

## Implementation bodies and predecessor councils during local government reorganisation

### Introduction

1. This explanatory note is for all councils who were invited on 5 February 2025 to submit proposals for unitary local government under section 2 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act). Although operating on different timescales, this applies to all councils going through reorganisation.
2. This note describes the principles and expectations, focussing on the roles of the predecessor councils, implementation bodies and Implementation Teams during transition. The specific arrangements for each reorganisation will be set out in the Structural Changes Order (SCO) for each reorganisation. We expect to provide further guidance in due course, including on shadow councils.

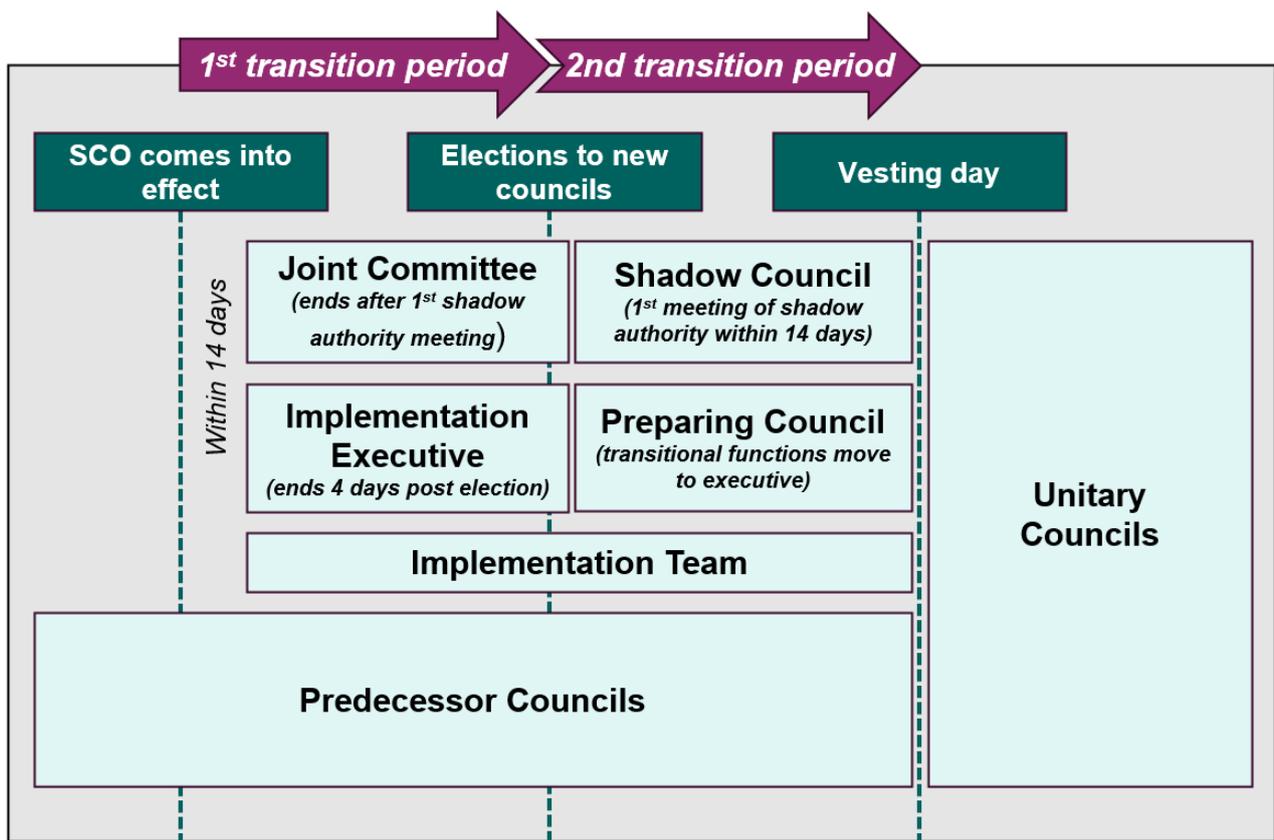
### Transition periods and implementation bodies

