Extraordinary Council

Forest Heath District Council

Title of Report:	**Single Council: Consequential and Transition Matters**	
Report No:	**COU/FH/17/029**	
Report to and date/s:	**St Edmundsbury Council**	17 October 2017
	Forest Heath Council	18 October 2017
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Purpose of report:	Following the decision made by St Edmundsbury and Forest Heath Councils in September to submit a business case to the Secretary of State to become a single council for West Suffolk, it is now necessary to consider a number of technical matters that will be required to be included in any subsequent Order to become a single council.	

Recommendation:	**It is recommended that:** **(1) Should the Secretary of State be minded to create a single council for West Suffolk, the following matters should be recommended for inclusion within the Order to create the new Council on 1 April 2019:** **(1.1) Forest Heath District and St Edmundsbury Borough Councils should transition via the means of a Shadow Authority, which will comprise all 72 councillors from both councils;** **(1.2) the Shadow Authority should be required to form an implementation executive, to include both the leaders and at least three further councillors from each of Forest Heath and St Edmundsbury councils;** **(1.3) the name of the new Council should be West Suffolk District Council until such time as the Council, or Shadow Council, may resolve otherwise;** **(1.4) the Shadow Authority should have equivalent powers granted to authorities by virtue of s.245(4) to apply for Borough Status;** **(1.5) The proposed Council Size for West Suffolk District Council of 64 members, and the route for determining the final Council Size case, as set out in paragraph 7.4 and 7.5 should be endorsed** **(2) Forest Heath District Council recognises that both itself, and St Edmundsbury Borough, will have a duty to co-operate with the Shadow Authority; and** **(3) It be noted that, during the Secretary of State's consultation, the Leader of the Council will respond to confirm the Council's firm commitment to supporting the creation of a new single council for West Suffolk.**
Key Decision:	*Is this a Key Decision and, if so, under which definition?* No it is not a Key Decision - ☒
Consultation:	The recommendations within this report have arisen as a result of work undertaken by the Future Governance Steering Group, and between July and September 2017.

Alternative option(s):		The alternative options are set out within this report.	
Implications:			
*Are there any **financial** implications? If yes, please give details*		Yes ☐ No ☒	
*Are there any **staffing** implications? If yes, please give details*		Yes ☐ No ☒	
*Are there any **ICT** implications? If yes, please give details*		Yes ☐ No ☒	
*Are there any **legal and/or policy** implications? If yes, please give details*		Yes ☒ No ☐ • The recommendations contained within this report will be included within a draft Order to create a new Council, should the Secretary of State be minded to do so.	
*Are there any **equality** implications? If yes, please give details*		Yes ☐ No ☒	
Risk/opportunity assessment:		*(potential hazards or opportunities affecting corporate, service or project objectives)*	
Risk area	**Inherent level of risk** (before controls)	**Controls**	**Residual risk** (after controls)
Should the Council fail to articulate its wishes, the Secretary of State may be required to make determinations which are not in line with Councillor views	Low	The recommendations within this report, which arise from work undertaken by Future Governance Steering Group, address this risk	Low
Ward(s) affected:		All wards	
Background papers: *(all background papers are to be published on the website and a link included)*		A Single Council for West Suffolk – business case; considered by Council on 27 September – see http://svr-mgov-01:9070/documents/s22107/COU.FH.17.026%20Single%20Council%20-%20Covering%20report.pdf	
Documents attached:		Appendix 1 – Council Size Case	

1. Current Position

1.1 In September, both Forest Heath District Council and St Edmundsbury Borough Council voted to submit a business case to become a single Council to the Secretary of State.

1.2 In due course, the Secretary of State will issue a decision on whether or not he is minded to agree the business case. If he is minded to do so, work will immediately commence on a draft Order to be laid before Parliament to create a new council for West Suffolk.

1.3 As was highlighted in the previous report to Council, one of the most significant risks to the business case is the concern that there is insufficient parliamentary time in order to agree the draft Order, and for the Local Government Boundary Commission for England (LGBCE) to undertake the necessary work to determine the new Council's warding pattern.

