EXPLANATORY MEMORANDUM TO DRAFTS OF

THE CORNWALL (STRUCTURAL CHANGE) ORDER 2008

THE COUNTY DURHAM (STRUCTURAL CHANGE) ORDER 2008

THE NORTHUMBERLAND (STRUCTURAL CHANGE) ORDER 2008

THE SHROPSHIRE (STRUCTURAL CHANGE) ORDER 2008

THE WILTSHIRE (STRUCTURAL CHANGE) ORDER 2008

1. 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 The draft Orders provide for a single tier of local government in the counties of Cornwall, County Durham, Northumberland, Shropshire and Wiltshire with effect from 1st April 2009. In each county the existing districts are to be abolished and their councils wound up and dissolved, leaving the county council as the sole local authority[1] for the county.

2.2 The draft Orders for County Durham and Northumberland provide for the election in 2008 of councillors to the county councils which, subject to Parliamentary approval of the draft Orders, will become the sole local authorities for those counties on 1st April 2009. The draft Orders for Cornwall, Shropshire and Wiltshire provide for elections to the county councils in 2009, by which time, subject to Parliamentary approval of the draft Orders, they will have become the sole local authorities for those counties.

2.3 Pending elections to the county councils, in 2008 or 2009 as the case may be, preparations for transition to the new structures are to be the responsibility of the existing district councils and the county council, working through a committee of the county council's executive (the "Implementation Executive"), on which both the county and district councils will be represented.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This is the first occasion on which it is proposed to exercise the powers conferred by sections 7, 11, 12 and 13 of the Local Government and Public Involvement in Health Act 2007 (c.28) ("the 2007 Act").

3.2 The draft Orders are subject to the affirmative procedure; see section 240(6) of the 2007 Act.

3.3 The draft Orders, if made, will be classified as "general" rather than "local" statutory instruments, notwithstanding that each affects only the area of an English county. This is accepted practice for orders of this nature.

[1] For these purposes "local authority" does not include a parish council.

3.4 The draft Orders deal only with the essential elements of the new single tier local government structure; the abolition of the existing districts and the winding up and dissolution of the existing district councils, the creation of new districts (with the same areas as those of the existing counties) but without district councils, and the making of arrangements for preparation for transition to single tier local government. The newly-created districts have no district councils; section 1(2)(a) of the 2007 Act defines "a single tier of local government", so far as relevant to a county as an area for which there is a county council and no district councils. In particular, the draft Orders contain no provisions about the transfer of the existing district councils' functions, property, income, rights, liabilities and expenses.. If the draft Orders are approved, they will need to be supplemented by further orders under section 7 of the 2007 Act and/or regulations of general application under section 14 of that Act. The matters to be dealt with by such orders and regulations include the transfer, on or before the 1st April 2009, to the single tier authorities of the district councils' functions, and the transfer of property, income, rights, liabilities and expenses to those single tier authorities, or other bodies (for example, Charter Trustees) as, following discussions with the affected local authorities concerned, are considered appropriate. There is also the possibility of agreements being made by the affected local authorities under section 16 of the 2007 Act about the transfer of property, income rights, liabilities and expenses The further orders and/or regulations may deal with—

staffing arrangements, including the transfer and appointment of staff;

financial matters, including those relating to non-domestic rates and council tax, and reserves and assets;

the transfer of assets and liabilities, including property;

the establishment of implementation "milestones" for some activities;

ceremonial issues such as the creation of Charter Trustees and the transfer of ceremonial functions and regalia to Charter Trustees or parish councils.

3.5 The draft Orders for County Durham and Northumberland make provision for county council elections to be held on the ordinary day of election of councillors in 2008(the first Thursday in May). In the other counties, elections to the new single tier authority are proposed for 2009. In those districts affected by the draft Orders where the district councils elect one third of their membership in three years out of four, elections are due on the ordinary day of election of councillors in 2008. In Cornwall (but only in the district of Penwith) and in Shropshire (but only in the district of Shrewsbury and Atcham), one third of the council membership would ordinarily come up for election The draft orders make provision for the cancellation of those district council elections and for the cancellation of certain parish council elections that would otherwise be held on the ordinary day of election of councillors in 2008 and in the case of some parishes, in later years.

3.6 Although there is no express power in the 2007 Act to cancel any local government election, cancellation has been a feature of many earlier local government structural change orders made under powers not materially different from those conferred by sections 11 and 12 of the 2007 Act, for example, section 17 of the Local Government Act 1992 (c.19). An example of an article cancelling local government elections may be found in article 8 of the Humberside (Structural Change) Order 1995 (S.I. 1995/600). The Department accepts, however, that the nature of the re-structuring under the Humberside Order was different from that proposed under the draft Orders, in as much as the Order created new authorities whereas the draft Orders provide for the continuation of one tier of the current local government structure. In cases such as the Humberside Order, the result

of the cancellation of elections was that in the councils concerned, the term of office of affected councillors was extended for some 10 months until the abolition of those councils. This is the same result as that provided for in the draft Cornwall and Shropshire Orders. Cancellation in the Humberside case also avoided district elections being held at the same time as elections to the new authorities. In the case of Cornwall and Shropshire, where elections to unitary county councils are to be held in May 2009, a cancellation is not needed to avoid two sets of elections being held on the same day but it is needed to avoid the election of members for a term of office of some 10 months.

3.7 On practical grounds, it would be very wasteful of public resources to hold in 2008 elections to district councils that are to be wound up and dissolved some 10 months later. It is probable that a much reduced number of people would want to stand for election in May 2008 to one of the district councils because the term of office would be short. It is also a consideration that, in those counties where authorities have asked for the election to the single tier council to be held in 2009, preparation for district council elections in 2008 would distract councillors and their officers from progressing the transitional arrangements that must be in place if single tier local government is to be introduced on 1st April 2009. Cancellation of parish elections for which provision is made in the draft Orders is to avoid the waste of public resources of holding parish elections on days where, as a result of the draft Order's provisions, no other local government elections are to be held. Parish council elections are usually combined with other local government elections. In Cornwall and Shropshire, those parish elections which were due to be held in 2008 or 2010 are moved to coincide with the elections to the new unitary authorities in 2009, and the terms of office of parish councillors amended accordingly. For all other parishes (the vast majority) elections were last held in 2007; to avoid unnecessary disruption to parishes and to bring their election cycles into step with those to the new unitary authorities, parish elections will in future be held on the county council cycle, and the next elections will take place in 2013.

3.8 The Department acknowledges that specifying the political composition of the Implementation Executive (see paragraphs 4.9 and 4.11) is novel. The provision gives effect, at the request of the authorities concerned, to arrangements that they have agreed. Some of the authorities have expressed the wish that an issue of such importance should be dealt with on the face of the draft Orders rather than confined to the more informal agreements that they have made. The power on which the Department relies to require the main transitional function to be carried out by a specified committee of the county council's executive and to specify the composition of that committee is section 13(1) of the 2007 Act.

4. Legislative Background

4.1 Part 1 of the 2007 Act provides for the making of local government structural and boundary changes in England. So far as is relevant to the draft Orders that are the subject of this Memorandum, it enables provision to be made by order under section 7 for re-structuring an area in which there are two tiers of local government (a county council and district councils) into a single tier of local government (a county council). Section 1 provides, for the purposes of Chapter 1 (structural and boundary change), that there is "a single tier of local government" for an area if "there is a county council and no district councils for that area".

