

(a) 1983 c. 2.

interim head of paid service of the shadow authority for Westmorland and Furness appointed in accordance with article 9(1)(c).

(13) In relation to an election held to fill a casual vacancy occurring in the circumstances mentioned in paragraph (12) “the appropriate officer” in Parts 1 and 2 of the Representation of the People Act 1983 does not have the meaning given by section 67(7) of that Act but means—

- (a) in respect of Cumberland Council—
 - (i) the head of paid service of Cumberland Council; or
 - (ii) the interim head of paid service of the shadow authority for Cumberland;
- (b) in respect of Westmorland and Furness Council—
 - (i) the head of paid service of Westmorland and Furness Council; or
 - (ii) the interim head of paid service of the shadow authority for Westmorland and Furness.

(14) For the purposes of section 83(1) to (3) of the 1972 Act (declaration of acceptance of office), the proper officer of the Cumberland Council for the 2022 election is the Cumberland Council returning officer.

(15) For the purposes of section 83(1) to (3) of the 1972 Act (declaration of acceptance of office), the proper officer of the Westmorland and Furness Council for the 2022 election is the Westmorland and Furness Council returning officer.

(16) The Cumberland Council returning officer may authorise an officer of the county council or one of the Cumberland councils to discharge the functions of the proper officer mentioned in paragraph (14).

(17) The Westmorland and Furness Council returning officer may authorise an officer of the county council or one of the Westmorland and Furness councils to discharge the functions of the proper officer mentioned in paragraph (15).

PART 5

FURTHER TRANSITIONAL AND SUPPLEMENTAL PROVISIONS

Functions of the county council, the Cumberland councils and the Westmorland and Furness councils

22.—(1) There is added to the functions of the county council the function, which is exercisable only in the transitional period beginning on the coming into force of this Order and ending on the fourteenth day after the 2022 election day, of preparing for and facilitating the economic, effective, efficient and timely transfer to the Cumberland Council, of such of its functions, property, rights and liabilities as relate to Cumberland and its inhabitants.

(2) There is added to the functions of the county council the function, which is exercisable only in the transitional period beginning on the coming into force of this Order and ending on the fourteenth day after the 2022 election day, of preparing for and facilitating the economic, effective, efficient and timely transfer to the Westmorland and Furness Council, of such of its functions, property, rights and liabilities as relate to Westmorland and Furness and its inhabitants.

(3) There is added to the functions of each of the Cumberland councils the function, which is exercisable only in the transitional period beginning on the coming into force of this Order and ending on the fourteenth day after the 2022 election day, of preparing for and facilitating the economic, effective, efficient and timely transfer to the Cumberland Council of its functions, property, rights and liabilities.

(4) There is added to the functions of each of the Westmorland and Furness councils the function, which is exercisable only in the transitional period beginning on the coming into force of this Order and ending on the fourteenth day after the 2022 election day, of preparing for and facilitating the economic, effective, efficient and timely transfer to the Westmorland and Furness Council of its functions, property, rights and liabilities.

Joint committees

- 23.—(1) Not later than 14 days after the coming into force of this Order—
- (a) the county council and the Cumberland councils must establish a joint committee under section 101(5) of the 1972 Act for the purpose of discharging, until the first meeting of the shadow authority for Cumberland, the functions mentioned in paragraph (2) (“the Cumberland Joint Committee”); and
 - (b) the county council and the Westmorland and Furness councils must establish a joint committee under section 101(5) of the 1972 Act for the purpose of discharging, until the first meeting of the shadow authority for Westmorland and Furness, the functions mentioned in paragraph (2) (“the Westmorland and Furness Joint Committee”).
- (2) The functions are—
- (a) the article 22 functions; and
 - (b) the functions referred to in articles 24, 25 and 26.
- (3) The Cumberland Joint Committee is to consist of twelve persons—
- (a) three persons nominated by the county council, each of whom is for the time being a member of that council for an electoral division whose area is within the Cumberland districts; and
 - (b) nine persons nominated by the Cumberland councils (with each Cumberland council nominating three persons), each of whom is for the time being a member of the nominating council.
- (4) The Westmorland and Furness Joint Committee is to consist of twelve persons—
- (a) three persons nominated by the county council, each of whom is for the time being a member of that council for an electoral division whose area is within the Westmorland and Furness districts; and
 - (b) nine persons nominated by the Westmorland and Furness councils (with each Westmorland and Furness council nominating three persons), each of whom is for the time being a member of the nominating council.
- (5) The county council, and—
- (a) as regards the Cumberland Joint Committee, each of the Cumberland councils;
 - (b) as regards the Westmorland and Furness Joint Committee, each of the Westmorland and Furness councils;
- must co-operate in the establishment of the relevant Joint Committee.
- (6) The Cumberland Joint Committee is to regulate its own proceedings, but a question to be decided by the committee is to be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the chairman of the committee) having one vote.
- (7) The Westmorland and Furness Joint Committee is to regulate its own proceedings, but a question to be decided by the committee is to be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the chairman of the committee) having one vote.
- (8) In the case of an equality of votes, the person presiding at the meeting (whether or not the chairman of the committee) has a casting vote, in addition to any other vote the person may have.
- (9) The Cumberland Joint Committee is dissolved on the day following that on which the shadow authority for Cumberland holds its first meeting.
- (10) The Westmorland and Furness Joint Committee is dissolved on the day following that on which the shadow authority for Westmorland and Furness holds its first meeting.