3. We expect that for each reorganisation there will be two statutory periods of transition. The first transition period runs from when the SCO comes into force, up to the inaugural elections to the new council. The second transition period runs from a defined date following the inaugural elections, up to vesting day – referred to as the reorganisation date in the SCO. This is in line with the most recent reorganisations in North Yorkshire, Cumbria and Somerset and the approach we expect to take in this round, noting that other approaches have been used in the past.
4. The two transition periods, with different types of implementation body, will be established by the SCO, depending on the governance arrangements agreed for an area:
  - a. During the **first transition period** before elections to the new councils, there needs to be an implementation body representative of the existing councils in the area. Accordingly, the SCO that establishes the new councils will require the relevant existing councils to form an implementation body. For the first transition period, these bodies are mostly constituted as Joint Committees (one Joint Committee for each new unitary council). An Implementation Executive may instead be used if an existing council will in future assume the responsibilities, functions and staff of other councils that will cease to exist – referred to as a preparing council. The preparing council model is most appropriate (though not required) where the geography of the new unitary council matches that of one of the existing councils. The functions of a Joint Committee and an Implementation Executive are largely the same and Joint Committees would be required for many of the proposals submitted, were these to be implemented. Therefore, this note refers primarily to Joint Committees. The relevant SCO will specify the particular responsibilities of each Joint Committee.
  - b. For the **second transition period**, the Joint Committee will be dissolved and replaced by a new, different implementation body made up of the members elected in the inaugural elections to the new unitary council. This body is called a Shadow

Council, until vesting day, when it assumes all local government functions, full local authority powers and becomes the only council for the area. The councillors elected in the shadow period remain members of the new Council. The relevant SCO will specify the functions, powers and responsibilities of the Shadow Council. Where a preparing council model is in place, the Implementation Executive will be dissolved and replaced by the new executive of the preparing council following the inaugural elections.

- The transition periods are shown on the diagram below, with the Joint Committee or Implementation Executive operating for a defined period and with a specific remit. The predecessor councils continue to operate and have legal competence, independence and authority throughout both periods of transition. They deliver business-as-usual services and prepare for the transfer to new unitary councils. The Implementation Team, to be formed of officers from the predecessor councils, also operates throughout both periods of transition, to support the delivery of the new unitary councils up until vesting day. The relevant SCO will provide the detailed arrangements specific to each area, which may vary dependent on local circumstances.

Diagram: Transition periods and implementation bodies



### The role and operation of a Joint Committee

- Joint Committees have preparatory functions, with one Joint Committee formed for each new unitary council (for ease, this is not shown in the diagram above). Their focus is to prepare the ground for matters that need to be in place on day one of the Shadow Councils. As such, they are not responsible for taking any decision on behalf of the new

councils and should act in a manner that does not fetter any decision the new shadow councils may wish to take.

7. The exact functions for the Joint Committee to undertake will be set out in the SCO and are expected to be limited to:
  - a. Formulating proposals for a code of conduct for the new unitary council
  - b. Creating a team of officers – known as the Implementation Team (see section below)
  - c. Preparing an implementation plan at a strategic level for the new authorities
8. In practice, the Implementation Team will undertake the preparations, with direction from the Joint Committee in the first transition period and decisions ultimately made by the Shadow Council in the second transition period.
9. The implementation plan should identify the key activities and timescales for their completion to facilitate each council's discharge of functions once the new arrangements are in place; and that budget provision for the delivery of the implementation plan is sufficient for the purpose. The Joint Committee needs to gather and later communicate sufficient financial information to inform early budget-setting decisions by the Shadow Council. The Joint Committees are required to have regard to the selected proposal and structure set out in the SCO in developing those plans. Implementation plans may be substantially amended by the Shadow Council once in place. The Cabinet of the Shadow Council (often referred to as the Shadow Executive) replaces the Joint Committee as the implementation body for the second transitional period and is responsible for reviewing and revising the implementation plan following the inaugural election.
10. As the Joint Committees are not responsible for implementation and their role is limited to preparing proposals and facilitating transitional arrangements, they **do not**:
  - a. Carry out recruitment or appointment to senior posts
  - b. Design or implement the operating model of the new organisation
  - c. Consider, set or develop budgets for the new council
  - d. Make decisions about service delivery or policy
11. However, they should be concerned that adequate arrangements are proposed for the new unitary council to undertake these activities effectively and efficiently. For example, they should be assured that the implementation plan they devise will allow each new unitary council to build and agree a budget for its first operating year (as a minimum) in accordance with the statutory timescales and requirements. While responsibility for setting the new council's budget lies with the shadow council, the Joint Committee is responsible for ensuring sufficient implementation budgets are in place in predecessor councils to enable the transition.
12. They should also prepare job profiles and key accountabilities for the Head of Paid Service, Section 151 Officer and Monitoring Officer that must be designated on an interim basis at the first meeting of the Shadow Council. The SCO will set out a requirement to appoint to these roles on a substantive basis by a certain date, as set out in the workforce guidance. They can also ensure that the necessary proposals are prepared for the new council to be able to agree a leader and cabinet governance

model, code of conduct and key interim appointments at its first meeting as required by the SCO as well as other key elements such as member allowances and a constitution as soon as possible. If these important preparations are not made, this could create an excessive workload and therefore limit the progress of the Shadow Council.