4.2 Each of the draft Orders provides for the abolition of the existing districts within the county, and for the winding up and dissolution of the councils for those districts. The effect is to leave the existing county council as the sole local authority for the county. That sole single tier authority will, assuming that Parliament approves the draft Orders and supplementary instruments to be made under the 2007 Act, have new governance arrangements and new functions that extend well beyond those of any existing authority in

the county and, to that extent, can fairly be regarded as a “new” authority. However, implementation arrangements would be unnecessarily complicated if existing local authorities were wound up and dissolved when there is no need to do so, and when county councils are already responsible for running many major services. It is also helpful if reliance is placed, where appropriate, on established local government legislation which is well understood by the authorities most directly affected by the restructuring proposals. The draft Orders have been prepared on that basis.

4.3 The county councils will not become "new" authorities on 1st April 2009 in the legal sense. Sections 7 and 11 of the 2007 Act provide for the implementation of a proposal for a single tier of local government. The draft Orders make provision for the abolition of existing district areas (section 11(3)(b)), the winding up and dissolution of existing district councils (section 11(3)(f)) and the constitution of a new district area which is co-terminous with the county (section 11(3)(a)). The draft Orders are concerned only with the preparations for the transfer to single tier local government on 1st April 2009. The actual transfers of functions (not all of which may be for the single tier authority, as there may be functions going to charter trustees, for example), property, rights and liabilities are to be dealt with later.

4.4 The power to give the county council new functions during the period from the Order coming into force, and the powers to abolish the districts and wind up and dissolve district councils, are conferred by section 13(1) of the 2007 Act. These transitional provisions rest on the fact that a single tier of local government is being established by the Order, and are not transitional on any transfer of functions (for which no provision is made at this stage). In particular, the Department does not seek to rely on 12(1)(k) of the 2007 Act.

4.5 As set out in paragraph 3.5, the draft Orders for County Durham and Northumberland provide for elections to the county council on the ordinary day of election of councillors in 2008. The other draft Orders are silent on the matter of elections to the county councils because the elections are to be held in 2009 which is the year in which county council elections take place in accordance with the existing electoral cycle. Local government elections are conducted on the basis of arrangements under the Representation of the People 1983, which are applied to local government by the Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304).

4.6 Some of the draft Orders provide for the cancellation of district council elections that would otherwise have been held in 2008. The power to cancel district council elections is consequential on the abolition of the districts and the winding up and dissolution of the district councils on 1st April 2009. As explained in paragraph 3.6, similar provision has been included in structural change orders made since, at least, 1992 and, so far as the Department is aware, none has been questioned by either House and none has been challenged on that ground in any court. There are also practical reasons for cancelling elections, as set out at paragraph 3.7.

4.7 For the reasons explained in paragraph 3.7, some of the draft Orders also provide for parish elections that would otherwise have been held in 2008, 2010 or 2011 to be held instead in 2009. The Department relies on the powers in section 12(1) of the 2007 Act to require the holding of parish council elections in 2009.

4.8 Under the draft Orders for County Durham and Northumberland, the election in 2008 will be to the county council (not to a “shadow” authority), which will assume the functions of the sole local authority on 1st April 2009. From the time that the newly-elected councillors take up office (the fourth day after the ordinary day of election of councillors in 2008), the county council will be responsible for preparing for the transition to single tier local government. Until that point, such responsibilities will be the responsibility of a special committee of the county council, the Implementation Executive. Under the draft Orders

for Cornwall, Shropshire and Wiltshire, the Implementation Executives' responsibilities will continue until the newly-elected councillors of the single tier authority come into office after the 2009 election.

4.9 Under all the draft Orders, as set out at paragraph 4.8, responsibility for preparing for the transition to single tier local government is made the responsibility of a committee of the existing county council's executive (its "Implementation Executive") until either the election of new councillors in 2008, or until 1st April 2009. Executives of local authorities are provided for in the Local Government Act 2000 ("the 2000 Act") and take the form, so far as relevant for present purposes, of a leader and cabinet. The policy reflected in these draft Orders is that each Implementation Executive should comprise members of both the existing county and district councils. (The precise composition of these Executives varies to reflect discussions and agreements with the authorities concerned.) The draft Orders include modifications to various sections of the 2000 Act in recognition of the fact that the Executives (which are committees of each county council's 2000 Act leader and cabinet executive) contain members of district councils and may need to delegate particular responsibilities relevant to transition to sub-committees and to officers (including those of the existing district councils).

4.10 The power relied upon to require the transitional function to be carried out by a specified committee and to specify the composition of that committee is section 13(1) of the 2007 Act. The Department takes the view that the provisions relevant to the Implementation Executive are true "stand-alone" elements, and not incidental or supplementary to the main transitional function. Put more simply, the County Council has to prepare for the change to single tier, and the members of the county and district councils are empowered to prepare for that change. These strands are brought together in the Implementation Executive, a body consisting of councillors from all the authorities affected by the change to single tier. So, the Department would argue, both strands are separately transitional in relation to the establishment of a single tier of local government.

4.11 The Department acknowledges that specifying the political composition of the Implementation Executive is unprecedented. However, the provisions seek to give effect to arrangements that reflect discussions and agreements with affected authorities. They were concerned that an issue that is, to them, of importance, should be exposed on the face of the draft Orders rather than confined to the more informal agreements that they have made.

4.12 The draft Orders make provision for other transitional functions to be conferred by further orders under section 7 of the 2007 Act, by orders under section 20 of that Act (which enable corrections to be made that cannot be made by the usual means; amendment in reliance on section 14 of the Interpretation Act 1978, as applied to statutory instruments by section 23(1) of that Act), or by regulations of general application under section 14 of the 2007 Act.

4.13 The 2000 Act makes provision for the overview and scrutiny of the activities of local authority executives by overview and scrutiny committees. Provision for a similar mechanism is made in the draft Orders, enabling the existing authorities in each county to set up a joint committee under section 101(5) of the Local Government Act 1972 for the purpose of examining the relevant Implementation Executive's discharge of transitional responsibilities.

5. Territorial Extent and Application

5.1 Each draft Order is relevant only to a single English county**.**

6. European Convention on Human Rights

6.1 The Secretary of State for Communities and Local Government, Hazel Blears, has made the following statement:

"In my view the provisions of the following draft Orders are compatible with the Convention rights:

The Cornwall (Structural Change) Order 2008

The County Durham (Structural Change) Order 2008

The Northumberland (Structural Change) Order 2008

The Shropshire (Structural Change) Order 2008

The Wiltshire (Structural Change) Order 2008."

7. Policy background

The White Paper and the Invitation to Councils

7.1 The Local Government White Paper, *Strong and Prosperous Communities*, ("the White Paper") published on 26th October 2006, explained the Government's intention to give councils in local government areas where both county and district councils exercise local government functions ("two-tier areas") an opportunity to make proposals for the establishment of unitary authorities. A unitary authority exercises all local government functions in its area. The implementation of local government structural change has significant consequences for existing councils in the affected area, as well as being of importance to their staff, stakeholders and citizens.

