

Council



Forest Heath
District Council

Title of Report:	Single Council for West Suffolk: Legislative Process	
Report No:	COU/FH/18/005	
Report to and date/s:	Council	21 February 2018
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Purpose of report:	This report requests Council to consider the expected legislative process and policy requirements of the Ministry of Housing, Communities and Local Government (MHCLG), seeking Members' support towards the proposed next steps set out in this report.	
Recommendation:	It is recommended that Council endorses the policy requirements and next steps as set out in this report to create a single Council for West Suffolk; and recommends Cabinet to delegate the Chief Executive, in consultation with the Leaders of the Councils and the Chairman and Vice-Chairman of the Future Governance Steering Group to authorise the relevant Orders on the condition that they remain in line with the policy requirements within this report.	
Consultation:	The expected policy requirements have been developed based on the requests of Council in October, and in consultation with the Future Governance Steering Group.	

Alternative option(s):		None. Rejection at this stage would not stop the single council process, but could cause significant delays to the programme due to the need to revisit steps in the legislative process.	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> This decision only relates to approval of the Order itself, which does not affect any previous financial decisions taken regarding forming a single council.	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Consent to this report will allow the legislative process to proceed.	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk/opportunity assessment:		Risks associated with becoming a single Council have been outlined previously in the business case agreed by Councils in September 2017.	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Major and unexpected event occurs which reduces parliamentary time to undertake the necessary legislative processes	Low	Officers continue to work alongside colleagues in MHCLG / LGBCE to ensure progression of the legislation	Low
Ward(s) affected:		All wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		Council 18 October 2017 – Report No COU/FH/17/029	
Documents attached:		None	

1. Background

- 1.1 In September 2017, Forest Heath District Council and St Edmundsbury Borough Council both agreed to support a business case to become a single council. Following this, in October 2017, both Councils agreed a set of "requests" to be made to the (now) Ministry of Housing, Communities and Local Government (MHCLG).
- 1.2 In November, the Secretary of State for Communities and Local Government indicated that he was minded to support the case for a new, single district-tier council for West Suffolk. A period of public engagement followed, during which respondents were provided a further opportunity to provide their views on the proposals. The engagement demonstrated that there continued to be support for the case and, as a result, the Secretary of State issued his final minded to opinion on 8 February 2018.

2. Legislative Process

- 2.1 In practice, there will be a number of orders to create the Council, which will follow differing legislative processes. We understand the first order is likely to be purely procedural, relating to how the Secretary of State will consider the proposal under the relevant legislation (the Cities and Local Government Devolution Act 2016, and the Local Government and Public Involvement in Health Act 2007).
- 2.2 The second order is likely to attract more interest, as it will address how the current Councils will be abolished, and the new Council for West Suffolk will be created; this is addressed below. Both Houses of Parliament are required to approve these two current orders, but will only be able to do so if we have consented to them. As with previous such decisions (and in accordance with the Constitution), the decision is an executive one i.e. both Cabinets will need to make the final decision, or delegate the decision. However, both Cabinets have indicated they would not make the decision until both Councils have had the opportunity to debate the policy requirements set out in this report.
- 2.3 It is not possible at this stage to include the draft orders as part of this report. The relevant legislation under which the orders are being developed is still relatively new, and it is necessary under established protocol to ensure that the relevant parliamentary legal teams are satisfied before they can be published. With the relatively recent announcement, further progress needs to be made before these can be published. Members will be kept informed as this process develops, and we hope the necessary legislative steps will be concluded by June.
- 2.4 The Ministry have, though, requested that delegated authority be provided for final authorisation, to ensure that any minor drafting amendments made during the Government's own scrutiny can be resolved quickly. Whilst the legislative process is currently ahead of the Ministry's timetable, if we do not delegate the final sign-off we could risk there being insufficient parliamentary time to consider the proposals.
- 2.5 As a delegated decision, this would necessarily follow the same constitutional safeguards as other such decisions; with a written notice being issued that the

decision is to be made, and, following this, a 5 day period before it comes into effect.

