



Department for Levelling Up,
Housing & Communities

Chief Executives of Somerset councils

Paul Rowsell CBE
*Head of Governance Reform &
Democracy Unit*

**Department for Levelling Up,
Housing and Communities**
2nd Floor, Fry Building
2 Marsham Street
London SW1P 4DF

www.gov.uk/dluhc
Tel: 0303 444 2568
Email: paul.rowsell@communities.gov.uk

10 May 2022

Dear Chief Executives,

I wrote to you on 17 March to inform you that the Secretary of State was minded to issue a direction under section 24 of the Local Government and Public Involvement in Health Act 2007, which would require, from the date of coming into effect of the direction, that those councils in Somerset to be dissolved on 1 April 2023 must seek consent of the person specified in the direction before entering into certain contracts or land disposals.

The Secretary of State has considered the representations he received regarding the intended approach and has confirmed his decision, which is to issue a direction. The date of coming into effect has been amended to 16 June 2022 as requested. I enclose a copy of the direction in its final form, accompanied by the explanatory note.

We look forward to continuing to work with you all, to ensure the establishment of a successful Somerset Council delivering the quality of services and effective local government which the people of Somerset deserve.

Yours sincerely,

P ROWSELL

Direction made under section 24 of the Local Government and Public

Involvement in Health Act 2007

In exercise of the powers under section 24 of the Local Government and Public Involvement in Health Act 2007 ("the Act"):

1. The Secretary of State directs each authority listed in Column A of the attached Schedule, being an authority which is to be dissolved by virtue of an order made under section 7 of the Act, that it may not, without the consent of the authority(ies) listed in Column B of the attached Schedule, from the date in Column C:
 - a) dispose of any land if the consideration for the disposal exceeds £100,000;
 - b) enter into any capital contract-

under which the consideration payable by the relevant authority exceeds £1,000,000; or

which includes a term allowing the consideration payable by the relevant authority to be varied;
 - c) enter into any non-capital contract under which the consideration payable by the relevant authority exceeds £100,000, where-
 - (i) the period of the contract extends beyond 1 April 2023; or
 - (ii) under the terms of the contract, that period may be extended beyond that date.

Signed by the authority of the Secretary of State



PAUL ROWSELL

A senior civil servant in the Department for Levelling Up, Housing and Communities

Date: 10 May 2022.

Schedule

Column A - authorities to be wound up and dissolved on J April 2023	Column B - authorities specified under section 24 of the Act as the person whose written consent is required for the matters specified at article J (b) of this direction and the body through which that power is exercised	Column C - date effective from
Allerdale Borough Council	Cumberland Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Carlisle City Council	Cumberland Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Copeland Borough Council	Cumberland Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Barrow-in-Furness Borough Council	Westmorland and Furness Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Eden District Council	Westmorland and Furness Shadow Authority, power to be exercised by the executive of that council	30 June 2022
South Lakeland District Council	Westmorland and Furness Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Cumbria County Council (in respect of decisions relating to the area of one or more of Allerdale Borough Council, Carlisle City Council or Copeland Borough Council)	Cumberland Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Cumbria County Council (in respect of decisions relating to the area of one or more of Barrow-in-Furness Borough Council, Eden District Council or South Lakeland District Council)	Westmorland and Furness Shadow Authority, power to be exercised by the executive of that council	30 June 2022
Craven District Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Hambleton District Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Harrogate Borough Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Richmondshire District Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Ryedale District Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Scarborough Borough Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Selby District Council	The council of the county of North Yorkshire, power to be exercised by the executive of that council	23 May 2022
Sedgemoor District Council	The council of the county of Somerset, power to be exercised by the executive of that council.	16 June 2022
Mendip District Council	The council of the county of Somerset, power to be exercised by the executive of that council.	16 June 2022
Somerset West and Taunton District Council	The council of the county of Somerset, power to be exercised by the executive of that council.	16 June 2022
South Somerset District Council	The council of the county of Somerset, power to be exercised by the executive of that council.	16 June 2022

Control of Contracts

Explanatory Note

1. This explanatory note accompanies a direction made under section 24 of the Local Government and Public Involvement in Health Act 2007 (the Act) and must be read in the context of sections 24 to 30 of that Act.

Context

1. Proposals for restructuring local government are being implemented by Structural Changes Orders in Cumbria, North Yorkshire and Somerset.
2. The Cumbria (Structural Changes) Order 2022¹, which came into force on 18 March 2022, establishes two unitary councils from 1 April 2023, and provides for:
 - the abolition of the existing county and district councils in Cumbria,
 - transitional arrangements for implementing the structural change, and
 - elections to the two new unitary councils in shadow form in May 2022.

The existing county and district councils remain responsible for delivering their respective functions until 1st April 2023 when the two unitary councils take on the role of providing both county and district services across their defined area.