7.2 The White Paper identified that councils in two-tier areas face additional challenges. In particular, it noted that "strong leadership and clear accountability is hard to achieve where for the same place there are two council leaders each with a legitimate democratic mandate and often having different, sometimes conflicting agendas" (paragraph 3.50 of the White Paper). It concluded that that councils in all two-tier areas would be expected to find new governance arrangements which overcome the risks of confusion, duplication and inefficiency between tiers, and can meet the particular challenges faced by small districts with small budgets or tightly constrained boundaries (paragraph 3.54 of the White Paper).

7.3 The White Paper explained that in some counties there was a widely held view that moving to unitary structures would be the best way of overcoming the risks and challenges of two-tier arrangements, and would improve accountability and leadership, increase efficiency, and improve outcomes for local people (paragraph 3.55). In accordance with this policy, the Government published alongside the White Paper the *Invitation to Councils in England* ("the Invitation"), which invited councils to submit proposals for unitary structures. The Invitation also invited proposals from partnerships of councils wishing to pioneer innovative forms of two-tier working. It was a matter for councils whether they chose to respond to either (or, by way of alternatives, both) parts of the Invitation.

7.4 Following the publication of the White Paper and Invitation, on 12th December 2006 the Local Government and Public Involvement in Health Bill was introduced into Parliament. It received Royal Assent on 30th October 2007. Part 1 of the 2007 Act makes provision for the

implementation of local government structural and boundary change. The changes made by these draft Orders could not have been made by non-legislative means.

Timing

7.5 The Invitation was issued prior to the introduction of the Bill into Parliament, so that councils could work on their proposals, and the Secretary of State could begin the process of considering, consulting on and filtering proposals. Section 21 of the 2007 Act provides that where an invitation was made, guidance was given, a proposal was made or a consultation carried out, it is immaterial that it was done before the commencement of provisions of the 2007 Act dealing with structural and boundary change. The Government's policy since the issue of the Invitation has been to keep to a minimum the period of uncertainty for councils, their staff, stakeholders and citizens which is inevitably generated by proposals for structural change. The then Secretary of State for Communities and Local Government, Ruth Kelly, explained at second reading of the Bill on 22nd January 2007:

> "It was clear when we set up this process that local councils wanted us to provide a short window of opportunity for them to put forward proposals so that, after decisions have been made, they can get on with the business of delivering local government."

7.6 The Secretary of State's power to take these steps prior to the 2007 Act being commenced was challenged by way of judicial review in the case of *Shrewsbury and Atcham Borough Council v Secretary of State for Communities and Local Government*. Mr Justice Underhill dismissed the claim on all grounds on 10th October 2007. The case is the subject of an appeal which is listed for a hearing at the end of January 2008.

The Invitation process

7.7 The Invitation set out guidance to councils as to the criteria which proposals had to meet. The five criteria set out in the Invitation were that if change is made and new unitary structures implemented: the change to future unitary structures must be affordable; be supported by a broad cross section of partners and stakeholders; future structures must provide strong, effective and accountable strategic leadership; deliver genuine opportunities for neighbourhood flexibility and empowerment; and deliver value for money and equity on public services.

7.8 The Invitation also outlined the process for handling councils' proposals. Firstly, proposals received by the 25th January deadline underwent a preliminary assessment against the criteria. 26 proposals were received by the deadline. After seeking further information from councils and assessing the proposals against the criteria, the Government announced on 27th March that it considered there was at least a reasonable likelihood that 16 of those 26 proposals would, if implemented, meet the criteria. The 16 proposals therefore progressed to stage two of the process, stakeholder consultation, *Proposals for Future Unitary Structures: Stakeholder Consultation*, launched on 27th March. Table 2 of Annex A lists the proposals which progressed to stakeholder consultation, and Table 3 lists those which did not. The consultation ran for twelve weeks until 22nd June.

7.9 The Department sent the consultation document to key partners and stakeholders identified as having an interest in, or responsibility for, various aspects of service delivery in the areas affected by the proposals. A list of these key consultees was posted on the Communities and Local Government website and can be found at p33 and 34 of the Summary of Responses, copies of which have been supplied to the Committees. Affected local authorities were also asked to bring this consultation to the attention of local stakeholders, and the consultation was available on the Department's website where it was open to anyone to respond to the consultation, commenting either on the proposal affecting their area or more generally (paragraphs 6 and 7 of the Stakeholder Consultation). All representations, and all other relevant material, were considered by the Secretary of State during the process of assessing the proposals.

7.10 Stakeholders were asked to consider the extent to which, in their view, proposals relevant to their geographic or functional area met the criteria as set out by the Government; to provide evidence-based facts in support of their assertions and, if relevant, to express a preference where competing proposals were being considered for an area. In particular, views were welcomed on the long-term outcomes specified by the strong leadership; neighbourhood empowerment; and value for money and equity on public services criteria. In areas where there was more than one proposal being consulted upon (of the five areas for which draft Orders have been laid, only Northumberland), the Government sought views on which of the alternative proposals would better achieve the long-term outcomes specified in the Invitation.

7.11 The Government received over 55,000 responses to this consultation, with 1,700 being submitted by organisations and 4,900 individual representations from members of the public. A further 49,000 responses were 'campaign responses', where the respondent had filled in a pro-forma distributed to them as part of an organised campaign, though there was considerable variation in the number of campaign responses received in relation to different areas.

7.12 The Department has published a summary of the consultation responses, and a copy of the summary has been supplied to the Committees[2]. In all areas, a wide range of views was expressed. The Department does not in this Memorandum seek to summarise further and thus risk omitting or misrepresenting the views of some consultees. Members of the Committee may therefore find it most helpful to read the introduction and relevant area sections of the published summary, as follows: paragraphs 9-23 of the Introduction, and pages 10-11 (Cornwall) 14-15 (County Durham), 22-23 (Northumberland), 26-27 (Shropshire), and 30-31 (Wiltshire).

7.13 Following the stakeholder consultation, the third stage of the Invitation process was to further assess proposals against the criteria. The Government had regard to all representations which had been made to it, including the consultation responses, as well as to all further information available, for example, submissions from local authorities developing the detail of their proposals. Where consultees had provided comments or views on the content of a proposal, those responses were taken into account in the assessment of the proposals against the relevant criteria. All the consultation responses contributed to the assessment against the broad cross section of support criterion.

Decisions as to which proposals to implement

7.14 Following the reassessment of proposals, the Government announced on 25th July 2007 to Parliament that it was minded to implement nine unitary proposals. At that stage of the process, the Secretary of State judged that these nine proposals, including the five proposals which are the subject of the draft Orders, had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation. Letters were sent to the proposing authorities on 25th July stating the Secretary of State's reasons for her decisions. Her reasons for concluding that each of the proposals implemented by the draft Orders were reasonably likely to meet the criteria are summarised in the tables at Annex B.

7.15 In the five areas which are the subject of the draft Orders, the Government announced on 5th December 2007 that the Secretary of State had decided to confirm her decisions of 25th July. Subject to the approval of both Houses, the Orders implement structural change in each affected area on 1st April 2009.