1.4 At present, it is clear that all sides are committed to ensuring this risk does not materialise. However, it is important that no further delays in the process should occur and, as such, it is important that the Council now considers those matters necessary for inclusion within the draft Order.

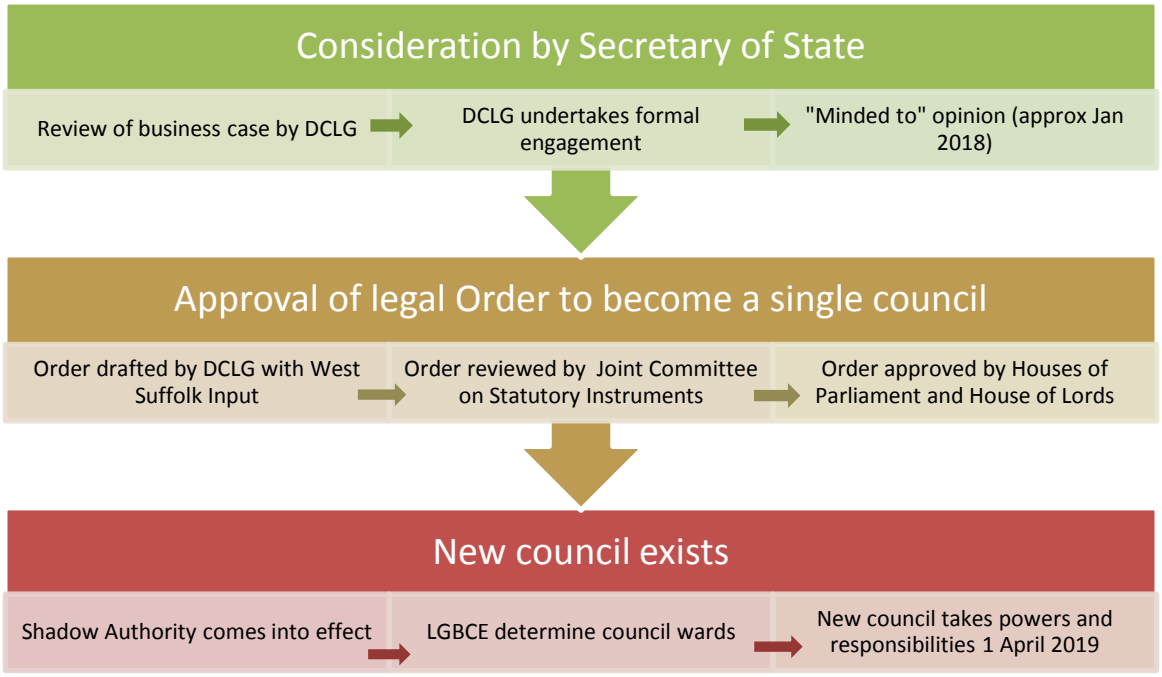
2. Process to become a new council

2.1 The business case considered in September provided headline information on the process to become a single council.

2.2 The legislative framework under which the governance arrangements of the two councils are being reviewed is s.15 of the Cities and Local Government Devolution Act 2016. This allows, at the request of the authorities, the Secretary of State to review requests to modify governance arrangements.

2.3 If he is minded to support the proposals, the Secretary of State will request the creation of an Order that will dissolve the current councils and create a new council, transferring the powers, functions and responsibilities of Forest Heath and St Edmundsbury to the new Council on 1 April 2019. The Order must receive the approval of both Houses of Parliament, and be accompanied by a report setting out why the Secretary of State believes it appropriate to create the new Council, and any consultation he has taken into account.

2.4 The chart below more specifically outlines the process that will be followed over the forthcoming months:



2.5 As is highlighted above, DCLG will undertake a period of engagement with key parties to obtain their own validation as to the support for the proposals, although clearly any engagement we have undertaken will be reviewed, considered and taken into account. DCLG have made clear the councils will be a consultee during this time, and given Council's support to the business case, the Leader of the Council will respond identifying this support continues.

