

1989 No. 1359

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Greater Manchester Residuary Body (Winding Up)
Order 1989**

<i>Made</i> - - - - -	<i>1st August 1989</i>
<i>Laid before Parliament</i>	<i>9th August 1989</i>
<i>Coming into force</i>	<i>30th August 1989</i>

Whereas the Greater Manchester Residuary Body, acting pursuant to section 67(1)(b) of the Local Government Act 1985(a), has submitted a scheme to the Secretary of State for its winding up, and the disposal of its remaining functions, property, rights and liabilities:

And whereas the Secretary of State has decided to give effect to that scheme:

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 67(3) of that Act, and of all other powers enabling him in that behalf, hereby makes the following Order:—

PART I

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Greater Manchester Residuary Body (Winding Up) Order 1989 and shall come into force on 30th August 1989.

(2) In this Order—

“the 1980 Act” means the Local Government, Planning and Land Act 1980(b);

“the 1985 Act” means the Local Government Act 1985;

“the abolished council” means the former Greater Manchester County Council;

“the Residuary Body” means the Greater Manchester Residuary Body;

“the local council” means the council of a district in the county and in relation to property means, except in article 3, the council of the district in which the property is situated;

“the county” means the county of Greater Manchester;

“property”, except in article 10(2), does not include cash or the balance of any fund or account;

“Stockport” means the council of the metropolitan borough of Stockport;

“Tameside” means the council of the metropolitan borough of Tameside;

“Manchester” means the council of the city of Manchester;

“Oldham” means the council of the metropolitan borough of Oldham;

“Wigan” means the council of the metropolitan borough of Wigan; and

“the transfer date” means 31st August 1989.

(3) For the purpose of any provision of this Order which requires the payment or recovery of sums in the appropriate proportions,—

- (a) the appropriate proportion in relation to any council is the proportion equal to the proportion which the population of the area of that council bears to the population of the county; and
- (b) the population of an area shall be taken to be the number estimated by the Registrar General and certified by him to the Secretary of State by reference to the 30th June which falls 21 months before the beginning of the financial year in which the payment falls to be made or the sum recovered, as the case may be.

(4) For the purpose of any provision of this Order, any matter which falls to be determined by the local councils in consequence of the transfer to them jointly of any property, functions, rights or liabilities shall require the agreement of a majority of all the local councils and any such agreement shall be binding on all the local councils.

PART II

TRANSFER OF PROPERTY, FUNCTIONS, RIGHTS AND LIABILITIES

Transfer of property, etc.

2.—(1) Subject to article 3, on the transfer date—

- (a) all interests of the Residuary Body in any immovable property which—
 - (i) is the subject of an agreement for its disposal or option for its purchase; or
 - (ii) was occupied by the Crown Prosecution Service on 31st March 1989, shall vest in Stockport;
- (b) all interests of the Residuary Body in the offices at Third Floor, The Royal Exchange, Cross Street, Manchester and all of their movable property shall vest in Stockport;
- (c) all interests of the Residuary Body in part of Lawns Wood, Wigan Road, Crooke registered at Her Majesty’s Land Registry under title number GM159574 shall vest in Stockport;
- (d) all other immovable property of the Residuary Body shall vest in the local council; and
- (e) all interests of the Residuary Body in respect of any mortgage granted in pursuance of section 132 of the Housing Act 1985(a) shall vest in the local council.

(2) Subject to paragraphs (3) and (4) below, all rights and liabilities of the Residuary Body acquired or incurred in connection with, and all records relating exclusively to property transferred by paragraph (1) shall vest in the council to which it is so transferred.

(a) 1985 c.68.

(3) Any right of the Residuary Body to receive grants or subsidies from the Exchequer or from the European Commission shall, insofar as it relates to property transferred by paragraph (1), vest in Stockport.

(4) Any liability of the Residuary Body to repay such grants or subsidies as are mentioned in paragraph (3) shall vest in Stockport, except where the liability to repay is associated with property which is by paragraph (1) transferred to another local council, in which case the liability to repay shall vest in that other local council.

(5) In each financial year commencing with the financial year beginning 1st April 1989 Stockport shall pay to each of the other local councils the appropriate proportion of an amount equal to Stockport's net revenue receipts from any interest vested by paragraph (1)(a), (b) and (c), and net capital receipts from the disposal of any such interest so vested.

(6) In the preceding paragraph, "net revenue receipts" means revenue receipts in the year in question after deducting the aggregate amount of expenditure incurred by Stockport in that year in connection with interests vested by paragraph (1)(a), (b) or (c); and "net capital receipts" means capital receipts in the year in question after deducting any amount by which net revenue receipts are a negative amount.