7.16 The Government believes that the implementation of these five proposals will establish new and innovative local governance in each of the five areas, combining both strong, strategic councils and effective arrangements for empowering communities at the most local level. This

[2] The document is also available on the Department's website at: http://www.communities.gov.uk/publications/localgovernment/unitarystructureresponses.

takes further the concept of unitary local government developed in the 1990s. It provides for the creation of councils that will be able to lead the way in empowering citizens and communities, promoting prosperity and modernising local service delivery to achieve both greater efficiencies and better outcomes. It is expected to result in total estimated annual savings of over £75m per year. It is estimated that transitional costs will be approximately £77m in total. Overall, the number of councils in these areas will be reduced from 33 to 5.

Preparations for reorganisation

7.17 In March 2007, the Department convened a group of experts to consider the implementation issues associated with local government reorganisation. It comprised representatives from all the major local government trade unions, the Local Government Association (LGA), and Local Government Employers (a body established by the LGA to consider local government pay, pensions and employment contracts), and other professional bodies of local government. The Department continues to engage and consult with that group as decisions are taken on the content of the further secondary legislation which will be necessary to ensure a smooth transfer to a single tier of local government in the areas which are the subject of these or any future structural change orders.

7.18 Flowing from the work of that group, the Government published a discussion paper on 22nd August 2007, *'An approach to implementation'*. This set out, as a basis for dialogue with the potentially affected councils, the broad approach to implementation of structural change. Around 160 responses were received. In addition, the Department held meetings with local authorities in affected areas to discuss the implementation approach and the key issues to be included in these orders.

7.19 The key issues raised were:

- concerns about the degree to which the new unitary authorities would be genuinely new and not simply a continuation of the existing councils;
- the nature and composition of the authority with responsibility for preparing for reorganisation, including their electoral mandate;
- staffing matters (whether, and if so how, to differentiate between front and back office staff, key appointments, staff transfers (who and when, and the protections for their terms and conditions), redundancy and compensation).

New authorities

7.20 Some district councils expressed concern that unless all the councils (districts and county) were technically abolished and a new unitary council established, then the county council could be seen to 'take over' the districts. Government has been clear that the current restructuring of local government is about creating *new* authorities in any commonly understood meaning of the word. However, since the county councils in these five areas cover exactly the same local government areas as the new unitary authorities, the Government decided in September that implementation arrangements would be more straightforward if the new authority is treated, in legal terms, as a continuation of the existing county council. Creating a new authority in the legal sense would require abolition of the existing authority and establishing another one on the same borders. It would require significant additional work in the transitional period, and would mean a new authority operating alongside the existing authority in a shadow capacity during the transitional period, which is likely to lead to duplication and confusion for citizens and service users. The Orders are therefore drafted on the basis of a transfer of functions to the existing county councils on 1st April 2009, with those councils taking the lead in preparing for restructuring in the transitional period. However, the provision made by the draft Orders is intended to ensure that members of all affected authorities are able to participate in preparations for restructuring.

Elections and membership

7.21 The orders make provision for the creation of an Implementation Executive (IE) with members drawn from all the existing councils in the area. This is the body that will oversee the transitional process until first elections are held.

7.22 The membership of the IE reflects discussions and agreements with the affected councils within each area. The Department provided councils with the following guiding principles when considering the membership of the IEs:

- As the process is based on the implementation of a proposal, the proposing authority must be in the driving seat. The chair and a working majority should therefore come from the proposing authority;
- All of the affected local authorities and main local political parties must be able to make an input into the Implementation Executive and have full voting rights;
- There needs to be an efficient and effective decision making body able to provide the corporate leadership necessary to drive the transitional change through, and the IE should therefore not be too large.

7.23 In relation to elections, councils' views were sought on whether elections should be held in 2008 or 2009. The key advantage of 2008 elections was that they would ensure that the new councils had a fresh democratic mandate in preparing for the transition. However, there were also advantages to 2009 elections, in particular that: this would give the Electoral Commission more time to review ward and electoral divisions to ensure that the most suitable electoral arrangements are in place; elections in 2008 could disrupt preparations for change; and given the complexity of implementation, councils might take the view that it would not be practicable to have elections in 2008. The orders reflect the discussions and agreements reached with councils on this.

Staffing matters

7.24 The Government intends to deal with staffing matters in regulations under the 2007 Act to be laid before Parliament next year. The Government is engaged in consultation with councils and other stakeholders, including the Trade Unions, on this issue.

Other matters

7.25 The Government's intention is to ensure that the IEs have the key powers and the staffing resources necessary to ensure that there is a smooth transition on 1st April 2009 to new unitary authorities which can begin work on the delivery of the long-term outcomes envisaged in councils' proposals. The IEs are therefore given the function of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities. To this end, the IEs are required to prepare and keep under review an Implementation Plan, and in doing so to have regard to the information supplied by the councils whose proposals the draft Orders implement, in particular in relation to strategic leadership, neighbourhood empowerment and value for money services.

7.26 All affected local authorities are required to co-operate in achieving structural change and generally to exercise their functions in such a way as to further the economic, efficient, effective and timely transfer of functions to the new unitary authority.

7.27 Detailed issues common to all affected areas will be dealt with in regulations during 2008. As well as the staffing issues referred to at paragraph 7.24, these regulations are likely to cover, for example, finance, asset transfers and the preservation of local ceremonial rights and privileges. The Secretary of State also intends to use her powers under section 24 of the 2007 Act to direct those councils which are being abolished to seek the consent of the IE before taking certain acts or

entering into certain transactions, in order to prevent the new unitary structures from becoming responsible for long-term liabilities that are not consistent with their plans for the future.

8. Impact

8.1 An Impact Assessment has been prepared for these draft Orders, based on those provided for the White Paper and the Bill that became the 2007 Act.

8.2 The impact on the public sector will be limited to the five areas for which these orders make provision. In these areas, the Government expects that the implementation of a single-tier of local government will have a significant impact on improving the delivery of local services – achieving both efficiency gains and better outcomes – and on modernising the local governance arrangements. The one-off cost of transition to single-tier local government in the five counties concerned is to be funded by the authorities concerned, and is estimated by the proposing authorities to be in the order of £77m in total. Annual savings are estimated at over £75m.

9. Contact

Mark Barnett at the Department for Communities and Local Government (tel: 020 7944 4086, or email: mark.barnett@communities.gsi.gov.uk) can answer any queries regarding the draft Orders.