Implementation Plans and further provisions relevant to the discharge of functions by joint committees

24.—(1) The Cumberland Joint Committee and the Westmorland and Furness Joint Committee must each prepare, keep under review, and revise as necessary, an Implementation Plan which must include—

- (a) such plans and timetables as are in the opinion of each Joint Committee necessary to secure the effective, efficient and timely discharge of the article 22 functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge, on and after 1st April 2023, of the functions that, before that date, are functions of the county council, the Cumberland councils, or the Westmorland and Furness councils.

(2) For the purposes of—

- (a) preparing, reviewing and revising the Implementation Plan,
- (b) discharging the article 22 functions, and
- (c) discharging such other functions as may be conferred on it,

each Joint Committee must have regard to the information supplied to the Secretary of State in support of the proposal for single tier local government in Cumbria.

(3) Each Joint Committee may, by written notice to—

- (a) the proper officer of the county council, or
- (b) the proper officer of any of the Cumberland councils or the Westmorland and Furness councils,

require the council referred to in the notice to take such action relevant to any of the article 22 functions as may be specified in the notice.

Functions of joint committees relevant to codes of conduct

25.—(1) The Cumberland Joint Committee must formulate proposals for the code of conduct to be adopted by the shadow authority for Cumberland in accordance with article 8(1) and present those proposals at the first meeting of the shadow authority.

(2) The Westmorland and Furness Joint Committee must formulate proposals for the code of conduct to be adopted by the shadow authority for Westmorland and Furness in accordance with article 8(1) and present those proposals at the first meeting of the shadow authority.

(3) In formulating proposals under paragraphs (1) and (2) the joint committees must have regard to section 27 (duty to promote and maintain high standards of conduct) and section 28 (codes of conduct) of the 2011 Act.

Implementation Team

26.—(1) Not later than 21 days after the coming into force of this Order, the Cumberland Joint Committee and the Westmorland and Furness Joint Committee must form a single team of officers (“the Implementation Team”) for the purposes of assisting—

- (a) the relevant Joint Committee in the discharge of its functions under this Part; and
- (b) if, after the dissolution of the relevant Joint Committee, the relevant shadow authority so requires, that shadow authority.

(2) The members of the Implementation Team must comprise officers from the county council, the Cumberland councils and the Westmorland and Furness councils.

(3) The Implementation Team must appoint a member of that Team to be the leader of that Team.

(4) The deputy leaders of the Implementation Team are to be an officer of one of the Cumberland councils and an officer of one of the Westmorland and Furness councils.

(5) The county council and, as regards the relevant Joint Committee, each of the Cumberland councils or each of the Westmorland and Furness councils must—

- (a) co-operate in the formation of the Implementation Team, and
- (b) release the officers concerned from their normal duties at such times or for such periods as the relevant Joint Committee or the relevant shadow authority may reasonably require.

(6) In this article—

“the relevant Joint Committee” means—

- (a) as regards the Cumberland councils, the Cumberland Joint Committee;
- (b) as regards the Westmorland and Furness councils, the Westmorland and Furness Joint Committee;

“the relevant shadow authority” means—

- (a) as regards the Cumberland councils, the shadow authority for Cumberland; and
- (b) as regards the Westmorland and Furness councils, the shadow authority for Westmorland and Furness.

General transitional duties of the county council, the Cumberland Councils and the Westmorland and Furness Councils

27.—(1) The county council, each of the Cumberland councils and each of the Westmorland and Furness councils must—

- (a) consult and co-operate with one another and with the shadow authorities in order to secure the economic, effective, efficient and timely transfer of the county council’s and those councils’ functions, property, rights and liabilities; and
- (b) generally, exercise their functions so as to further the purposes of this Order.

(2) A relevant authority must provide such information relating to its functions as any other relevant authority may reasonably request for the purpose of giving effect to this Order.

(3) A relevant authority must, on request by a person authorised by another relevant authority in that behalf, at all reasonable times allow that person—

- (a) to inspect any record belonging to or under the control of the authority providing the information and relating to the authority or its functions; and
- (b) to take, or be supplied with, a copy of any such record or part of it.