(7) The balance of the net capital and revenue receipts shall be retained by Stockport.

Transfer of Central Station Site, etc

3.—(1) The Residuary Body's interests in the Central Station Site, Manchester, registered at Her Majesty's Land Registry under Title numbers GM161103 and GM265086, shall vest jointly in Manchester, Oldham, Stockport and Wigan as trustees for all the local councils.

(2) All rights and liabilities of the Residuary Body acquired or incurred in connection with, and all records relating exclusively to property transferred by paragraph (1) shall vest jointly in all the local councils.

(3) The Residuary Body's beneficial interest in the share capital of Modesole Limited shall vest in the local councils, and each local council shall receive the number of shares shown against its name in the Schedule to this Order.

(4) Any sums received or payments due in consequence of the provisions of paragraph (1) and (2) shall be distributed among or discharged by the local councils in the appropriate proportions.

Transfer of monies

4.—(1) Immediately before the transfer date, the Residuary Body shall set aside from their revenue balances the sum of £150,000 ("the special fund"), to meet their expenditure between the transfer date and 31st October 1989.

(2) On the transfer date all monies held by the Residuary Body and all sums standing to the credit of that Body on any account (other than the special fund) shall vest in Stockport.

(3) On or before 31st March 1990 Stockport shall pay to each of the other local councils the appropriate capital and appropriate revenue sums as defined in paragraph (4).

(4) In paragraph (3)—

"appropriate capital sum" means a sum equal to the appropriate proportion of the aggregate amount of capital money held by the Residuary Body or standing to its credit on any account immediately before the transfer date;

"appropriate revenue sum" means a sum equal to the appropriate proportion of the aggregate of all other sums which immediately before the transfer date are held by, or stand to the credit of, the Residuary Body on any account other than the special fund.

(5) The amounts reflecting the difference between the amounts vested by paragraph (2) and the amounts which fall to be paid to other local councils by paragraph (3) shall be retained by Stockport as their share of the vested amounts.

(6) In this article "capital money" means monies described in article 2(2)(a) of the Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986(a).

Compensation and superannuation matters

5.—(1) All the functions of the Residuary Body in relation to any contract of employment with the Residuary Body terminating on or before the transfer date, and all rights and liabilities of that Body which arise from any such contract shall on the transfer date become functions of, or vest in, Tameside.

(2) Without prejudice to the generality of paragraph (1) the functions of the Residuary Body conferred by regulation 3(1) of the Local Government Superannuation (Miscellaneous Provisions) Regulations 1986(b) shall vest in Tameside.

(3) All the functions of the Residuary Body under the Pensions (Increase) Act 1971(c) shall on the transfer date become functions of Tameside.

(4) Regulation 3(3) of the Regulations mentioned in paragraph (2) above shall apply to the exercise by Tameside of any discretionary function transferred by paragraph (1) as if references to the appropriate residuary body were references to that council.

Transfer of rights and liabilities

6.—(1) Subject to paragraphs (2) and (4), on the transfer date all rights and liabilities of the Residuary Body which are not transferred by the preceding provisions of this Order shall vest in Stockport to be held for the benefit of, or discharged on behalf of, all the local councils.

(2) All remaining rights and liabilities of the Residuary Body in respect of the Midland Hotel site, Manchester, shall vest jointly in all the local councils.

(3) Any sums received or payments due in consequence of the provisions of paragraph (2) shall be distributed among or discharged by the local councils in the appropriate proportions.

(4) Paragraph (1) shall not apply to any liability of the Residuary Body to pay remuneration to its members, or to any function of the Residuary Body in relation to any contract of employment other than those mentioned in article 5(1), and any right or liability of the Residuary Body in relation to the special fund set aside under article 4(1) shall remain the right or liability of the Residuary Body.

(5) Liabilities in respect of money borrowed by the Residuary Body (both as respects principal and interest) transferred by paragraph (1) shall be charged on the revenues of Stockport.

Consequential financial provisions

7. —(1) Any net capital receipts paid to a local council pursuant to article 2(5) and the balance of net capital receipts retained by Stockport pursuant to article 2(7) shall be treated for the purposes of Part VIII (capital expenditure) of the 1980 Act as a capital receipt of the council.

(2) Any sum paid to a local council as an appropriate capital sum under article 4(3) or retained by Stockport pursuant to article 4(5) and reflecting capital monies shall be treated for the purposes of the said Part VIII as a capital receipt of the council.

(3) Regulations under sections 72(3)(d) and 75 of the 1980 Act shall apply to amounts to be treated by virtue of this article as capital receipts of a local council for the purposes of Part VIII as they apply to other receipts of the council.