Department for Communities and Local Government
December 2007

ANNEX A

Table 1: Summary of changes

Local government area	Current structure	New unitary council	Councils being abolished	First election date
CORNWALL	1 county council 6 district councils	Cornwall County Council	6 district councils	May 2009
DURHAM	1 county council 7 district councils	County Durham County Council	7 district councils	May 2008
NORTHUMBERLAND	1 county council 6 district councils	Northumberland County Council	6 district councils	May 2008
SHROPSHIRE	1 county council 5 district councils	Shropshire County Council	5 district councils	May 2009
WILTSHIRE	1 county council 4 district councils	Wiltshire County Council	4 district councils	May 2009

Table 2: Proposals that progressed to stakeholder consultation

Councils Submitting Proposals	Proposed unitary structure
Bedford Borough Council	A unitary authority for Bedford
Bedfordshire County Council	A unitary authority for Bedfordshire
Cheshire County Council	A unitary authority for Cheshire
Chester City Council	Two unitary authorities for Cheshire
Cornwall County Council	A unitary authority for Cornwall
Cumbria County Council	A unitary authority for Cumbria
Durham County Council	A unitary authority for County Durham
Exeter City Council	A unitary authority for Exeter
Ipswich Borough Council	A unitary authority for Ipswich
Northumberland County Council	A unitary authority for Northumberland
The Northumberland District Councils	Two unitary authorities for Northumberland
Norwich City Council	A unitary authority for Norwich
North Yorkshire County Council	A unitary authority for North Yorkshire
Shropshire County Council	A unitary authority for Shropshire
Somerset County Council	A unitary authority for Somerset
Wiltshire County Council	A unitary authority for Wiltshire

Table 3: Proposals that did not progress to stakeholder consultation

Councils Submitting Proposals	Proposed unitary structure
Mid & South Bedfordshire District Councils	A unitary authority covering mid and south Bedfordshire
The Cornwall District Councils	A unitary authority for Cornwall
The Durham District Councils	A unitary authority for Durham
Ellesmere Port & Neston Borough Council	Three unitary authorities for Cheshire
East Riding of Yorkshire District Council	A unitary authority covering East Riding and Selby
Lancaster City Council	A unitary authority for Lancaster
Oxford City Council	Three unitary authorities for Oxfordshire
Burnley Borough Council	A unitary authority for Burnley
Preston City Council	A unitary authority for Preston
South Somerset District Council	Two unitary authorities for Somerset

ANNEX B – Reasons for the Secretary of State's decisions of 25th July 2007

Cornwall

Criterion	
Affordability	The financial case looked reasonably robust and there was little risk that the proposal would be unaffordable.
Support	If implemented, the proposal would command a broad cross-section of support from a range of stakeholders, both public and private sector, as well as some support from the general public. Whilst certain districts carried out polling which came down heavily against the unitary proposal, the climate in which the polls took place suggests that the results needed to be viewed with caution.
Strategic leadership	A single unitary council would be the best way of addressing and providing leadership for Cornwall's unique identity. Co-terminosity [of boundaries] with other significant public sector partners, and the enhanced prominence for a single strategic partnership for Cornwall, would streamline partnership working and deliver strong and effective strategic leadership of the public service agenda. There had been concerns as to the viability of democratic links between councillors and their electorate but these appeared to have been mitigated with the proposal for significantly increasing the current number of councillors at county level.
Neighbourhood empowerment	The proposed neighbourhood arrangements for the establishment of 16 "Community Network Areas" would offset the risks of the council being seen as too remote and would provide genuine opportunities for neighbourhoods to influence local service delivery and shape their local communities.
Value for money and equity on public services	The proposal to integrate back-office functions, consolidate management functions and enable greater cross-discipline working, together with the scope for more effective joint commissioning with other public sector service providers (e.g. the PCT), would mean more effective and efficient services for local people.

County Durham

Criterion	
Affordability	The financial case looked reasonably robust and there was little risk that the proposal would be unaffordable.
Support	Of those that responded directly to the consultation, there appeared to be at least a reasonable level of support in most sectors. Whilst the districts had carried out polling which came down heavily against the proposal for a unitary council for Durham, the climate in which the polls took place, including the information that was available to voters either directly or as a result of press debate suggests that the results needed to be viewed with caution. On balance therefore, the Secretary of State concluded that there was a reasonable likelihood of the proposal achieving the outcomes specified by this criterion.
Strategic leadership	A single unitary authority for Durham would be capable of providing effective leadership at regional and sub-regional level and would be able to argue the county's corner in discussions with other regional partners, including the unitary authorities in Newcastle, Gateshead and Teeside. The streamlined partnership arrangements and the coherence between strategic planning processes and corporate structures suggested that the authority will be capable of delivering effective strategic leadership within the county and of working with key partners.
Neighbourhood empowerment	Notwithstanding the size of the proposed authority, the neighbourhood arrangements based around significant devolution of power and decision making to 13 "Area Partnerships", would reduce the risk of the authority being seen as remote from local people and would enable local communities to influence decisions that affect their lives. The proposals provided strong "top-down" corporate and neighbourhood governance arrangements that would avoid the risk of significant duplication of effort on the part of the council and that of principal partners.
Value for money and equity on public services	The proposals appeared to provide the potential for significant improvements in service delivery and to create the potential for significant economies of scale. As well as removing the confusion which exists in two-tier areas about which tier delivers which services, plans for single points of access to citizens should greatly improve access to services.

Northumberland

Criterion	
Affordability	The financial case looked reasonably robust and there was little risk that the proposal

	would be unaffordable.
Support	Key stakeholders, including the Chief Constable and North East Chamber of Commerce, were strongly supportive. Whilst the Districts relied heavily on the 2004 referendum, which produced a majority against the single unitary option, it was significant that in that referendum the single unitary option nevertheless had significant support – over 40%.
Strategic leadership	Proposals would ensure an effective voice for Northumberland at regional and sub-regional level and will best safeguard the interests of rural Northumberland. Although Northumberland is large geographically, it is fairly small in population terms. Proposals involving simplifying and streamlining the governance and partnership arrangements for the area would enable effective strategic leadership to be provided.
Neighbourhood empowerment	Although large geographically, the innovative neighbourhood arrangements based around significant delegation to three area committees and effective community engagement in 26 community areas, would help ensure that the authority is not seen as being too remote and would enable local communities to influence local service delivery.
Value for money and equity on public services	As well as retaining the existing pattern of county services, the new authority would be able to exploit the synergies that exist between some county and district services. A single authority for Northumberland would be able to exploit potential economies of scale with substantial revenue savings per annum.

Shropshire

Criterion	
Affordability	The financial case looked reasonably robust and there was little risk that the proposal would be unaffordable.
Support	Whilst there was strong opposition from some district councils, the proposal had the support of key stakeholders in the public sector and business. Whilst certain districts carried out polling which came down heavily against the proposal for a unitary council for the County, the climate in which the polls took place, including the information that was available to voters either directly or as a result of press debate, suggested that the results need to be viewed with caution.
Strategic leadership	Proposed corporate structure with an inclusive approach towards all Members had the potential to maximise talent and capacity and contribute to strong strategic leadership. There was a commitment to embed strong partnership working across the public sector and plans to have three Area Partnerships in addition to the Local Strategic Partnership to focus on 'place' rather than 'interest'.
Neighbourhood empowerment	Plans for delegation of services to 27 local joint committees would ensure that local communities have sufficient opportunity to influence local service delivery.
Value for money and equity on public services	The proposal was likely to provide opportunities for improved service delivery, such as the proposed 'One-Door' access to services. A single unitary authority would be able to exploit economies of scale.