(4) A relevant authority to whom a request is made under paragraph (3) may, before complying with the request, require the person making the request to produce evidence of the authorisation given by the other relevant authority.

(5) The rights conferred by paragraph (3) include the right to require any record which is not in legible form to be made available in legible form so that the authorised person may inspect or copy it or be supplied with copies.

(6) The information referred to in paragraph (2) shall, in particular, include any information necessary for the exercise during the shadow period of any of the functions of a shadow authority.

(7) In this article “relevant authority” means—

- (a) in the case of Cumberland—
 - (i) the county council;
 - (ii) the Cumberland councils;
 - (iii) the shadow authority for Cumberland;
- (b) in the case of Westmorland and Furness—
 - (i) the county council;
 - (ii) the Westmorland and Furness councils;
 - (iii) the shadow authority for Westmorland and Furness.

Lords-Lieutenant

28. In the Lieutenancies Act 1997(a), in paragraph 3 of Schedule 1 (counties and areas for the purposes of the lieutenancies in Great Britain), the following entry is inserted at the appropriate place in the Table.

“Cumbria	Cumberland, Westmorland and Furness”
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Sheriffs

29. In the Sheriffs Act 1887(b) in Schedule 2A (meaning of “county”), the following entry is inserted at the appropriate place in the Table.

“Cumbria	Cumberland, Westmorland and Furness”
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Signed by authority of the Secretary of State for State for Levelling up, Housing and Communities

Kemi Badenoch
Minister of State

17th March 2022

Department for Levelling Up, Housing and Communities

SCHEDULE

Article 21(2) and (3)

PART 1

Wards of Cumberland

<i>New ward</i>	<i>Existing electoral division</i>	<i>Number of Councillors</i>
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Aspatria	Aspatria	1
Belah	Belah	1
Belle Vue	Belle Vue	1
Botcherby	Botcherby	1
Bothel and Wharrels	Bothel and Wharrels	1
Brampton	Brampton	1
Bransty	Bransty	1
Castle	Castle	1
Cleator Moor East and Frizington	Cleator Moor East and Frizington	1
Cleator Moor West	Cleator Moor West	1
Cockermouth North	Cockermouth North	1
Cockermouth South	Cockermouth South	1
Corby and Hayton	Corby and Hayton	1
Currock	Currock	1
Dalston and Burgh	Dalston and Burgh	1
Dearham and Broughton	Dearham and Broughton	1
Denton Holme	Denton Holme	1
Egremont	Egremont	1
Egremont North and St Bees	Egremont North and St Bees	1
Gosforth	Gosforth	1

(a) 1997 c. 23.

(b) 1887 c. 55. Schedule 2A was inserted by regulation 8 of S.I. 1995/1748.

Harraby North	Harraby North	1
Harraby South	Harraby South	1
Harrington	Harrington	1
Hillcrest and Hensingham	Hillcrest and Hensingham	1
Houghton and Irthington	Houghton and Irthington	1
Howgate	Howgate	1
Kells and Sandwith	Kells and Sandwith	1
Keswick	Keswick	1
Longtown	Longtown	1
Maryport North	Maryport North	1
Maryport South	Maryport South	1
Millom	Millom	1
Millom Without	Millom Without	1
Mirehouse	Mirehouse	1
Morton	Morton	1
Moss Bay and Moorclose	Moss Bay and Moorclose	1
Seaton	Seaton	1
Solway Coast	Solway Coast	1
St Michael's	St Michael's	1
St John's and Great Clifton	St John's and Great Clifton	1
Stanwix Urban	Stanwix Urban	1
Thursby	Thursby	1
Upperby	Upperby	1
Wetheral	Wetheral	1
Wigton	Wigton	1
Yewdale	Yewdale	1

PART 2

Wards of Westmorland and Furness

<i>New ward</i> <i>Column 1</i>	<i>Existing ward or electoral</i> <i>division</i> <i>Column 2</i>	<i>Number of Councillors</i> <i>Column 3</i>
Alston and Fellside	The existing district wards of Alston Moor Hartside Kirkoswald Langwathby	2
Appleby and Brough	The existing district wards of Appleby (Appleby) Appleby (Bongate) Warcop Brough	2
Bowness and Lyth	The whole of the parishes of Crook Crosthwaite & Lyth Underbarrow & Bradleyfield Witherslack, Meathop & Ulpha The parish ward of Bowness South of the parish	1

