STATUTORY INSTRUMENTS

2018 No. 639

LOCAL GOVERNMENT, ENGLAND

The West Suffolk (Local Government Changes) Order 2018

Made - - - - 24th May 2018

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 10, 11, 12 and 13 of the Local Government and Public Involvement in Health Act 2007(**1**) ("the 2007 Act"), makes the following Order.

This Order implements a proposal under section 8(2A)(**2**) of the 2007 Act that there should be a new non-metropolitan district and council for West Suffolk.

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 240(6) of the 2007 Act.

PART 1

General

Citation and commencement

1. This Order may be cited as the West Suffolk (Local Government Changes) Order 2018 and comes into force on the day after that on which it is made.

Interpretation

2. In this Order—

"the 1972 Act" means the Local Government Act 1972(**3**);

"the 1989 Act" means the Local Government and Housing Act 1989(**4**);

"the 2000 Act" means the Local Government Act 2000(**5**);

(**1**) 2007 c. 28. Sections 10, 11 and 12 were amended by the Local Democracy, Economic Development and Construction Act 2009 (c. 20), sections 65, 67, 146 and Schedules 4 and 7.
(**2**) Section 8 was modified, in its application to Forest Heath District Council and St Edmundsbury Borough Council, by S.I. 2018/613.
(**3**) 1972 c. 70.
(**4**) 1989 c. 42.
(**5**) 2000 c. 22.

"the 2007 Act" means the Local Government and Public Involvement in Health Act 2007;

"2019 election day" means the ordinary day of election of councillors in 2019(**6**);

"the Relevant Councils" means Forest Heath District Council and St Edmundsbury Borough Council;

"West Suffolk" means the local government area of West Suffolk constituted by article 3.

PART 2

Establishment of single district council in West Suffolk

Establishment of West Suffolk district

3.—(1) On 1st April 2019 there is constituted a new non-metropolitan district in the county of Suffolk, whose area is co-terminous with that of the Relevant Councils.

(2) The name of that new district is West Suffolk.

Establishment of West Suffolk Council

4.—(1) A new non-metropolitan district council, to be known as West Suffolk Council, is constituted as the non-metropolitan district council for West Suffolk.

(2) Except for the purposes of Part 4 of this Order (electoral matters) until 1st April 2019—

(a) West Suffolk Council is not a local authority for the purposes of the 1972 Act or for any other enactment relating to local government;

(b) subsection (2) of section 2 of the 1972 Act (constitution of principal councils in England) has effect in relation to that council as if the words from "and the council" to the end of that subsection were omitted.

Abolition of Forest Heath and St Edmundsbury districts and their councils

5.—(1) On 1st April 2019—

(a) the Forest Heath and St Edmundsbury districts are abolished as local government areas;

(b) the Relevant Councils are wound up and dissolved.

(2) The term of office of persons serving as councillors of the Relevant Councils immediately before 1st April 2019 ends on that date.

(3) Nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) authorises the holding of an election to fill a casual vacancy in the office of councillor of the Relevant Councils where that vacancy arises after 30th September 2018 and before 1st April 2019.

PART 3

Transitional functions and their discharge

Interpretation of Part 3

6. In this Part—

(**6**) See section 37 of the Representation of the People Act 1983 (c. 2).

"shadow authority" means an authority (not being a local authority) which will become a local authority on 1st April 2019;

"shadow executive" has the meaning given in article 8(1); and

"the shadow period" means the period beginning with the day on which this Order comes into force and ending on the fourth day after the 2019 election day.

West Suffolk Council as shadow authority

7.—(1) During the shadow period, West Suffolk Council is a shadow authority for the purposes of the following provisions of this Part.

(2) Subject to paragraph (5), the members of the shadow authority are the persons who, on the coming into force of this Order, are councillors of the Relevant Councils.

(3) Those persons are to be members of the shadow authority throughout the shadow period notwithstanding the dissolution of the Relevant Councils on 1st April 2019.

(4) The proper officer of the Relevant Councils must convene, and make all necessary arrangements for, the first meeting of the shadow authority, which is to be held not later than 14 days after the coming into force of this Order.

(5) Where, after the coming into force of this Order and before 1st October 2018, a by-election is held to fill a casual vacancy arising in any ward of the Relevant Councils, the person elected at the election is to be a member of the shadow authority.

Duties of shadow authority: executive arrangements, code of conduct and members' allowances

8.—(1) At its first meeting, the shadow authority must, in accordance with paragraphs (2) and (3), create a leader and cabinet executive within the meaning of Part 1A of the Local Government Act 2000(**7**) (arrangements with respect to local authority governance) ("the shadow executive").

(2) Section 9C of the 2000 Act has effect, for the purposes of paragraph (1), as if subsection (5) were omitted; and the shadow executive is to consist of no more than 15 persons and include—

(a) the two persons who are for the time being the leaders of the Relevant Councils;

(b) at least three persons nominated by Forest Heath District Council, each of whom is for the time being a member of that Council; and

(c) at least three persons nominated by St Edmundsbury Borough Council, each of whom is for the time being a member of that Council.

(3) At its first meeting, the shadow authority must elect the leader and deputy leader of the shadow executive from among the members of the shadow executive.