Wiltshire

Criterion	
Affordability	The financial case looked reasonably robust and there was little risk that the proposal would be unaffordable.
Support	Support from a range of stakeholders, both public and private sector, as well as some support from the general public.
Strategic leadership	Establishment of a reinvigorated strategic partnership – a "Wiltshire Assembly" – and a public sector board appointed with key public service partners would deliver strong and effective strategic leadership of the public service agenda for the county. The strong link to place, through the establishment of 20 "Community Area Boards", provided compelling evidence that a unitary council would not be too remote from all of its communities.
Neighbourhood empowerment	Role of the Community Area Boards in determining strategic direction and service delivery at the local level would ensure that local people have a real opportunity to influence local services and shape the communities in which they live.
Value for money and equity on public services	Commitment to service redesign involving service users and customers, together with the commitment to rationalise management and back office service delivery functions, meant that local people would benefit from more efficient and effective services.

Summary: Intervention & Options

Department /Agency:	Title:	
Department of Communities and Local Government	**Impact Assessment of Orders implementing a chage from two tier to single tier local government in 5 areas**	
Stage:	**Version:**	**Date:** 12 December 2007

Related Publications: Full Regulatory Impact Assessment for Strong and Prosperous Communities White Paper and the Local Government and Public Involvement in Health Bill 2007

Available to view or download at:

http://www.

Contact for enquiries: Mr Ian Barber **Telephone: 020 7944 4469**

What is the problem under consideration? Why is government intervention necessary?

Weaknesses are found in many existing council structures based on county, district and parish tiers. These structures often add to public confusion, create fragmented and sometimes competing local leadership, and lead to duplication, inefficiency and co-ordination failures in service delivery. A way of removing these weaknesses is the introduction of unitary local government, ie, to change the statutory structure of local government so that the council structures are based on a single principal tier together with parish tiers. This necessarily requires Government intervention and the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides the mechanism for this.

What are the policy objectives and the intended effects?

The policy objectives in the 5 areas, in each of which certain councils have proposed a move to unitary local government, are to overcome the weaknesses found in many existing council structures based on county, district and parish tiers, and to establish in each of the areas concerned, new and innovative local governance that combines both strong strategic councils and effective arrangements for empowering communities at the most local level. Once proposals are fully implemented, annual savings of over £75m are expected giving councils opportunities for improved services or lower council tax.

What policy options have been considered? Please justify any preferred option. Having invited councils to make proposals to move to unitary local government, and having received proposals for each area, the policy options open to the Government under the provisions of the 2007 Act are to implement by order each proposal with or without amendment, or, to take no action on the proposals. Before deciding whether to implement a proposal or take no action on it, it is open to the Government to request the Boundary Committee of the Electoral Commission for advice on the proposals. In each of the five areas, the Secretary of State judged that there is a reasonable likelihood that each of the proposals if implemented will achieve the outcomes specified in the criteria in the Invitation to councils issued on 26 October 2006, and hence decided the proposals are to be implemented.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The Department is commissioning a six year research project to evaluate the current round of local government reorganisation, and the outputs and outcomes that emerge, with evaluations from January 2010.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

John Healey.....Date: 13th December 2007

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£77m	3
Average Annual Cost (excluding one-off)	
£ See note A below	

Description and scale of **key monetised costs** by 'main affected groups' The proposals submitted in January and additional material in June 2007, identified one off transition costs of £77m with a payback period of between 2 and 3 years. These included staff related costs and appropriate planning and restructuring costs to be covered through savings and the use of non earmarked reserves.

Total Cost (PV) **£ See note A below**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£	
Average Annual Benefit (excluding one-off)	
£ See note A below	

Description and scale of **key monetised benefits** by 'main affected groups' The proposals identify potential savings within the authorities largely through rationalisation of corporate costs and the reducion of management costs and overheads. On the basis of councils' current estimates, the savings from these 5 proposals, once implemented, will be over £75m annually giving councils opportunities for improved services or lower council taxes.

Total Benefit (PV) **£ See note A below**

Other **key non-monetised benefits** by 'main affected groups'

- The number of councils in these areas would reduce from 33 to 5
- The total number of English councils falls from 388 to 360.

In each area, there will be a single principal council which, through combining strategic leadership, effective neighbourhood empowerment and simplified and more efficient partnerships and service delivery will be able to lead the way on modernising service delivery to achieve greater efficiency & better outcomes.

Key Assumptions/Sensitivities/Risks

The costs and savings are based on the business cases which include sensitivity/risk analysis. The core evidence is in the proposals and supplementary information submitted to the Government.

Note A: Detailed analysis supporting the business cases provides for net costs and benefits rather than gross. Anticipated transition costs and net savings are set out separately in the business cases. The proposals and additional material provided to CLG form the key evidence and are available on each of the authorities' web sites. The cumulative net present value of savings to 2012/13 is £130m.

Price Base Year 06-07	Time Period Years 6	**Net Benefit Range** (NPV) **£ N/A**	**NET BENEFIT** (NPV Best estimate) **£ 130m (Cumulative over 6 yrs**

What is the geographic coverage of the policy/option?	5 areas in England
On what date will the policy be implemented?	1 April 2009
Which organisation(s) will enforce the policy?	Not Applicable
What is the total annual cost of enforcement for these organisations?	£ N/A
Does enforcement comply with Hampton principles?	N/A
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per year?	£ N/A
What is the value of changes in greenhouse gas emissions?	£ N/A

Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of £	Decrease of £	**Net Impact**	**£**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

OBJECTIVE

To introduce secondary legislation that will implement proposals for the creation of unitary authorities in five areas in England to deliver strong, effective, and accountable strategic leadership, genuine opportunities for neighbourhood flexibility and empowerment, and value for money and equity on public services.

The full rationale for Government Intervention is set out in the Regulatory Impact Assessment prepared for the Local Government and Public Involvement in Health Bill (now Act) and is reproduced at Annex A.

The 5 Orders being tabled implement the decisions on unitary restructuring announced by the Government on 5 December

POLICY OPTIONS UNDERLYING UNITARY RESTRUCTURING

The Local Government White Paper, *Strong and Prosperous Communities,* ("the White Paper") was published on 26th October 2006. Amongst other things, it set out proposals for creating opportunities for improved local governance in two tier areas by giving councils an opportunity to seek unitary status and assist those continuing with two tier arrangements to adopt improved arrangements.

In parallel with the White Paper, the government published its "*Invitations to Councils in England"* in October 2006 to invite councils to make proposals for future unitary structures, and/or to pioneer, as pathfinders, new two-tier models. The invitation said the government had made these white paper commitments because:

- It has concluded that local government in two tier areas faces additional challenges that can make it harder to achieve that strong leadership and clear accountability which communities need. There are risks of confusion, duplication and inefficiency between tiers, and particular challenges of capacity for small districts.

- It recognises that many local authorities are already working to improve the quality of services in two tier areas, building strong and sustained partnerships between councils in a county area, but considers there is the potential to go further. In short, the Government believes that status quo is not an option in two tier areas if councils are to achieve the outcomes for place shaping and service delivery that communities expect, and deliver substantial efficiency improvements.

- It accepts that in a number of areas, and where there is a broad cross section of support for this, these reforms should now involve a move to unitary local government.

- It also recognises that in the majority of county areas reforms will now take the form of developing innovative new models of two tier working as described in the White Paper. This process is to be assisted by pathfinder partnerships of a county council and all the district councils in the county, committed to pioneering radical change.