(4) Sums received by Stockport in respect of the disposal of interests vested in that council by article 2(1)(a), (b) or (c) of this Order shall not be capital receipts for the purposes of Part VIII of the 1980 Act.

(a) S.I. 1986/2063. (b) S.I. 1986/380. (c) 1971 c.56.

8. Any net capital receipts or appropriate capital sum paid to a local council pursuant to article 2(5) or 4(3), and the balance of net capital receipts and the appropriate capital sum retained by Stockport pursuant to articles 2(7) and 4(5), shall be applied for any purpose for which capital money received by a local council on the disposal of land under Part VII of the Local Government Act 1972(a) may properly be applied.

Consequential administrative arrangements

9.—(1) On or before 31st December 1989 and 31st October in any later year, Stockport shall notify every other local council of its estimate of the amount to be paid to that council in the current financial year by way of net capital receipts under article 2(5) or an appropriate capital sum under article 4(3) and of the classes of disposals and repayments to which that amount relates.

(2) On making any payment of net capital receipts in pursuance of article 2(5) or of an appropriate capital sum in pursuance of article 4(3) Stockport shall notify the council of classes of disposals and repayments to which the payment relates.

(3) For the purposes of paragraphs (1) and (2), disposals and repayments shall be classified in accordance with Schedule 1 to the Local Government (Prescribed Expenditure) (Consolidation and Amendment) Regulations 1987(b).

(4) When Stockport send a notification under paragraph (1) or (2) to another council they shall send a copy to the Secretary of State and where he is sent a copy of a notification under paragraph (2) they shall advise the Secretary of State of the amount paid to that council.

(5) Stockport shall—

(a) on or before the relevant date mentioned in paragraph (1) provide the Secretary of State with an estimate of the amount they anticipate they will retain in the current financial year by way of capital monies and of the classes of disposals and repayments to which that amount relates; and

(b) when they retain any amount following a distribution of capital monies notify the Secretary of State of the amount retained and the classes of disposals and repayments to which that amount relates.

(6) The Local Government Reorganisation (Capital Money) (Metropolitan Counties) Order 1986 shall cease to have effect in relation to the county on the transfer date.

PART III WINDING UP

Winding up

10.—(1) In relation to the year beginning 1st April 1989 paragraph 10(1) of Schedule 13 to the 1985 Act shall have effect in relation to the Residuary Body as if it referred to a report for a period between that date and 31st October 1989.

(2) On 31st October 1989 the Residuary Body shall be wound up and

(a) any functions, rights and liabilities in respect of, or relating to, any remaining contract of employment with the Residuary Body shall become functions, rights and liabilities of Tameside; and

(b) any remaining functions, property, rights and liabilities shall vest in Stockport and be held by that council for the benefit of all the local councils or discharged by that council on their behalf, as the case may be.

(a) S.I. 1987/2186, to which there is an amendment not relevant to this Order. (b) 1972 c.70.

Accounts

11. Any function under—

- (a) section 78 or 79 of the 1985 Act;
- (b) Part III of the Local Government Finance Act 1982(a)

which would, but for this Order, have fallen to be discharged on or after 31st October 1989 by the Residuary Body shall be discharged by Stockport.

PART IV

MISCELLANEOUS AND GENERAL

Apportionment

12.—(1) All sums realised by Stockport or Tameside, as the case may be, in pursuance of the transfer by article 5(1), 6(1) or 10(2) of this Order of any rights shall, after deduction of any relevant expenditure, be apportioned among the local councils; and Stockport or, as the case may be, Tameside, shall pay the appropriate proportion to each of the other local councils and shall retain the balance.

(2) If in any financial year the aggregate of the sums referred to in paragraph (1) is insufficient to meet any relevant expenditure for that year, that expenditure shall, to the extent that it is not met from that aggregate, be apportioned among the local councils; and the appropriate proportion shall be recoverable by Stockport or Tameside, as the case may be, from each of the other local councils.

(3) In this article, "relevant expenditure" means expenditure attributable to this Order which is not defrayed by virtue of any other provision of this Order.

Continuity of the exercise of functions

13.—(1) Anything done by or in relation to (or having effect as if done by or in relation to) the Residuary Body in the exercise of or in connection with a function which by virtue of this order becomes the function of Stockport or Tameside, shall, so far as is required for continuing its effect after the transfer date, have effect as if done by or in relation to Stockport or Tameside, as the case may be.

(2) Without prejudice to the generality of paragraph (1), that paragraph applies to the making of any application, decision or determination; to the giving of any notice; to the entering into of any agreement or other instrument; and to the bringing of any action or proceeding; but nothing in this Order shall be construed as transferring any contract of employment.