(4) The persons who, immediately before 1st April 2019, are the members of the shadow executive shall—

(a) continue as members of that executive, and

(b) on and after 1st April 2019, shall be the members of the West Suffolk Council's executive for the purposes of Part 1A of the Local Government Act 2000,

until the end of the shadow period, notwithstanding the dissolution on that date of the Relevant Councils by which they were nominated.

(5) If a member of the executive constituted as mentioned in paragraph (4)(b) ceases to be a member of that executive before the end of the shadow period, the West Suffolk Council may in

(**7**) Part 1A was inserted by the Localism Act 2011 (c. 20), section 21 and Schedule 2.

accordance with the terms of the constitution of the Council nominate another member of the Council to be a member of its executive.

(6) The Relevant Councils must co-operate in the establishment of the shadow executive.

(7) With the exception of Chapter 4 (changing governance arrangements) the provisions of Part 1A of the 2000 Act, to the extent that they relate to a leader and cabinet executive, have effect in relation to the shadow authority as if—

(a) its executive were a leader and cabinet executive of a district council;

(b) the executive arrangements that it makes were executive arrangements of a district council;

(c) section 9E authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the Relevant Councils.

(8) Chapter 7 of Part 1 of the Localism Act 2011(**8**) (standards) applies in relation to the shadow authority as if—

(a) it were a district council (but not a principal authority in relation to a parish council); and

(b) references to co-opted members were omitted.

Duties of shadow authority: appointment of certain officers, etc.

9.—(1) At the first meeting of the shadow authority it must designate, on an interim basis, an officer of one of the Relevant Councils—

(a) to be responsible for performing, in relation to the shadow authority, the duties imposed by—

(i) subsections (2) and (3) of section 5 (designation and reports of monitoring officer) of the Local Government and Housing Act 1989(**9**) ("the 1989 Act"), and

(ii) subsections (2) and (5) of section 5A of the 1989 Act (reports of monitoring officer - local authorities operating executive arrangements), as applied by paragraph (5) (the "interim monitoring officer");

(b) to be responsible for the administration of the financial affairs of the shadow authority (the "interim chief finance officer");

(c) to be head of the shadow authority's paid service and, accordingly, to be responsible for performing, in relation to the shadow authority, the duties imposed by subsections (2) and (4) of section 4 (designation and reports of head of paid service) of the 1989 Act (the "interim head of paid service").

(2) The shadow authority may, at any time before 1st April 2019, appoint a person to become, on and after that date—

(a) the West Suffolk Council monitoring officer;

(b) that Council's chief finance officer;

(c) that Council's head of paid service.

(3) If the power conferred by paragraph (2) is not exercised before 1st April 2019, the person who is on that date—

(a) the interim monitoring officer;

(b) the interim chief finance officer; or

(c) the interim head of paid service,

(**8**) 2011 c.20.
(**9**) 1989 c.42. Relevant amendments, including the insertion of section 5A, were made by S.I. 2001/2237.

is responsible for performing, in relation to West Suffolk Council, the duties referred to in sub-paragraph (a) or (b) of paragraph (1) or the functions of head of paid service of a local authority; and is to perform those duties or such functions until the person to discharge those duties or perform those functions is appointed by that Council and takes up that appointment.

(4) A designation under paragraph (1) ceases to have effect on the day on which a person (which may be the same person) is appointed under paragraph (2) to discharge responsibilities equivalent to those of the designated officer.

(5) Subsections (2) to (7) of section 5 of the 1989 Act and subsections (2) and (5) of section 5A of that Act apply in relation to—

(a) the shadow authority;

(b) its interim monitoring officer; and

(c) its executive arrangements,

as they apply in relation to a relevant authority and the monitoring officer and executive arrangements of a relevant authority as if references in those subsections were references to a shadow authority, its interim monitoring officer and the executive arrangements that it adopts pursuant to this Order.

(6) Sections 114 to 116 of the Local Government Finance Act 1988(**10**) apply in relation to the shadow authority and its interim finance officer as if—

(a) references to the chief finance officer of a relevant authority included references to the interim chief finance officer of the shadow authority;

(b) references to a relevant authority included references to the shadow authority; and

(c) references to joint committees were omitted.

(7) Subsections (2) to (5) and (6) of section 4 of the 1989 Act apply in relation to the shadow authority and its interim head of paid service as they apply in relation to a relevant authority and its head of paid service as if references in those subsections to a relevant authority and its head of paid service were references to the shadow authority and its interim head of paid service.

Duties of shadow authority: proposals for executive arrangements, code of conduct and members' allowances relating to West Suffolk Council

10.—(1) The shadow authority must formulate proposals for the executive arrangements that are to be operated by West Suffolk Council.

(2) In formulating proposals under paragraph (1) the shadow authority must comply with section 9B(2) of the 2000 Act and for that purpose is to assume that the Council's executive is to be a leader and cabinet executive within the meaning of section 9C(3) of that Act.

(3) The shadow authority must formulate proposals for the code of conduct to be adopted by West Suffolk Council.

(4) In formulating proposals under paragraph (3) the shadow authority must have regard to section 27 (duty to promote and maintain high standards of conduct) and section 28 (codes of conduct) of the Localism Act 2011.

(5) The shadow authority must formulate proposals for the scheme of members' allowances to be adopted by West Suffolk Council.

(**10**) 1988 c.41. Relevant amendments were made by the Local Government and Housing Act 1989, section 139 and Schedule 5, by the Local Government Act 2003 (c. 26), section 30 and S.I. 2001/2237.