The Local Government and Public Involvement in Health Act 2007 ('theAct') includes provisions for implementing these structural changes to local government, i.e. for moving from two-tier to unitary local government. These provisions allow new unitary structures to be created by Order subject to approval by both Houses of Parliament, following proposals by local authorities in response to an invitation (including an invitation issued prior to the commencement of the Act) from the Secretary of State. The Act repeals the previous statutory framework for restructuring in Part 2 of the Local Government Act 1992, under which restructuring was initiated by a request to the Electoral Commission by the Secretary of State.

CONSULTATION

Unitary proposals

The Invitation issued in October 2006 provided that all proposals should demonstrate how they met five essential criteria, namely:

- provide strong and accountable strategic leadership;
- deliver genuine opportunities for neighbourhood empowerment;
- deliver value for money public services;
- be supported by a broad cross-section of partners and stakeholders;
- be affordable: restructuring must represent value for money and be self-financing

In January 2007, 26 proposals were received from authorities wishing to obtain unitary status. These were assessed against the five criteria, and 16 were judged as likely to achieve the outcomes specified by the criteria, if they were to be implemented.

The Government then issued a 12-week consultation, *Proposals for Future Unitary Structures: Stakeholder Consultation*, seeking views on the likely outcomes of the 16 proposals if they were to be implemented. Responses were requested by 22 June 2007. A list of the stakeholders consulted is attached at Annex B below. The Government received over 55,000 responses. It published a summary of these in November 2007 in its document *"Proposals for Future Unitary Structures: Stakeholder Consultation Summary of Responses"*

Following the stakeholder consultation, the Government reassessed the 16 proposals against the five criteria in the original invitation having regard to all the further material and representations received and all other information available at the time. On 25 July the Government announced that the Secretary of State was minded to accept 9 unitary proposals, refer one to the Boundary Committee of the Electoral Commission and that she was not minded to implement 6 of the proposals.

In making this announcement, the Secretary of State also recognised on the basis of the available information, that in four cases – the proposals from Bedford Borough Council, Chester City Council, Exeter City Council and Ipswich Borough Council – there were risks to their achieving the outcomes specified by the affordability criterion, and asked those councils to undertake further work and submit additional information on the financial viability of their proposals. The respective authorities were invited to submit this information by 1 October and at the same time make it available (on their web sites) to the other affected authorities and any stakeholders that would have an interest. In turn, they were invited to make representations on the material by 24 October. This information was reviewed by the Government and was considered along with all the other relevant material before final decisions were taken.

On 5 December 2007, the Government announced that the Secretary of State had decided to implement without modification the 5 unitary proposals from Cornwall County Council, Durham County Council, Northumberland County Council, Shropshire County Council and Wiltshire County Council.

CONSULTATION

Implementation Orders

In March 2007, the Department convened a Group of Experts to consider the implementation issues associated with the creation of any new unitary authorities. It comprised representatives from all the major local government trade unions, the Local Government Association (LGA) the Local Government Employers and other professional bodies of local government

Flowing from the work of that Group, the Government published a discussion paper, "*Councils' Proposals for Unitary Local Government (An approach to implementation)"* on 22nd August 2007. This set out, as a basis for dialogue with the potentially affected councils, the broad approach to establishing unitary authorities. Around 160 responses were received.

Meetings with authorities

In September 2007, officials met with authorities in all the affected areas to discuss the framework and context for the Orders and enable initial draft orders to be prepared. In October, draft orders were circulated, and a further round of meetings held to discuss the issues raised and in particular to open dialogue and seek consensus as far as possible on three topics:

- the date of the first elections to the new unitary authority;
- the composition of the Implementation Executive/Joint Committee (IE/JC); and

- the content of the draft Implementation Order.

The Government believes that the Implementation Orders reflect the discussions and agreements reached with councils. It intends to take a similar cooperative approach to the preparation of the general regulations which will deal with detailed issues relating to restructuring such as the transfer of property and liabilities and staffing matters.

COSTS AND BENEFITS

The Implementation Orders implement proposals submitted to the Government which the Secretary of State has decided have a reasonable likelihood of achieving the criterion. Those proposals submitted in January 2007, together with additional information submitted as appropriate in June 2007 constitute the core evidence for the assessment. Links to these sites are below.

http://www.cornwall.gov.uk/index.cfm?articleid=37584

http://www.durham.gov.uk/lgr/usp.nsf/pws/About+LGR+-+Proposa

http://www2.northumberland.gov.uk/reports/ofoc/index.html

http://www.shropshire.gov.uk/onecouncil.nsf/open/D505CB72FF658AE880257370003 99C88

http://www.onecouncilforwiltshire.co.uk/

The proposals include within them sensitivity and risk analysis on the strength of the proposals and on the payback period. The proposals were also reviewed by the Government against the criterion set out in the Invitations and with the help of independent financial advisors.

Sectors and groups affected

These orders will have a direct impact on local councils in the 5 areas, by abolishing certain of the councils and transferring their functions to the remaining councils.

Those using local government services, public sector partners, business and voluntary bodies will benefit from clearer lines of responsibility and fewer local authorities to deal with. The outcome of restructuring will also have an impact on:

- public sector agencies that operate at a local level – in general the reduction in the number of tiers of local government should simplify their relationships;
- citizens and community groups - that will benefit from the revitalised and strengthened local leadership and the potential for a new and innovative approach to service delivery and community/neighbourhood arrangements;
- private and third sector bodies who provide services for councils

Through improved governance arrangements, strategic leadership, greater accountability and transparency, and more efficient and effective service delivery, the proposals should deliver improved outcomes in the areas concerned, economically, socially including health and community cohesion and environmentally.

Race equality assessment

The provisions of the Bill, now the Act, went through an initial Race Equality Impact assessment screening. It found that the White Paper proposals (now being implemented) did not introduce any unlawful discrimination.

Health Impact Assessment

There should be no adverse health impacts as a result of this restructuring. The PCTs will be coterminous with the new unitary authorities, and should benefit from more streamlined working arrangements.

COSTS

Economic

The proposals submitted by each of the counties were required to meet (amongst other things) an affordability criterion. That criterion set out in the "Invitations to councils" required authorities to demonstrate that any restructuring delivers value for money and be self financing so that:

- transitional costs overall must be more than offset over a period ("the payback period") by savings;
- the "payback period" must be no more than 5 years;
- in each year, capital transitional costs incurred are to be financed through a combination of the following;-
    - in year revenue savings arising as a result of restructuring;
    - other in year specified revenue savings that are additional to annual efficiencies (eg Gershon savings) which local authorities are expected to make;
    - drawing in available revenue reserves, subject to ensuring that satisfactory amounts remain to meet unforeseen pressures or other potential calls on reserves. Use of revenue reserves should be the final option considered, both because of the need to preserve a contingency to meet future pressures and because use of reserves adversely affects the fiscal aggregates in a given year, increasing spending but not receipts and so placing further pressure on the Government 's fiscal rules;
- the use of capital resources to meet revenue costs will not be permitted;
- any council making a proposal should ensure that all costs incurred as a result of reorganisation are met locally without increasing council tax;
- central Government will accept no liability for any miscalculation or cost overrun in the final outturn. The Government will not accept that any additional information The transitional costs also had to be offset by savings over a maximum of five years. All costs would have to be met locally without increasing council tax. The proposals implemented by these orders were assessed against this criterion at a number of stages in the process, taking account of all of the information available at that stage, including assistance procured by the Government from independent financial consultants.

