# 1988 No. 1789

# LOCAL GOVERNMENT, ENGLAND AND WALES

## The Local Government (Council of the Borough of Newport, Gwent, Library Authority) Order 1988

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| *Made - - - -* | *14th October 1988* |
| *Laid before Parliament* | *27th October 1988* |
| *Coming into force* | *17th November 1988* |

The Secretary of State for Wales in exercise of the powers conferred upon him by sections 207(4) and (6), 254(1) and (2) and 255(1) and (3) of the Local Government Act 1972(a) and of all other powers enabling him in that behalf, after consultation with the Gwent County Council being the library authority for the district for the purposes of the said section 207(4) and being of the opinion that the order would lead to an improvement in the library facilities in the Borough of Newport and County of Gwent and would not prejudicially affect the library facilities in the said county, hereby makes the following order:—

**Citation and commencement**

**1.** This Order may be cited as the Local Government (Council of the Borough of Newport, Gwent, Library Authority) Order 1988 and shall come into force on 17th November 1988.

**Interpretation**

**2.** In this Order:—

"the County Council" means the Council of the County of Gwent;

"the Borough Council" means the Council of the Borough of Newport in the County of Gwent;

"the Borough" means the Borough of Newport; and

"the properties" means the properties described in the Schedule to this Order used for the purposes of the provision of a library service in the Borough of Newport.

**Constitution of the Council Borough of Newport, Gwent as a Library Authority**

**3.** As from the 1st April 1989, the Borough Council is constituted as a library authority.

**4.** For the purposes of securing the performance by them of their functions under the Public Libraries and Museums Act 1964(b) the Borough Council shall:—

(a) Co-operate with the County Council in making arrangements for:—

(i) the compilation of records of holdings of stock held at public libraries in the County; and

(ii) developing library resources for the benefit of the inhabitants of the Borough and of the County as a whole;

(a) 1972 c.70.
(b) 1964 c.75.

(b) submit annual reports to the Secretary of State on the development and progress of the library service in the Borough;

(c) appoint a Principal Officer as Borough Librarian to reflect the status and responsibilities of the post; and

(d) take into account the Report published by the Department of Education in 1976 on the Staffing of Public Libraries, in deciding future staffing levels for the library service in the Borough.

**Transfer of property vested in the Council of the County of Gwent for the purpose of providing library facilities**

**5.**—(1) The properties shall by virtue of this order be transferred to and vest in the Borough Council on 1st April 1989.

(2) Subject to the provisions of paragraphs (3) and (5) of this article, all liabilities attaching to the properties shall by virtue of this order be transferred to and attach to the Borough Council.

(3) The provisions of paragraph (2) of this article shall not apply to any liability to pay compensation for the purchase of the land which comprises Malpas Branch Library.

(4) Subject to the provisions of paragraph (5) of this article, all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against and all notices in force which were given (or have effect as if they had been given) by or to the County Council with respect to the properties shall be of full force and effect in favour of, or against the Borough Council.

(5) Any action or proceeding or any cause of action or proceeding pending or existing on 1st April 1989 by or against the County Council in respect of the properties shall not be affected by the provisions of this order, and may be continued, prosecuted and enforced by, or against the County Council.

**Entitlement of the Borough Council to a lease of the Library at Caerleon**

**6.**—(1) As from 1st April 1989 the Borough Council shall be entitled to a lease of the property comprising the public library which forms part of the Caerleon Comprehensive School.

(2) The lease of the aforesaid property shall be at a nominal rent and for such periods and on such terms as may be determined by agreement between the County Council and the Borough Council or failing such agreement, by the decision of a person agreed on by the two Councils, or in default of agreement appointed by the Secretary of State.

**Fittings, furniture, equipment and stores**

**7.**—(1) The fittings, furniture, equipment, stores, books, sound-recordings, long-playing records, audio cassettes and archival material in the properties and in the property described in article 6(1) of this order which have been provided for the discharge of the library functions of the County Council shall, except in so far as the Borough Council shall otherwise agree, by virtue of this order be transferred to and vest in the Borough Council on 1st April 1989.

(2) For the purposes of this article "equipment" includes records and the two mobile library vehicles registration numbers GHB 429N and HOW 400W.

(3) The provisions of articles 5(4) and (5) shall apply with respect to the matters transferred by paragraph (1) of this article.

