

Together we are delivering your

New Somerset Council

Somerset Local Government Reorganisation – Consequential Parliamentary Order on LGR

Lead Officers: Scott Wooldridge, Monitoring Officer, Somerset County Council
Melanie Wellman, Monitoring Officer, Sedgemoor District Council

Author: Scott Wooldridge, Monitoring Officer, LGR Programme Board

Contact Details: swouldridge@somerset.gov.uk

1. Summary / Background

- 1.1. This report follows on from the Government's approval to the Somerset (Structural Changes) Order (SCO) in March 2022. The SCO sets out that Somerset Council (a unitary council) will be established for Somerset from 1 April 2023 and the existing four district councils will be dissolved.

This report highlights certain rights, functions and legislative amendments (known as Consequential Parliamentary Order(s)) which need to be addressed as a consequence of the creation of Somerset Council on 1 April 2023.

The Department for Levelling Up, Housing and Communities (DLUHC) is responsible for preparing any Consequential Parliamentary Order. Following the approval to the SCOs, DLUHC are engaging with Cumbria, North Yorkshire and Somerset councils regarding the potential content of any Consequential Parliamentary Orders with the aim of finalising these by Autumn 2022 for consideration by both Houses of Parliament in early 2023 to ensure they are approved ahead of vesting day on 1 April 2023

2. Recommendations

2.1. That the LGR Implementation Board supports and recommends to the County Council's Executive that:

- i) The matters set out in Appendix 1 be submitted to DLUHC for inclusion in a Consequential Parliamentary Order (also known as a Supplementary Provision and Miscellaneous Amendments Order) as a consequence of the Somerset (Structural Changes) Order 2022.**

- ii) The Monitoring Officer of Somerset County Council is granted delegated authority, in consultation with the Leader of Somerset County Council, to submit the matters set out in Appendix 1 to DLUHC and to submit any further matters to DLUHC that may arise along with taking all actions necessary to progress the drafting of the Order.**

3. Reasons for recommendations

3.1 DLUHC have asked local councils to identify any potential matters that would require specific provisions within a Consequential Parliamentary Order for consideration and approval by Government before vesting day.

3.2 The terms of reference for the LGR Implementation Board include within its functions 'review and make recommendations to Somerset County Council's Executive on submissions to DLUHC in relation to the preparation orders and directions consequential to the SCO including those dealing with civic and ceremonial matters. This includes all matters relating to the transition of mayors, sheriffs, chartered trustees and insignia'

4. Other options considered

4.1. The only other alternative is not to submit a response to DLUHC but this is not recommended as that would increase the risk that specific matters are not satisfactorily resolved ahead of vesting day.

5. Links to Business Case

5.1. This report supports the delivery of the Business Case.

6. Consultations and co-production

- 6.1. The proposals in this report have been discussed and endorsed by the LGR Programme Board comprising the Chief Executives of the five councils.

7. Financial and Risk Implications

- 7.1. The main resources implications relate to the work of the Monitoring Officers and Legal Services of the five councils liaising with DLUHC.
- 7.2. As identified in 4.1 above, the main risk is that specific matters identified by the five councils are not included within any Consequential Parliamentary Order. Early engagement with DLUHC has been a key mitigation to that risk.

Likelihood	2	Impact	4	Risk Score	8
------------	---	--------	---	------------	---

8. Legal and HR Implications

- 8.1. Following on from the SCO, a Consequential Parliamentary Order is made by Secretary of State where there is a requirement to amend various pieces of legislation which refer to the current district councils that will be dissolved as part of the establishment of the new Somerset Council.

Each of the five councils' Monitoring Officers have been involved in the proposed submission to DLUHC (set out in Appendix 1) which will inform the development of any Consequential Parliamentary Order.

9. Other Implications

9.1. Equalities Implications

No specific equalities implications have been identified.

10. Background

10.1. Structural Changes Order (SCO)

Following the Secretary of State's decision in July 2021, extensive collaborative work was undertaken by the five councils to support the implementation of the single unitary council (Somerset Council) on 1 April 2023. Through partnership the programme governance arrangements have been jointly established and operating since summer 2021.

In March 2022, the Secretary of State made the Somerset (Structural Changes) Order 2022 which sets out that Somerset County Council will

become the sole principal authority for Somerset from 1 April 2023, known as Somerset Council, and the existing four district councils will be wound up and dissolved on 1 April 2023. The functions exercised by the current four district councils will transfer to the new Somerset Council on 1 April 2023, together with all property and assets.

10.2. Following the May 2022 elections, the Executive of Somerset County Council are responsible for oversight and managing the transition to the new Somerset Council with support from the LGR Implementation Board and the overview and scrutiny through the LGR Joint Scrutiny Committee.

10.3. Consequential Parliamentary Order

There are certain matters such as membership of Exmoor National Park Authority and charter rights for Markets and Fairs which require a specific statutory order for a transfer to take effect. There are also pieces of legislation which refer to the current councils and require amendment as a consequence of the SCO.