The proposals implemented by these orders were assessed against this criterion at a number of stages in the process, taking account of all of the information available at that stage, including assistance procured by the Government from independent financial consultants.

The Regulatory Impact assessment for the Local Government and public Involvement in Health Bill estimated up front initial transitional costs in the region of £12m per county area. The proposals suggest overall potential transition costs of around £77m, and indicate these will be funded from savings and a call on general (un earmarked) reserves. They do not anticipate an adverse impact on council tax and will have a pay back period of up to three years.

Environmental and Social

There should be no significant new social or environmental costs arising from the measures in these orders.

BENEFITS

Economic

As set out above, the criteria against which the proposals were assessed included the requirement that they be self financing through savings with a payback period of less than 5 years. In deciding to implement these proposals, the Secretary of State concluded that there was at least a reasonable likelihood that these proposals would achieve the outcomes specified by the affordability criterion.

The Regulatory Impact Assessment for the Local Government and Public Involvement in Health Bill estimated annual savings in costs of in the region of £10m in each county area from year 3 onwards. On the basis of the councils' current estimates, the savings from these 5 proposals will be over £75 million annually.

Environmental

There should be no significant environmental costs arising from re structuring. The proposals are clear that bringing together responsibility for the management of Environmental services will provide opportunities for improvement.

Social

There should be benefits, in particular to the users of council services, through improved engagement and service delivery arrangements.

Small Firms' Impact

Overall there should be no negative impact on small firms. Local government restructuring only directly affects the public sector. The proposals simplify access to and types of local authority services and regulations which should have a beneficial effect on small firms.

Competition Assessment

There should be no adverse effect on competition.

Annexes

ANNEX A

RATIONALE FOR GOVERNMENT INTERVENTION
(Extract from Regulatory Impact Assessment for the Local Government and Public Involvement in Health Bill)

There have been significant improvements in the performance of local government since 1997. For instance there was a 15.1% increase in a representative basket of best value performance indicator scores between2000/01 and 2004/05,[3] and in the four years it has been in existence the Comprehensive Performance Assessment (CPA) has measured significant improvements with two thirds of councils now scoring 3 or 4 stars out of 4[4].

However, issues still remain. Despite the improvements in their performance public satisfaction with local authorities remains low[5]. This is reinforced by the fact that 61% of citizens feel that they have no influence over decisions affecting their local areas[6].This strongly suggests that local authorities and the services they and their partners provide are not sufficiently responsive to the needs and priorities of the communities they serve.

It is clear that the reforms to council's leadership structures introduced in 2000 have resulted in significant improvements in local strategic leadership, particularly in areas that have adopted directly elected mayors[7]. However, not all authorities have fully embraced the opportunities available to them to provide strong leadership in their area. The government is also aware that in some areas with a two-tier structure, in other words an area covered by both county and district councils, there is a growing consensus that the current structures are confusing and a bar to delivering services efficiently.

There is growing evidence that the performance framework for local government, despite its success in driving improvements in performance, must now change. For local government and its partners, the performance framework often appears:

- un-balanced – with 80% of the reporting effort focused on meeting top-down requirements rather that the needs of local management[8]; and,
- burdensome – with approximately 600 performance items requested by Government and inspectorates including: plans, inspections, performance indicators, data returns, and monitoring arrangements[9].

The Government therefore wants to see a streamlining and rebalancing of the performance framework with a greater focus on the citizen experience and local partnership working, rather than central targets, as the main drivers for improvement.

The introduction of Local Area Agreements (LAAs) and Local Strategic Partnerships (LSPs) has resulted in a framework that many areas are using to deliver better partnership working and more joined up services. However, services are often still being delivered in isolation, partly as a result of differing national targets imposed on separate service providers. This makes it very difficult for local agencies to tackle big cross-cutting problems such as those relating to social exclusion, community cohesion and climate change. As a result, links between the vision set out in a Sustainable Community Strategy drawn up in partnership by an LSP and the mechanisms for delivering the services needed to secure this vision often remain weak.

Citizens' expectations of public services also continue to rise. People are now accustomed to greater choice and convenience in all walks of life, and do not accept that public services should be different[10]. They expect access to

[3] Local and Regional Government Research Unit, Communities and Local Government 2006 analysis.

[4] *CPA – The Harder Test, Scores and Analysis of Performance in Single Tier and County Councils 2005* Audit Commission, 2005

[5] Overall 55% of the public were satisfied with the performance of their local authority in the 2003/04 BVPI satisfaction surveys. This declined from 65% in the equivalent surveys in 2000/01.

[6] 2005 Citizenship Survey: active communities topic report, Communities and Local Government 2006.

[7] *Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government*, DCLG, 2005; *Councillors, Officers and Stakeholders in the New Council Constitutions: Findings from the 2005 ELG Sample Survey*, Communities and Local Government 2006.

[8] Mapping the Local Government Performance Landscape, Communities and Local Government, 2006; Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government, Communities and Local Government, 2005.

[9] Ibid.

[10] Perceptions of Local Government in England: key findings from qualitative research, Communities and Local Government, 2006.

services in ways which fit round their daily activities, a range of methods of payment, and a wider choice of products. Such expectations can only be met by designing services around the needs of citizens, rather than around the traditional delivery channels of service providers. This in turn requires greater flexibility at the local level, to identify needs and to plan delivery.

Local government has been extremely successful in recent years in obtaining efficiency savings in how it does its business, exceeding the targets set for it in the last comprehensive spending review in 2004. However, many of the easy gains have now been identified, and in a tightening financial climate local authorities will have to continue to focus on using innovative new ways of working to obtain better value for money for the taxpayer.

ANNEX B

Proposals for Future Unitary Structures: Stakeholder Consultation
List of Key Stakeholders

Arts Council England
Association of Chief Police Officers
Association of Council Secretaries and Solicitors
Association of County Chief Executives
Association of Electoral Administrators
Association of Larger Local Councils
Association of Local Authority Chief Executives
Association of Police Authorities
Audit Commission
Broads Authority
CBI and other significant business organisations in the area.
Chambers of Commerce
Chartered Institute of Public Finance and Accountancy
Chief Cultural and Leisure Officers Association
Chief Constables
Chief Fire Officers
County Associations of Local Councils
Electoral Commission
English Heritage
Environment Agency
Fire and Rescue Authorities
Health and Safety Executive
Highways Agency
Jobcentre Plus
Local Government Association
Local Probation Boards
Local Strategic Partnerships
Metropolitan Passenger Transport Authorities
Museums, Libraries and Archives Council
National Association of Local Councils
National Federation of Arm's-Length Management Organisations
National Park Authorities
Natural England
New Local Government Network
NHS Foundation Trusts
NHS Health Trusts
Police Authorities
Primary Care Trusts
Principal Local Authorities in affected areas
Public Sector People Managers Association
Public Sector Unions
Regional Assemblies
Regional Development Agencies
Society of County Treasurers
Society of District Council Treasurers
Society of Local Authority Chief Executives
Society of Local Council Clerks
Sport England

Strategic Health Authority
The Learning And Skills Council In England
Universities and Colleges
Voluntary Sector Organisations
Youth Justice Boards