**Properties and liabilities to attach to the whole area of the Borough of Newport**

**8.** Any interest in any property or any liability transferred by the preceding articles of this order to the Borough Council shall be held or discharged by them in respect of the whole area of the Borough.

**Byelaws, etc.**

**9.** Any byelaws and other regulations in force for the regulation of any of the properties or of the property described in article 6(1) of this order shall have effect as if they had been made by the Borough Council.

**Vehicle licences**

**10.** Any excise licence, operators' licence, road service licence, plating certificate or other document issued in respect of either of the vehicles referred to in article 7(2) of this order shall have effect as if it had been issued to the Borough Council and any reference to the County Council in any such licence or certificate or in any registration book or other document issued in respect of either such vehicle shall have effect as a reference to the Borough Council.

**Loans**

**11.**—(1) On 1st April 1989, any liability of the County Council to repay money borrowed for the provision of financial assistance in respect of the properties or of the property referred to in article 6(1) of this order shall, by virtue of this order, be transferred to and attach to the Borough Council.

(2) The provisions of paragraph (1) shall also apply to any liability of the County Council incurred at any time to repay money borrowed for the discharge of the liability to pay compensation referred to in article 5(3) of this order.

**12.** Where any liability or part of a liability referred to in article 11 of this order is charged indifferently on all the revenues of the County Council, the liability or part of the liability shall be charged indifferently on all the revenues of the Borough Council.

**13.** Any authorisation of the borrowing of money in force in respect of the liability or part of a liability referred to in article 11 of this order may be acted on by the Borough Council, subject to the terms applicable thereto.

**Inspection of documents**

**14.** Any officer of the Borough Council, duly authorised in that behalf, shall, for the purposes of the functions of the Borough Council as a library authority be entitled during ordinary office hours to inspect and take extracts from any books or documents of the County Council.

**Provision for the protection of users of the Newport library services**

**15.** On and after 1st April 1989 persons living in the County of Gwent outside the area of the Borough of Newport:—

(a) shall be entitled to the same use of the facilities of the Newport Central Reference Library as is available to those persons living within the area of the Borough; and

(b) shall not be subject to any charges for the use of any library facilities within the area of the Borough to which persons living within the area of the Borough are not subject.

**Scheme for the transfer of officers**

**16.**—(1) Subject to the provisions of article 18 of this order, the County Council and the Borough Council shall make a scheme by 1st December 1988 for the transfer of officers from the County Council to the Borough Council in accordance with the general principle that any officer employed by the County Council upon a function which within the area of the County Council will be, on and after 1st April 1989 by virtue of this order, the statutory responsibility only of the Borough Council, will be transferred to the employment of the Borough Council.

(2) For the purposes of this article and of articles 19 and 22 "employed by the County Council upon a function" means operational and administrative staff wholly or mainly employed in the functional service by the County Council.

**17.**—(1) Subject to the provisions of this article, the scheme made under article 16 of this order shall allocate the officers on the basis of the likely needs of the Borough Council as a library authority on and after 1st April 1989.

(2) In preparing the scheme the County Council and the Borough Council shall:—

(a) consult the bodies representative of officers appearing to them to be concerned;

(b) give all the officers likely to be transferred an opportunity to indicate any preference as to whether they would wish to be transferred; and

(c) take account of the outcome of the consultation and indications as to preference under subparagraphs (a) and (b) above.

(3) Upon making the scheme the County Council and the Borough Council shall send copies thereof to the bodies consulted under paragraph 2(a) above and notify every officer coming within the provisions of paragraph 2(b) above the provision of the scheme in relation to him, including his new terms and conditions of employment.

**18.** If notice is given by either the County Council or the Borough Council that they are unable to make the scheme or any provision thereof, under article 16 of this order, the Secretary of State, or an arbitrator appointed by him, shall make the scheme and the provisions of articles 16 and 17 shall apply to the scheme.

**Appeals by Officers**

**19.**—(1) Within 28 days of the making of the scheme under articles 16 or 18 above, an appeal may be made by any officer employed by the County Council upon a function which within the area of the County Council will be, on and after 1st April 1989, by virtue of this order, the statutory responsibility only of the Borough Council.

(2) Such appeals may be made with respect to any decision concerning the future employment of the officer including the terms and conditions of that employment and as to whether the duties are reasonably comparable within the meaning of article 20(1) of this order.