(3) Any pending action or proceeding may be amended in such a manner as may be appropriate in consequence of this Order.

Continuity of employment in certain cases

14. Where the employment by the Residuary Body of any person is terminated, and that termination is attributable to any provision of this Order, regulation 5 (continuity of employment) of the Local Government Superannuation (Local Government Reorganisation) Regulations 1985(b) shall apply as if, for the purposes of paragraph (1)(b)(ii), the termination were not attributable to an order under section 67(3) of the 1985 Act.

Complaints of maladministration by Residuary Body

15.—(1) The Parliamentary Commissioner may investigate, or, as the case may be may continue to investigate, a complaint of maladministration by the Residuary Body notwithstanding its winding up.

(a) 1982 c.32. (b) S.I. 1985/1515. Regulation 5 now modifies the operation of the Local Government Superannuation Regulations 1986 (S.I. 1986/24), and the definition of "transferred employee" referred to in that regulation is in regulation H1. of the 1986 Regulations.

(2) In relation to any such investigation begun or continued after the transfer date, the Parliamentary Commissioner Act 1967(a) shall apply as if for any reference to the principal officer of the Residuary Body there were substituted—

- (a) if the complaint related to a function which, by virtue of this Order, becomes a function of Tameside, a reference to the proper officer of Tameside;
- (b) if the complaint relates to land which, by virtue of this Order, vests in a local council, a reference to the proper officer of that council; or
- (c) in any other case, a reference to the proper officer of Stockport;

and as if any specific action had been taken, by Tameside or, as the case may be, the local council or Stockport.

Disputes

16. In the event of a dispute between any of the local councils as to the amount of any expenditure recoverable by Stockport or Tameside pursuant to this Order, the matter shall be determined by an arbitrator appointed by the Secretary of State; and section 31 of the Arbitration Act 1950(b) shall have effect in relation to the arbitration as if it were an arbitration to which that section applies.

1st August 1989

C. F. Patten
Secretary of State for the Environment

SCHEDULE

Article 3

Local council

*Number of shares in
Modesole Limited*

Bolton	1,016
Bury	673
Manchester	1,744
Oldham	851
Rochdale	801
Salford	921
Stockport	1,128
Tameside	837
Trafford	838
Wigan	1,191

(a) 1967 c. 13, applied to residuary bodies by paragraph 11 of Schedule 13 to the Local Government Act 1985. (b) 1950 c. 27; section 31 was repealed in part by the Arbitration Act 1975 (c. 3); section 8(2); and amended by the Arbitration Act 1979 (c. 42); section 7(1).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the winding-up of the Greater Manchester Residuary Body in pursuance of a scheme submitted by that Body to the Secretary of State under section 67 of the Local Government Act 1985.

Articles 2 to 9 have effect on 31st August 1989 ("the transfer date"). Article 2 transfers to the council of the metropolitan borough of Stockport immovable property which the Residuary Body has agreed to sell or which is the subject of an option to purchase, property which was occupied by the Crown Prosecution Service on 31st March 1989, the Residuary Body's offices and part of Lawns Wood, Wigan Road, Crooke. It also transfers all the Residuary Body's moveable property to that council. Other immovable property is vested in the council of the district in which it is situated. Articles 2(2) to (4) make provision for the transfer of associated rights and liabilities and article 2(5) provides for the distribution of money attributable to the disposal of property transferred to Stockport.

Article 3 transfers the Residuary Body's interests in the Central Station Site, Manchester jointly to Manchester, Oldham, Stockport and Wigan as trustees for all the district councils in the county of Greater Manchester. Article 3 also transfers the Residuary Body's beneficial interests in the shares of Modesole Limited to the district councils.

Article 4 provides for the distribution of monies held by the Residuary Body. Article 5 provides for the transfer to the metropolitan borough of Tameside of residual functions, rights and liabilities in relation to contracts of employment with the Residuary Body which terminate on or before the transfer date.

Article 6 makes provision for the transfer of the Residuary Body's remaining rights and liabilities and articles 7, 8 and 9 make consequential financial and administrative provision.

Article 10 provides for the submission of the Residuary Body's final report and winds it up on 31st October 1989, transferring its remaining employment functions to Tameside and its other remaining functions to Stockport. Article 11 confers on Stockport the Residuary Body's remaining functions in relation to its accounts.

Article 12 makes general provision for apportioning among the councils in the county the sums received and paid by Stockport or Tameside. Article 13 provides for continuity in the exercise of functions and article 14 for the treatment of the employment of the Residuary Body's staff who take up other local government service as continuous for superannuation purposes. Article 15 provides for the handling of complaints of maladministration by the Residuary Body and article 16 makes provision for the determination of disputes.

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