10.4. It is anticipated that for LGR in Cumbria, North Yorkshire and Somerset that the Secretary of State needs to make a Consequential Parliamentary Order also referred to as a Supplementary Provision and Miscellaneous Amendments Order ("the Order") to give legal effect to the necessary transfers. The matters that have been identified for potential inclusion in such Orders are set out in Appendix 1, together with comments on whether these apply in respect of the structural changes in Somerset.

Should it become apparent there are further matters which need to be addressed in the Orders, then delegation is sought for the County Council's Monitoring Officer, in consultation with the County Council's Leader of the Council, to refer these to DLUHC for consideration, to ensure that the legislative timetable is not delayed.

11. Background Papers

11.1. Somerset (Structural Changes) Order 2022

LGR Implementation Board terms of reference June 2022

Secretary of State decision on approved business case for single unitary council in July 2021

Report Sign-Off

Appendix 1 Local Government Reorganisation in Somerset – submission to DLUHC regarding potential Consequential Parliamentary Order

This paper highlights certain rights, functions and legislative amendments which need to be addressed as a consequence of the creation of a unitary council in Somerset and set out in the Somerset Structural Changes Order agreed in March 2022.

The Somerset Structural Changes Order 2022 dissolves the existing 4 district councils with effect from vesting day on 1 April 2023. The functions exercised by the four district councils transfer immediately to the new Somerset Council (a continuing authority with the county council's functions and district councils' functions).

However, there are certain matters including ceremonial arrangements and charter rights which require a specific statutory order for a transfer to take effect. There are also pieces of legislation which refer to the current councils and require amendment as a consequence of the Somerset (Structural Changes) Order.

The Secretary of State therefore needs to make a Supplementary Provision and Miscellaneous Amendments Order ("the Order") to give legal effect to the necessary transfers. The matters that have been covered in previous such Orders are listed below, together with comments on whether these apply in respect of the structural changes in Somerset.

Pension Fund Transfer

The local government pension fund is currently maintained by Somerset County Council (the continuing authority) then it is assumed that no specific provisions need to be made in the Order for the Secretary of State. The County Council is a relevant administering authority under the Local Government Pension Scheme Regulations 2013.

Charter Rights for Markets and Fairs

Rights, such as market rights and the rights to hold fairs that have been granted to, or vest in, the current councils by Royal Charter, do not transfer under the transitional Regulations and need to be included in the Order. Rights to markets and fairs have been identified as follows:

Bridgwater Fair Market – established by Charter of King John and renewed in 1613. Legislation.gov records a local act in 1857. This fair and market falls within the Sedgemoor District Council area.

Taunton Fair Market – listed in gazetteer of Markets and Fairs in England and Wales as having a Charter Market and Fair. This fair and market falls within the Somerset West and Taunton Council area.

Shepton Mallet market – operates under a charter dated 1318 (Edward II). This market falls within the Mendip Council area.

Wells Market – operates under a charter dated 1290 (King John). This market falls within the Mendip Council area.

Frome Market is a statutory market under the Frome Markets Act 1874 although there was possibly a charter issued by Henry VII in 1494. This market falls within the Mendip Council area.

Glastonbury Market is treated like a charter market but can find no evidence of the charter though it is known to be very ancient. This market falls within the Mendip Council area.

Street Market – operates under general statutory powers under S50 Food Act 1984, though a consequential order may not be required in this instance.

Relevant provisions will therefore need to be included in the Order to transfer these rights to Somerset Council.

Charter Trustees

The only Charter Trustees in Somerset are the Taunton Charter Trustees that were established by The Local Government (Structural and Boundary Changes) (Supplementary Provision and Miscellaneous Amendments) Order 2019 as part of the local government re-organisation to establish the Somerset West and Taunton Council. The trustees comprise district members for the Town wards and the Mayor is elected from the trustees. Somerset County Council and Somerset West and Taunton Councils are progressing a Community Governance review for the potential establishment of a new Taunton Town Council ahead of vesting day. The

Community Governance review is scheduled to be considered by October 2022.

If there is a new Taunton Town Council the Charter Trustees are subsumed into the new Town Council by law. If not, the Charter Trustees remain and the Order will need to ensure that the elected representatives for the new Somerset Council divisions corresponding to the former Somerset West and Taunton district council wards, become the trustees. Whether the Order needs to address this is dependent on the outcome of a Community Governance review for Taunton.

Housing Revenue Account and Amendment of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003

The Dorset Order included this to make provision for housing revenue account debt and share capital in relation to the new Somerset Council. Somerset West and Taunton Council and Sedgemoor District Council have Housing Revenue Accounts and there will be a requirement to include these particular provisions in the Order for Somerset Council.

Areas of Natural Beauty

Within Somerset there are four Areas of Natural Beauty, the Quantocks, the Mendip Hills, the Blackdowns, Cranborne Chase and West Wiltshire Downs. Review of the legislation has not identified the need for any specific provisions to be included in the Order by the Secretary of State.