3. Future Governance Steering Group

3.1 Over the summer, the Future Governance Steering Group (FGSG) has been meeting to consider those technical aspects associated with becoming a single council, as well as inputting to the business case. The work of the FGSG will now turn to overseeing the implementation planning, until the Order is created and this becomes the responsibility of the Shadow Authority (see below).

3.2 The recommendations outlined in the rest of this report are the conclusions of the work of the FGSG.

4. Transition Arrangements

4.1 In practice, the new Authority cannot simply come into effect on 1 April 2019. It will be necessary to make appropriate transition arrangements to ensure that required policies and procedures are in place to enable council services to continue to operate effectively. For example, the new Council will need to have adopted local plan policies, licensing policies and have delegated decision making responsibilities to council officers.

4.2 There are two methods through which the councils can transition. The first method, which the FGSG has discounted, would involve one of the authorities becoming a "continuing authority" and the powers, functions and responsibilities of the other council transferring to it on 1 April 2019. In theory, this method is simpler but was strongly discounted on the grounds

that it gives the wrongful impression that one authority is taking over the other, and also misses the opportunity to truly assess governance arrangements for the new Council.

4.3 The second method is through operating a "shadow authority". This body would be created by the Order, and effectively operate as a temporary council. All 72 current councillors would serve on the Shadow Authority until the elections in May 2019, when the new electoral arrangements would come into effect.

4.4 The Shadow Authority would have the power to adopt the necessary processes and procedures – such as appointing the statutory officers and adopting a constitution - to come into effect on 1 April 2019. It would also set the first precept for the new Council, and adopt sub-structures – for example, appointing committees to agree relevant policies. It would also be responsible for appointing an Implementation Executive, which would take ownership of the oversight of ensuring a smooth transition at the transfer date.

4.5 Whilst the Shadow Authority is in operation, both Councils would continue to meet and make decisions in the normal way. For example, Forest Heath and St Edmundsbury Councils may agree a policy that starts from February 2019, but the Shadow Authority would have to adopt it to operate from April 2019.

4.6 The FGSG have recommended that the shadow authority route would be a fairer representation and act as a more effective route to create the new Council and as such this is recommended to Council. Whilst not considered by the FGSG, it is also suggested that the Order should include provision that the Leaders and at least three councillors from each council should be appointed to the Implementation Executive to ensure fair representation.

4.7 The existing authorities would have a duty to co-operate with the Shadow Authority to help ensure a smooth transition; Council is being asked to formally recognise and endorse this duty.

5. Council Name

5.1 The FGSG considered that the name of West Suffolk plays a prominent role in our current branding, and had significant historic precedence, and thus should be the recommended choice for the new Council.

5.2 Historically, the areas of what is now Forest Heath and St Edmundsbury Councils fell within the area known since Domesday as the "Liberty of St Edmund". The Liberty was administered by the Abbey of St Edmund, until the reformation, when it became subject to quarterly magistrate sessions until 1888. At that stage, the Local Government Act created three higher tier Councils for Suffolk, which included West Suffolk Council, which covered the whole of the area within the Liberty.

5.3 West Suffolk Council served the area until 1974, when the current governance structure within Suffolk came into effect.

5.4 More recently, the branding of the shared arrangements between Forest Heath and St Edmundsbury has been focused on the West Suffolk connection, and as such it is felt this represents both a historic, and a natural name, for the new Council.

6. Council Status

6.1 The FGSG have had significant debate regarding the status of the new Council – whether it should be a district or borough. Only a borough council can have a mayor.

6.2 Present legislation allows that any district council can apply to become a borough council. Councils are required to convene a special meeting, and at least two-thirds of members present must vote in favour. Once it has been agreed, the proposal is then submitted to the Privy Council for consideration who, if supportive will recommend the matter to Her Majesty for consideration and ultimately, approval.