13. Typically, the Joint Committee must be established within 14 days of the SCO coming into effect. It is dissolved a short time after inaugural elections take place and after the first meeting of the Shadow Councils. In practice, this means that formally Joint Committees may only exist for a short period, sometimes only a few weeks dependent on the timing of the SCO coming into effect and elections to new councils.
14. Membership, Chair and voting arrangements for each Joint Committee will be set out in the SCO and will vary between areas. For example, if the Chair is not specified in the SCO, it is expected that the Chair will be selected via a vote during the first meeting of the Joint Committee. Membership is made up of specific numbers of councillor nominees from each of the predecessor councils in the area of the new unitary council to ensure sufficient representation.
15. Joint Committees have the authority to set their own rules of procedure. This can involve setting expectations such as:
  - a. Giving consideration to all options available and having regard to due consultation
  - b. Giving consideration to advice from officers
  - c. Having clarity of aims and desired outcomes
  - d. Having respect and regard for human rights and for the councils' Public Sector Equality Duties
  - e. A presumption in favour of openness, transparency and accountability
16. We expect that councils will set up a voluntary Joint Committee before the SCO comes into effect, after which point their establishment will become a requirement. Establishing voluntary Joint Committees in parallel with the SCO process, which mirror the forthcoming required governance arrangements, can provide more time for developing the implementation plan and proposals for the new authorities to consider. The specific timing of the establishment of voluntary Joint Committees is likely to vary between areas.

### **The role of predecessor councils**

17. The predecessor councils continue to operate until vesting day, delivering business-as-usual services and preparing for the transfer to new unitary councils. During both the first and second transition periods, the SCO will place a duty for predecessor councils to:
  - a. Consult and co-operate with each other and with shadow authorities throughout the transition process to secure the economic, efficient and timely transfer of functions, property, rights and liabilities (which includes the transfer of staff)
  - b. Generally exercise their functions to further the purposes of the SCO
  - c. Provide any information reasonably requested by other relevant councils or shadow councils to support implementation

- d. Cooperate in the formation of the Implementation Team and release officials from normal duties as reasonably required
- 18. Predecessor councils are limited to the roles described above and are not responsible for implementation or designing new operating or delivery models in the new unitary councils.
- 19. Where a section 24 direction is applied, this would require the consent of the new shadow councils (or that of the Secretary of State) before predecessor councils enter into contracts or dispose of assets above a certain value.
- 20. There is also a suite of generic regulations that cover local government reorganisation that all councils need to have regard to, that set out requirements for staffing, assets, plans, continuity, and the exercise of certain functions in the transition period (such as the creation of town or parish councils).

### **The role of the Implementation Team**

- 21. The Implementation Team is expected to be a single team across the area made up of officers of the predecessor councils. The SCO may specify membership and who must be the Implementation Team Leader (often known locally as the Senior Responsible Officer) and Deputies. Our expectation is that the Implementation Team Leader will work with all relevant councils to bring an Implementation Team together that meets the requirements of the SCO, to be agreed by the Joint Committee (or Joint Committees where there is more than one for the area). It is expected that the Implementation Team Leader is responsible for the management of the Implementation Team, including ensuring appropriate membership throughout the transition. The councils have a duty to cooperate in the formation of the Implementation Team and release officials from normal duties as reasonably required.
- 22. The Implementation Team – as formed by the Joint Committee in line with the specification in the SCO – will support the collection of data and transfer of functions, staff, property, rights, liabilities and information from predecessor councils. The rationale for this is that the Implementation Team holds expertise on these matters, which will be essential for both transition periods. The Implementation Team Leader will be responsible to the Joint Committees and later the Shadow Councils for the work of the Implementation Team (rather than the predecessor councils) and to ensure the Joint Committees are able to effectively fulfil their obligations.
- 23. The role of agreeing the Implementation Team is provided to the Joint Committees, with leadership from the Implementation Team Leader, and not the Shadow Council. Unlike the Joint Committees, which are to be dissolved on the day after the Shadow Council holds its first meeting, the Implementation Team is not time bound and remains in place throughout the whole transition period. It is the formal mechanism for the release of

council staff to work on preparations, given the duty on predecessor councils to cooperate and release staff. The designation and appointment of statutory officers, which is required in the SCO for the shadow councils, may support implementation but are not a replacement for the Implementation Team.

### **Implementation Executive**

24. An Implementation Executive is typically used where an existing council (county or district) already operates on the same geography as the future unitary council and is designated as a preparing council which will become the new council. As with Joint Committees, specific arrangements for the Implementation Executive are set out in the SCO.
25. The main differences between the Joint Committee and Implementation Executive are that Implementation Executives are constituted as a committee of the preparing council's executive. Membership is made up of specific numbers of councillor nominees from all the former councils and the preparing council within the area of the new unitary council. Similar preparatory duties may be placed on it as a Joint Committee. An Implementation Executive is typically wound up within four days of the elections and its functions transfer to the executive of the preparing council.