(3) The appeal shall be made to the Secretary of State who shall decide it, after making such inquiry as he shall determine.

(4) On the making of the scheme referred to in paragraph (1) of this article officers shall be informed of the provisions of this article.

**Protection of officers transferred**

**20.**—(1) The new terms and conditions of employment referred to in article 17(3) of this order shall be such that:—

(a) so long as the officer is engaged in duties reasonably comparable to those in which he was engaged immediately before 1st April 1989, the scale of his salary or remuneration is not less favourable than that which he enjoyed immediately before 1st April 1989; and

(b) the other terms and conditions of his employment are not less favourable than those which he enjoyed immediately before 1st April 1989.

(2) In this article "terms and conditions of employment" includes any restriction arising under any Act of or any instrument made under any Act on the termination of the employment of any officer.

**21.** Any extension of service under any statutory provision effective on 1st April 1989 in relation to an officer transferred under the provisions of this order to the employment of the Borough Council shall continue to have effect as if it had been made by the Borough Council.

**22.** Notice to terminate any contract of employment may, with his consent and the consent of the Borough Council, be given to any officer before 1st April 1989 who is an officer employed by the County Council upon a function which within the area of the County Council will be, on and after 1st April 1989, by virtue of this order, the statutory responsibility only of the Borough Council.

**Redundancy payment and payment of compensation**

**23.** Any officer in the employment of the County Council who, by virtue of the provisions of this order is entitled to a redundancy payment under Part VI of the Employment Protection (Consolidation) Act 1978**(a)** and to compensation under the Local Government (Compensation for Premature Retirement) Regulations 1982**(b)** and under the Local Government (Compensation for Redundancy and Premature Retirement) Regulations 1984**(c)** shall be paid such redundancy payment and compensation by the Borough Council.

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**(a)** 1978 c.44.
**(b)** S.I. 1982/1009.
**(c)** S.I. 1984/740.

**General Provision as to Disputes**

**24.** Any question as to the interpretation of this order may be determined by the decision of a person agreed on by the County Council and the Borough Council, or in default of agreement by the Secretary of State.

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## SCHEDULE

## PROPERTIES IN THE BOROUGH OF NEWPORT TRANSFERRED FROM THE COUNTY COUNCIL TO THE BOROUGH COUNCIL

1. Ringland Branch Library, Newport.
2. Pillgwenlly Branch Library, Temple Street, Newport.
3. Carnegie Library, Corporation Road, Newport.
4. Bettws Branch Library, Newport.
5. Maindee Branch Library, Newport.
6. Carnegie Library, Rogerstone.
7. Central and Reference Library, Newport.
8. Malpas Branch Library, Newport.
9. Stow Hill Branch Library, Newport.

*Peter Walker*
Secretary of State for Wales

14th October 1988

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the constitution of Newport Borough Council in the County of Gwent as the library authority for the area of the Borough from 1st April 1989. As a consequence provision is made for the transfer on that date from Gwent County Council to the Borough Council of relevant property, liabilities, contracts, notices and staff.

Article 3 of the Order constitutes the Borough Council as a library authority and article 4 imposes certain conditions on the authority for securing the performance of their functions as a library authority. Article 5 transfers to the Borough Council the properties listed in the Schedule together with all rights and liabilities, contracts, and other agreements. Articles 5(3) and (5) make certain exceptions to the transfer of the rights and liabilities.

Article 6 requires the granting of a lease of the library at Caerleon by Gwent County Council to the Borough Council.

Article 7 transfers all moveable property within the relevant library buildings to the Borough Council together with two mobile libraries.

Article 8 requires that all property and liabilities transferred by this Order shall attach to the whole area of the Borough. Article 9 applies the existing County Library byelaws and other regulations to the libraries which are the subject of this Order.

Article 10 transfers the licences of the two transferred mobile libraries and articles 11 to 13 provide for the transfer to the Borough Council of the liability for the repayment of loans which attach to any of the relevant libraries.

Article 14 entitles the Borough Council to inspect County documents relevant to the transfer and article 15 protects the users of Newport library facilities who live in Gwent but outside the Borough area.

Articles 16 to 18 provide for the transfer of officers whose work is wholly or mainly concerned with the Newport library service. Article 19 establishes an appeal system for officers who are subject to transfer and articles 20 to 23 relate to the financial protection for such officers. Article 24 contains provisions relating to any disputes which may arise on the contents of the Order.

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