Burton and Holme	of Windermere and Bowness The whole of the parishes of Burton-in-Kendal Holme Hutton Roof Lupton Mansergh	1
Coniston and Hawkshead	The whole of the parishes of Blawith & Subberthwaite Claife Colton Coniston Hawkshead Lowick Satterthwaite Skelwith Torver	1
Dalton North	The existing borough ward of Dalton North	2
Dalton South	The existing borough ward of Dalton South	2
Eamont and Shap	The existing district wards of Askham Shap Eamont	1
Eden and Lyvennet Vale	The existing district wards of Kirkby Thore Long Marton Morland Crosby Ravensworth	2
Grange and Cartmel	The existing county divisions of Grange Cartmel	3
Greystoke and Ullswater	The existing district wards of Greystoke Dacre Ullswater	1
Hawcoat and Newbarns	The existing borough wards of Hawcoat Newbarns	3
Hesket and Lazonby	The existing district wards of Lazonby Hesket Skelton	2
High Furness	The whole of the parishes of Angerton Broughton West Dunnerdale-with-Seathwaite Egton-with-Newland Mansriggs Osmotherley Kirkby Ireleth The parish ward of Pennington of the parish of	1

	Pennington	
Kendal Castle	The existing county division of Kendal Castle	2
Kendal Highgate	The existing county division of Kendal Highgate	2
Kendal Nether	The existing county division of Kendal Nether	2
Kendal South	The existing county division of Kendal South	2
Kendal Strickland and Fell	The existing county division of Kendal Strickland & Fell	2
Kent Estuary	The existing county division of Kent Estuary	2
Kirkby Stephen and Tebay	The existing district wards of Orton with Tebay Ravenstonedale Kirkby Stephen	2
Levens and Crooklands	The whole of the parishes of Helsington Heversham Levens Preston Patrick Preston Richard	1
Low Furness	The whole of the parishes of Aldingham Bardsea, Stainton & Urswick The parish ward of Swarthmoor of the parish of Pennington	1
Old Barrow and Hindpool	The existing borough wards of Barrow Island Central Hindpool	3
Ormsgill and Parkside	The existing borough wards of Ormsgill Parkside	3
Penrith North	The existing district wards of Penrith North Penrith East	2
Penrith South	The existing district wards of Penrith West Penrith South Penrith Pategill Penrith Carleton	2
Risedale and Roosecote	The existing borough wards of Risedale Roosecote	3
Sedbergh and Kirkby Lonsdale	The whole of the parishes of Barbon Casterton Dent Docker Firbank Garsdale	2

	Grayrigg	
	Killington	
	Kirkby Lonsdale	
	Lambrigg	
	Middleton	
	New Hutton	
	Old Hutton & Holmescales	
	Sedbergh	
	Whinfell	
Ulverston	The existing county divisions of Ulverston East	3
	Ulverston West	
Upper Kent	The whole of the parishes of Hugill	1
	Kentmere	
	Longsleddale	
	Nether Staveley	
	Over Staveley	
	Selside & Fawcett Forest	
	Skelsmergh & Scalthwaiterigg	
	Strickland Ketel	
	Strickland Roger	
Walney Island	The existing borough wards of Walney North	3
	Walney South	
Windermere and Ambleside	The existing county divisions of Lakes	3
	Windermere	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment, on 1st April 2023, of a single tier of local government in Cumbria. Two new councils are created; the Cumberland Council, for the same area as the existing districts of Allerdale, Carlisle and Copeland, and the Westmorland and Furness Council, for the same area as the existing districts of Barrow-in-Furness, Eden and South Lakeland.

The County of Cumbria and the districts of Barrow-in-Furness, Eden, South Lakeland, Allerdale, Carlisle and Copeland are abolished as local government areas with effect from 1st April 2023. The county council and district councils in the county are wound up.

The new councils, to which elections are to be held in 2022, will operate as “shadow authorities” until 1st April 2023. Part 3 of the Order contains the arrangements for the shadow authorities, including their functions which are principally to prepare for the transition to a single tier of local government on 1st April 2023.

Part 4 of the Order deals with electoral matters. Elections for the new councils will take place on the ordinary day of elections in 2022, 2027 and every fourth year thereafter.

Part 5 of the Order deals with further transitional duties including duties on the county council and existing district councils, in particular to cooperate with each other and the shadow authorities and shadow executives and to create joint committees. Articles 28 and 29 make consequential amendments to the Lieutenancies Act 2007 (c. 23) and the Sheriffs Act 1887 (c. 55) to provide for

the Cumberland Council and for the Westmorland and Furness Council to be regarded for the purposes of those Acts as the ceremonial county of Cumbria.

The Schedule sets out the electoral wards of Cumberland Council and Westmorland and Furness Council.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector. The impact on the public sector is a simplification to the system of local government in Cumbria.

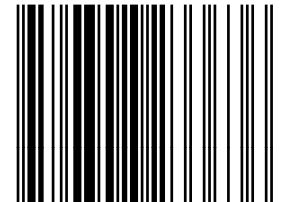
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