6.3 The matter as to how St Edmundsbury / Forest Heath may apply to become a borough has been raised with the Privy Council, who have indicated that, due to the lack of a district level restructure precedent, the matter is best raised with DCLG. DCLG have confirmed due to the complexity of becoming a borough, and its separate approval process, it would be their strong preference to address this matter separately to creating the new Council.

6.4 Ahead of the reorganisation of local government in 1974 (which created Forest Heath and St Edmundsbury Councils) the Local Government Act 1972 included specific provision (s.245(4)) which allowed for shadow councils to resolve to become boroughs, and apply for borough status, which they could then use as soon as they took on their powers and responsibilities on 1 April 1974. In the case of St Edmundsbury, the St Edmundsbury District Council applied for borough status in December 1973 and were informed within four months their application had been successful.

6.5 Having considered the matter in some depth, the FGSG has recommended that the councils should request DCLG to award similar powers to the Shadow Authority as were given to shadow councils pre-1974 i.e. the Shadow Authority could apply for borough status if it wished to do so. In the meantime, the new Council would continue to have the legal status "West Suffolk District Council" (although it would be acceptable, from DCLG's perspective, to use the term West Suffolk Council for branding purposes).

6.6 This would give the opportunity for the Shadow Authority to fully consider the matter and make its own, collective vote on whether to obtain borough status in due course.

7. Council Size

7.1 The number of councillors a future council should have (council size) has been one of the most complex aspects of the work of the FGSG. To support their work, members of the FGSG received a presentation from the LGBCE to explain the considerations they make in reviewing a council size proposal.

7.2 Our present understanding is that the Order to create a new council is likely to include a council size figure. This will then be subject to ratification by the LGBCE, who will then undertake a warding review to determine the exact ward boundaries and names. As there has not been a previous amalgamation of two district level councils using the Cities and Local Government Devolution Act 2016, there is no precedent in terms of the exact process that will be followed, and as such, all parties are negotiating at present to understand how this might be most effectively undertaken.

7.3 However, the principles at paragraphs 1.3 and 1.4 apply; a decision is required at this stage to ensure that the figure can be considered for inclusion within the draft Order.

7.4 The proposed council size is 64; the full case is included within Appendix 1. Shortly before production of this Council paper, informal views were received from the LGBCE on the Council's full case. This identified that whilst the case was generally good, further work is required to demonstrate how the new Council will be different, and work differently, to the two present Councils, for our case to be fully justified.

7.5 In that regard, officers propose further work is undertaken to strengthen the size paper, in consultation with the Chair and Vice-Chair of the Future Governance Steering Group. This will then be re-submitted to LGBCE for consideration. If their initial view is the case is robust, it will be submitted to the Secretary of State for consideration. If the case is not robust, this may require further consideration of the proposed figure and case; this will reviewed in consultation with the Future Governance Steering Group and may necessitate further debate at Council before a final case is submitted to the Secretary of State.

7.6 Our current argument for the council size is particularly responsive to feedback received during the public engagement period regarding the concern of loss of local members and identities. In the past, when councils have combined, there has usually been a significant reduction in overall numbers due to the perception there is a decreased workload through time-savings in the democratic processes – for example, only one cabinet rather than two. In our case, we recognise the potential for such savings, but also realise councillor numbers need to be maintained to support local councillors having the capacity for a strong, local presence.

7.7 The case includes a number of proposals around the future governance and decision making structures for the new Council. These are proposals for the council size case, as it will ultimately be for the new Council to agree its own structures – the new Council is not bound by the proposals in this argument. However, the case puts forwards a number of principles on which the council size case is based, which form a helpful basis on which members can work towards developing a decision making framework for the new Council.

7.8 As outlined above, the process for warding – which takes account the number of electors within the future Council – will follow on from the setting of the council size. The LGBCE have strongly emphasised that the council size case cannot be based on, or take account of, current warding patterns, future

warding patterns or the number of electors. However, it is recognised – from discussions with members of FGSG - that this is still a key consideration for members and engagement will take place during the warding review to ensure members' views can be taken into account, alongside wider public and stakeholder consultation.