3. The North Yorkshire (Structural Changes) Order 2022² which came into force on 18 March 2022, establishes a single unitary council in North Yorkshire from 1 April 2023, which is to be a continuing authority of North Yorkshire County Council, that is the body corporate of the existing county council with a new name and new membership. The Order provides for:
 - the abolition of the district councils in the area,
 - transitional arrangements for implementing the structural changes, and
 - elections to the new unitary council, in transitional form, in May 2022.

The district councils in North Yorkshire remain responsible for delivering their respective functions until 1st April 2023 when the unitary council takes on the role of providing both county and district services across the area.

4. The Somerset (Structural Changes) Order 2022³, which came into force on 18 March 2022, establishes a single unitary council in Somerset from 1st April 2023, which is a continuing authority of the county council, that is the body corporate of the existing county council with a new name and new membership. The Order provides for:
 - the abolition of the district councils in Somerset,
 - transitional arrangements for implementing the structural changes, and
 - elections to the new unitary council, in transitional form, in May 2022.

¹ <https://www.legislation.gov.uk/ukdsi/2022/9780348231359/contents>

² <https://www.legislation.gov.uk/ukdsi/2022/9780348231380/contents>

³ <https://www.legislation.gov.uk/ukdsi/2022/9780348231366/contents>

The district councils in Somerset remain responsible for delivering their respective functions until 1st April 2023 when the unitary council takes on the role of providing both county and district services across their defined area.

5. It is essential that all the affected local authorities (which are subject to this direction) are able to continue delivering high quality services to the public and run their day-to-day business in the period prior to 1 April 2023.
6. It is also of great importance that the authorities that have general transitional duties under the structural changes orders of preparing for and facilitating the transfer of functions to the new unitary authorities are able to discharge their duties effectively.
7. Therefore, in these three areas, the Secretary of State considers that the body with general transitional duties should have a say on agreements to be entered into, including in consideration of whether those agreements will be in the best interests of the new council or the residents of the area, and ensuring agreements do not undermine or diminish the benefits or savings anticipated as a result of unitarisation or which may have an effect on the financial position of the new council. As specified in the schedule to the directions, the consenting bodies for the councils to be abolished by the structural changes orders are for Cumbria the two shadow councils, and for North Yorkshire and Somerset, the newly elected councils of the two continuing authorities.
8. The Secretary of State has, therefore, made the direction to ensure that the implementation process can proceed on a clear and sound basis.

Specified person/authority whose consent is required

9. The direction specifies which person is required to give consent in relation to the matters covered in the direction. The schedule to the directions sets out, for each of the councils that will be abolished by one of the structural changes orders, who is the person specified for giving consent for all matters and how that power is to be exercised.

Cumulative amounts and general consents

10. Under this direction, from the date set out in Column C of the schedule to the direction, the consent of those specified in the schedule will be required for the entry into any contract falling within paragraphs 1.c) of the direction. This may include routine contracts that authorities enter into on a regular basis. In order to ensure these can continue unhindered, as appropriate, the consenting body may issue general consents for types or categories of contracts which it may specify.
11. Under section 26(2) of the Act, such general consent may be given:
 - a. in respect of a particular contract, or in respect of contracts of any description;
 - b. unconditionally or subject to conditions.
12. In practice, this means that the consenting body could, for example, issue a general consent for all non-capital contracts with a value not exceeding £100,000 which are for similar descriptions of matter (such as all social care contracts, or all leisure or cultural services contracts) or it could give consent in relation to contracts relating to specific programmes or projects.
13. Paragraph 3 of the direction should be read in conjunction with sections 27(2) and (3) of the Act. The capital and non-capital contract value thresholds of £1,000,000 and

£100,000 respectively are cumulative where multiple contracts are entered into with the same organisation, or individual, or of a similar description, and the consent requirement may therefore apply to many 'business as usual' contracts. Moreover, provisions in the Act were drafted to apply in the first instance to the programme of unitarisations underway in 2008/9. Therefore, accumulation of amounts, for the purpose of calculating the value of contracts to which a direction may apply, date back to 1 January 2007.

14. Whether or not a contract relates to another of the 'same or similar description of matter' will be a question of fact and degree in each case. So, a contract to sweep the streets might not be in the same category as park maintenance services, although both are broadly environmental services, but a contract for the supply of office chairs may well fall within the same category as another contract for the supply of other office equipment.
15. New contracts of employment come within the scope of this direction and as a category of contracts relating to a similar matter, i.e. employment, the threshold of £100,000 may be reached quite quickly.

Interaction with other consent regimes

16. As stated in section 26(4) of the 2007 Act, the issuing of a consent by a consenting body in relation to this direction does not remove any requirement on any authority to seek separate consent from any relevant person under any other applicable consent regime.

In the event of a disagreement

17. In the event that the person seeking consent and the person whose consent is required under this direction fail to reach agreement as to the value of any consideration which might be covered by the direction, in accordance with section 26(6) of the Act, the matter is to be referred to the Secretary of State so that the value may be determined.