
STATUTORY INSTRUMENTS

2008 No. 634

The Cheshire (Structural Changes) Order 2008

PART 3

SHADOW AUTHORITIES AND THEIR FUNCTIONS

Other functions of shadow authorities

9.—(1) During the shadow period the shadow authorities shall have, in addition to the duties specified or referred to in articles 7 and 8, the functions described in this article, and such other functions as may be conferred on them by—

- (a) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)⁽¹⁾,
- (b) an order under section 20 of the 2007 Act (correction of orders), or
- (c) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

(2) Each shadow authority shall take all such practicable steps as are necessary or expedient—

- (a) to commence and sustain its running as a shadow authority;
- (b) to prepare the authority for the assumption, as the Cheshire East Council or the Cheshire West and Chester Council (as the case may be), of local government functions and full local authority powers on 1st April 2009;
- (c) to prepare any budgets or plans required by the Cheshire East Council or the Cheshire West and Chester Council (as the case may be), 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 2009.

(3) The shadow authority for Cheshire East shall also take all such practicable steps as are necessary or expedient to liaise with the East Cheshire councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2009.

(4) The shadow authority for Cheshire West and Chester shall also take all such practicable steps as are necessary or expedient to liaise with the West Cheshire councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2009.

(5) Subject to paragraph (6), the shadow authorities shall have all other powers of a non-metropolitan county council and a non-metropolitan district council.

(6) The powers conferred by paragraph (5) may be exercised by the shadow authorities only—

- (a) in the discharge of the functions specified or referred to in this article and article 8(3), and
- (b) in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan county council or a non-metropolitan district council, and
- (c) where the exercise of the power would involve incurring expenditure or acquiring a liability—

(1) 1978 c.30.

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- (i) with the prior consent of the County Council, where the expenditure or liability relates to a matter which, before 1st April 2009, is the responsibility of that Council; or
- (ii) where the expenditure or liability relates to a matter which, before 1st April 2009, is the responsibility of any of the East Cheshire councils or the West Cheshire councils, with the prior consent of that council.

(7) The total of the expenditure properly incurred by the shadow authorities shall be divided among, and paid by, the County Council, the East Cheshire councils and the West Cheshire councils in such proportion as may be agreed between them; 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.

(8) The following provisions of the 1972 Act shall apply in relation to the shadow authorities, notwithstanding that those authorities do not have the functions and full powers of a local authority and, as appropriate, to persons standing for election or elected at the 2008 elections:

<i>Part or section of 1972 Act</i>	<i>Description</i>
Section 3(2)	Chairman
Section 5(3)	Vice-chairman
Parts 5 and 5A(4)	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(5)	Transfer of securities on alteration of area, etc
Section 178(6)	Regulations as to allowances

(9) The shadow authorities shall, notwithstanding that they do not have the functions and full powers of a local authority, be treated—

- (a) for the purposes of Part 2 of, and Schedule 2 to, the Audit Commission Act 1998(7) (accounts and audit of public bodies), as local authorities (and, therefore, bodies subject to audit); but sections 11A(8), 19 and 30 to 32 in that Part, and references in that Part to those sections, shall be treated as omitted,

(2) Section 3 was amended by the Local Government Act 2000, Schedule 3, para 2.

(3) Section 5 was amended by the Local Government Act 2000, Schedule 3, para 3.

(4) Part 5A was inserted by section 1(1) of the Local Government (Access to Information) Act 1985 (c.43). Sections 100A and 100B were amended by S.I. 2002/715. Section 100D was amended by section 97 of the Local Government Act 2000. Section 100F was amended by S.I. 2006/88 and 2007/969. Section 100H was amended by S.I. 2006/88. Section 100K was amended by section 98 of the Local Government Act 2000. There are other amendments not relevant to this Order.

(5) Section 146(2) was amended by the Financial Services Act 1986 (c.60), Schedule 16, para 8(b). There is another amendment not relevant to this Order.

(6) Section 178 was amended by Schedules 11 and 12 to the Local Government and Housing Act 1989 (c.42).

(7) 1998 c.18. As regards England, sections 18 and 20 to 23 were repealed, and sections 19B and 19C inserted by the Local Government Act 2000 (c.22) and S.I. 2000/3335. Part 2 was most recently amended by Chapter 2 of Part 9 of the Local Government and Public Involvement in Health Act 2007.

(8) Section 11A was inserted by the Greater London Authority Act 1999 (c.29), Schedule 8, para 4.

- (b) for the purposes of section 101 of that Act (indemnification of members and officers of relevant authorities)(**9**), as relevant authorities,
 - (c) for the purposes of Part 1 of the Local Government Act 2003(**10**) (capital finance etc and accounts), as local authorities, and
 - (d) for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001(**11**), as relevant authorities.
- (10) For the purposes of the application of section 83 of the 1972 Act (declaration of acceptance of office) to persons elected at the 2008 elections, references in that section to the proper officer of the council shall be treated—
- (a) as regards the Cheshire East Council, as references to the proper officer appointed by Macclesfield Borough Council; and
 - (b) as regards the Cheshire West and Chester Council, as references to the proper officer appointed by Vale Royal Borough Council.

(9) [2000 c.22](#). In section 101 “relevant authority” has the same meaning as in Part 3 of the Act. The definition of “relevant authority” for the purposes of that Part is to be found in section 49(6).

(10) [2003 c.26](#).

(11) [S.I. 2001/3384](#).