3. Requests from Council

3.1 The October report identified those requests the councils agreed to make to MHCLG as the orders are drafted. Our present understanding is that the Ministry accepts the requests made, although the following points should be noted:

- Councils requested to name the future Council “West Suffolk District Council” although for branding purposes, the name West Suffolk Council would be used. At the time, it was understood that the Council would legally be required to have the term District in its title, although the Ministry has since clarified the “West Suffolk Council” title is likely to be acceptable for inclusion within the Order.
- In October, councils agreed that the Implementation Executive (which, in the order, is called the Shadow Executive) should have at least three members from each council plus the leaders of the councils. The Ministry has indicated it is policy to have a maximum figure for executives, and we anticipate this may be 15 members.

4. Policy Requirements

4.1 The main legislation will need to include various aspects of how the new Council will come into being. Some of these will be legislative requirements, and some will be a matter of policy i.e. requirements the Secretary of State will place to ensure the process is robust and transparent.

4.2 As a first principle, the Order will need to abolish the existing councils and create a new Council, West Suffolk. It will also need to establish a body – a shadow council – to oversee the period until the new Council comes into being on 1 April 2019.

4.3 Inevitably, it would be expected that shadow council would consist of all 72 Councillors from Forest Heath and St Edmundsbury. As with similar previous orders, it would be our expectation that the councillors will remain as councillors on the West Suffolk Council until 4 days after the May 2019 elections, even though Forest Heath and St Edmundsbury would have been abolished in April.

4.4 The shadow council would be responsible for oversight of the necessary arrangements for West Suffolk Council to assume the powers, functions and responsibilities on 1 April. To do so, it would have to create its Executive (as above), elect its own Leader, elect a Chairman, and appoint statutory officers and standing orders.

4.5 Officers are well advanced in preparing the necessary implementation planning for the new Council, following agreement of the business case in September 2017. The shadow council would become responsible for oversight of the implementation plan, and the programme board.

- 4.6 Within the business case, a budget was agreed for the work necessary to transition from the existing councils to the new Council. These costs would be incurred by the existing councils but we understand it is also necessary for the shadow council to prepare its own accounts which, as with other public sector bodies, would require appropriate audit to ensure accountability and transparency. We are liaising with our audit teams as to how this would operate.
- 4.7 It will also be necessary for a new Council to adopt a scheme of allowances. To allow the new Council to do so, the shadow council would have to be responsible for developing a scheme. The shadow council would also have to be responsible for development of the budget for the 2019-20 financial year.

5. Elections and Warding

- 5.1 The first elections to the new Council would take place on 2 May 2019. Legislation requires new electoral arrangements to be stated in any order but, in this instance, the actual arrangements are still to be developed as part of the agreed timetable. Therefore, it will be a requirement for the Order to contain a notional warding pattern as a stop-gap measure, until the LGBCE undertake their boundary review (at which point, the legislation allows their new scheme to replace any predecessor in the Order).
- 5.2 We are in the process of ongoing discussion with MHCLG to determine the pattern of warding that will be reflected within the draft order, and it is proposed to issue an update report that will contain further information regarding potential proposals to members ahead of the meeting.
- 5.3 Whatever the case, this warding pattern would **not** represent the Council's view on what the boundaries should be in the future (see Paragraph 5.4 below) but it is unavoidable in procedural terms. Furthermore, immediately after the legislative process is concluded, the Local Government Boundary Commission for England (LGBCE) process will commence. Although there could be reasons outside of the control of all parties that the electoral review could be delayed by a lack of parliamentary time, the Commission have offered assurances that, as things stand, there is time to complete their review before the electoral process starts for May 2019. Officers will also continue to liaise with the MHCLG and LGBCE to minimise any risks occurring.
- 5.4 Our own warding proposals, which are currently being developed by the Future Governance Steering Group, will come before the April Council meetings and then submitted to LGBCE.

6. Next Steps

- 6.1 Should Council endorse the principles within this report, it will be considered by both Cabinets at their joint meeting on 27 February 2018. On the condition that the subsequent orders are in line with these principles, Cabinets will be asked to delegate the Chief Executive, in consultation with the Leaders of the Councils, to authorise the orders prior to them being considered by the Houses of Parliament.

As above, Members will be kept informed as the process progresses and, if

- 6.2 there are further significant risks or issues arising during the legislative procedure, reports will be brought before councils as necessary.