Internal Drainage Boards

The Axe, Brue and Parrett Internal Drainage Boards were established by the Land Drainage Act 1991. Sedgemoor District Council has membership on these Boards and there will be a need to ensure that after vesting day Somerset Council has membership on these Boards. Therefore the Order will need to include provisions to ensure the new Somerset Council has appropriate representation on these Boards.

Exmoor National Park Authority

The Environment Act 1995 deals with the constitution of National Park Authorities and says that in relation to their constitution the total number of local authority members and parish members must exceed the number of other members (s.63(5) and schedule 7 part 1 para 1(3)).

The National Park Authorities (England) Order 2015/770 sets out the constitution of Exmoor National Park Authority (article 4 and schedule 1 part 1) and which authorities appoint members of the NPA and in what numbers (article 4 and schedule 1 part 2).

In relation to Exmoor National Park Authority the total membership is 22, of which there are 12 Local authority members and 5 members appointed by the Secretary of State as parish members.

Of the local authority members:

- 2 are appointed by Devon County Council
- 2 are appointed by North Devon District Council
- 4 are appointed by Somerset County Council
- 4 are appointed by "West Somerset District Council"

It is notable that since the reorganisation of Taunton Deane BC and West Somerset DC there has been no change to the 2015 Order. Without any modification, after vesting day Somerset Council would only have the County Council membership of 4 representatives. This will affect the statutory balance required between the representation of principal authorities on the Authority. Therefore, the Order will need to include specific provisions to ensure Somerset Council has the 8 representatives for the county of Somerset.

The specific provisions that need to be amended relate to schedule 1 part 2 of the National Park Authorities (England) Order 2015/770 with effect from the reorganisation date to:

1. In column 2 delete the words West Somerset District Council, and delete the corresponding "4" from the same line in column 3
2. In column 3, on the line corresponding to the words "Somerset County Council" in column 2, substitute for the number "4" the number "8"

Lord-Lieutenant and Sheriff

The relevant legislation relating to these are the Lieutenancies Act 1997 and the Sheriffs Act 1887. Note in respect of the Lord-Lieutenant for Somerset and the Sheriff this covers the council areas of Somerset County Council, Bath and North East Somerset and North Somerset. Neither BANES or North Somerset are part of the Somerset Structural Changes Order 2022. The Lord-Lieutenant appoints the clerk for their area, and this has been Somerset County Council for many years. Like Buckinghamshire, it is not considered that the Order needs to include provisions in relation to the Lord-Lieutenant and the Sheriff because these are already County based appointments and there is no disaggregation of authorities which was the case in Dorset.

Port and Harbour Authorities

There is a port authority at Bridgwater (Bridgwater Navigation and Quays Act 1845; Pier and Harbour Orders Confirmation (No.1) Act 1908 (Local Act); Bridgwater Port and Navigation Order 1908; Port of Bridgwater Pilotage Confirmation Order 1921) with functions undertaken by Sedgemoor District Council.

Somerset West and Taunton Council are the statutory harbour authority for the ports of Watchet and Minehead. It is also the Competent Harbour Authority (under the Pilotage Act 1987) for Watchet.

There is therefore a requirement for specific provisions in the Order by the Secretary of State relating to Port and Harbour Authorities.

Burial Grounds and Closed Churchyards

Mendip District Council as the Burial Authority has responsibility for the following burial grounds - (1) Street (Cemetery Lane) (2) Shepton Mallet (Waterloo Road) Frome (Warminster Road). Glastonbury Cemetery is owned by Glastonbury TC and Wells Cemetery is owned by Wells City Council. MDC maintains 23 closed churchyards.

Sedgemoor District Council as the Burial Authority has responsibility for 24 closed churchyards.

There may therefore be a requirement for specific provisions in the Order by the

Secretary of State.

Memorial Gardens

Somerset West and Taunton are trustees for Galmington playing fields and Greenway Recreation Ground with responsibility for maintenance. This may require specific provisions in the Order by the Secretary of State.

Public Space Protection Orders

Mendip District Council has the following orders where it is anticipated may need to be incorporated in the Order by the Secretary of State:

1. PSPO No. 1 of 2021 -Dog fouling, dog control and street drinking - district wide - expires in July 2024
2. PSPO No.2 of 2021 (Exclusion of Dogs from play areas for the under 5s) - expires July 2024
3. Draft PSPO - MDC (Unauthorised Encampments) - consultation underway

Sedgemoor District Council has the following orders where it is anticipated may need to be incorporated in the Order by the Secretary of State:

1. Sedgemoor District Council Public Spaces Protection Order (No 1) (Alcohol Consumption) 2020
2. Sedgemoor District Council Public Spaces Protection Order (No 2) (Miscellaneous Provisions) 2020
3. Sedgemoor District Council Public Spaces Protection Order (No 3) (Dogs) 2020

Carnivals and twinning

Still being investigated – whether specific acts / orders relate to the various carnivals that take place in Somerset e.g. Bridgwater Carnival and the various twinning arrangements across Somerset.

Consultation

Information has been sought from all Monitoring Officers in the Governance workstream.

Scott Wooldridge

Monitoring Officer, Somerset County Council