

**Direction made under section 24 of the Local Government and Public
Involvement in Health Act 2007**

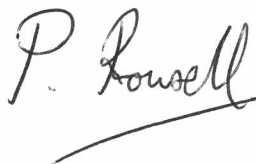
In exercise of the powers under section 24 of the Local Government and Public Involvement in Health Act 2007 (“the Act”):

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 1 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 1(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.

Local Government and Public Involvement in Health Act 2007

CHAPTER 2 CONTROL OF DISPOSALS ETC

24 Authorities dissolved by orders: control of disposals, contracts and reserves

(1) The Secretary of State may direct that, with effect from a date specified in the direction, a relevant authority may not without the written consent of a person or persons so specified—

(a) dispose of any land if the consideration for the disposal exceeds £100,000;

(b) enter into any capital contract—

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

(ii) 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 a date specified in the direction; or

(ii) under the terms of the contract, that period may be extended beyond that date; or

(d) include an amount of financial reserves in a calculation under section 31A(3) or 42A(3) of the Local Government Finance Act 1992 (c. 14).

(2) In this Chapter “relevant authority” means a local authority—

(a) which by virtue of an order under section 7 or 10 is to be dissolved; and

(b) which is specified, or of a description specified, in the direction.

(3) In this section—

- “capital contract” means a contract as regards which the consideration payable by the relevant authority would be capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (c. 26) (capital finance);
- “non-capital contract” means a contract which is not a capital contract.

(4) A person specified in the direction as a person whose consent is required may be the Secretary of State or such authority or other person as he thinks appropriate; and the direction may specify different persons—

(a) in relation to different matters for which consent is required;

(b) in relation to different relevant authorities or descriptions of relevant authority.

25 Directions: further provision about reserves

(1) A direction under section 24—

(a) may provide that the consent of the person or persons specified in the direction is not required for the inclusion, in a calculation under section 31A(3) or 42A(3) of the Local Government Finance Act 1992, of financial reserves of a description specified in the direction;

(b) may, in relation to any authority or description of authority, provide that that consent is not required for the inclusion in such a calculation of an amount of financial reserves not exceeding an amount specified in or determined under the direction.

(2) If a direction contains provision by virtue of subsection (1), the reference in section 24(1)(d) to an amount of financial reserves is to be read as a reference to an amount of financial reserves other than an amount permitted by the direction.

26 Directions: supplementary

(1) In this section “direction” means a direction under section 24.

(2) A consent for the purposes of a direction may be given—

(a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any description;

(b) unconditionally or subject to conditions.

(3) The following enactments have effect subject to any direction—

(a) section 123 of the Local Government Act 1972 (c. 70) (power to dispose of land);

(b) any other enactment relating to the disposal of land by local authorities.

(4) The consent required by a direction is in addition to any consent required by the enactments mentioned in subsection (3)(a) and (b).

(5) Where the consideration or any of the consideration under a contract is not in money, the limits specified in a direction by virtue of section 24(1)(a) to (c) apply to the value of the consideration.

(6) Where—

(a) a question arises in relation to a direction as to the value of any consideration, and

(b) the relevant authority concerned and the person or persons specified under section 24(1) fail to reach agreement,

the value is to be determined by the Secretary of State.

(7) A direction may be varied or revoked by a subsequent direction.

27 Consideration to be taken into account for purposes of direction

(1) In determining whether the limit specified in a direction by virtue of section 24(1)(a) is exceeded in the case of a disposal of land by a relevant authority, the consideration with respect to any other disposal of land made after 31 December 2006 by the relevant authority is to be taken into account.

(2) In determining whether a limit specified in a direction by virtue of section 24(1)(b) or (c) is exceeded in the case of a contract entered into by a relevant authority (“the

contract in question”), the consideration payable by the relevant authority under any other relevant contract shall be taken into account.

(3) For the purposes of subsection (2) a “relevant contract” means a contract which is either or both—

(a) a contract entered into after 31 December 2006 by the relevant authority and the person with whom the contract in question is entered into;

(b) a contract entered into after that date by the relevant authority which relates to the same or a similar description of matter as that to which the contract in question relates.

28 Contraventions of direction

(1) A disposal made in contravention of a direction under section 24 is void.

(2) A contract entered into by an authority (“the old authority”) in contravention of a direction under section 24 is not enforceable against a successor.

(3) In subsection (2) a “successor” means a local authority (other than the old authority)—

(a) which is established by an order under section 7 or 10; and

(b) whose area consists of or includes the whole or part of the area of the old authority.

(4) A contract which apart from this subsection would be a certified contract for the purposes of the Local Government (Contracts) Act 1997 (c. 65) is not a certified contract for those purposes if it is entered into in contravention of a direction under section 24.

(5) If an authority includes financial reserves in a calculation under section 31A(3) of the Local Government Finance Act 1992 (c. 14) in contravention of a direction under section 24, the authority is to be treated for the purposes of section 30(8) of that Act as not having made the calculations required by Chapter 3 of Part 1 of that Act.

(6) If an authority includes financial reserves in a calculation under section 42A(3) of that Act in contravention of a direction under section 24, the authority is to be treated for the purposes of section 40(7) of that Act as not having made the calculations required by Chapter 4 of Part 1 of that Act.

29 Power to amend

(1) The Secretary of State may by order—

(a) substitute another sum for any sum for the time being specified in section 24(1);

(b) substitute another date for the date for the time being specified in section 27(1) and (3).

(2) An order under this section may include transitional or saving provision.

30 Definitions for purposes of Chapter 2

(1) In this Chapter—

- “local authority” means a county council in England, a district council in England or a London borough council;

- “relevant authority” has the meaning given by section 24(2).

(2)References in this Chapter to disposing of land include references to—

- (a)granting or disposing of any interest in land;
- (b)entering into a contract to dispose of land or grant or dispose of any such interest;
- (c)granting an option to acquire any land or any such interest.