Draft Order laid before Parliament under section 240(6) of the Local Government and Public Involvement in Health Act 2007 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No.

LOCAL GOVERNMENT, ENGLAND

The West Suffolk (Local Government Changes) Order 2018

Made - - - - ***

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(**a**) ("the 2007 Act"), makes the following Order.

This Order implements a proposal under section 8(2A)(**b**) 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(**c**);

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

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

(**a**) 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.
(**b**) Section 8 was modified, in its application to Forest Heath District Council and St Edmundsbury Borough Council, by S.I. 2018/XXXX.
(**c**) 1972 c. 70.
(**d**) 1989 c. 42.
(**e**) 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(**a**);

"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—

"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

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

"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(**a**) (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 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;

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

(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(**a**) (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(**b**) ("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,

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;

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

(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(**a**) 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.

Functions of shadow authority: Implementation Plan

11.—(1) The shadow authority must prepare, keep under review, and revise as necessary, an Implementation Plan which must include—

(a) such plans and timetables as are in its opinion necessary to secure the effective, efficient and timely discharge of its functions; and

(b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge, on or after 1st April 2019, of the functions that, before that date, are functions of the Relevant Councils.

(2) For the purposes of—

(a) preparing, reviewing and revising the Implementation Plan; and

(b) discharging its functions,

the shadow authority must have regard to the information supplied to the Secretary of State by the Relevant Councils in support of their proposals for a single district council in West Suffolk.

(**a**) 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.

(3) The shadow authority may, by written notice to the proper officer of either of the Relevant Councils require the council referred to in the notice to take such action relevant to any function of that council that is to transfer on 1st April 2019 as may be specified in the notice.

Other functions of the shadow authority

12. During the shadow period the shadow authority has, in addition to the functions specified or referred to in articles 8 to 11, the functions specified in articles 13 to 17.

13. The shadow authority must take all such practicable steps as are necessary or expedient—

(a) to commence and sustain its running as a shadow authority;

(b) to prepare the authority for the assumption, as West Suffolk Council, of local government functions and full local authority powers on 1st April 2019;

(c) to prepare any budgets or plans required by West Suffolk Council when those functions are assumed; and

(d) to liaise with Suffolk County Council and the Relevant Councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2019.

14. The shadow authority has all the other powers of a non-metropolitan district council.

15. The powers conferred by article 14 may be exercised by the shadow authority only—

(a) in the discharge of the functions specified or referred to in articles 8 to 11 and 13; and

(b) in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan district council; and

(c) where the exercise of the power would involve incurring expenditure or acquiring a liability, where the expenditure or liability relates to a matter which, before 1st April 2019, is the responsibility of one of the Relevant Councils, with the prior consent of that council.

16. The total of the expenditure properly incurred by the shadow authority before 1st April 2019 is to be divided among, and paid by, the Relevant Councils in such proportion as may be agreed between those councils; but, where the shadow authority notifies the Secretary of State that there is no such agreement, the Secretary of State may—

(a) determine the proportion in which that expenditure is to be divided and paid; or

(b) appoint an arbitrator for that purpose.

17.—(1) The following provisions of the 1972 Act apply in relation to the shadow authority, notwithstanding that it does not have the functions and full powers of a local authority—

Table

Part or section of 1972 Act	*Description*
Section 3	Chair
Section 5	Vice-chair
Parts 5 and 5A	General provisions as to members and proceedings of local authorities, access to meetings and documents of certain authorities, committees and sub-committees
Section 103	Expenses of joint committees
Section 106	Standing orders
Section 146	Transfer of securities on alteration of area, etc.
Section 178	Regulations as to allowances
Section 245	Status of certain districts, parishes and communities

(2) The shadow authority, notwithstanding that it does not have the functions and full powers of a local authority, is to be treated—

(a) for the purposes of the Local Audit and Accountability Act 2014(**a**) as if it were a district council;

(b) for the purposes of section 101 of the 2000 Act (indemnification of members and officers of relevant authorities), as a relevant authority;

(c) for the purposes of Part 1 of the Local Government Act 2003 (capital finance etc. and accounts), as a local authority; and

(d) for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001(**b**), as a relevant authority.

Discharge of shadow authority's functions by shadow executive

18.—(1) Except to the extent that any provision of any Act, this Order or regulations under section 9D (functions which are the responsibility of an executive) or 9DA (functions of an executive: further provision) of the 2000 Act requires otherwise, the functions conferred on the shadow authority by or under this Order are to be delegated to, and discharged by, the shadow executive.

(2) Paragraph (1) does not prevent the shadow executive from requesting the shadow authority to discharge any function specified in a notice given by the shadow executive to the proper officer of the shadow authority, and the shadow authority must comply with any such request within such period as the shadow executive may specify.

Central Implementation Team

19.—(1) Not later than 21 days after the coming into force of this Order, the shadow executive must form a team of officers ("the Central Implementation Team") for the purposes of assisting it and, if so required by the shadow authority, that authority.

(2) The members of the Central Implementation Team are to comprise officers from each of the Relevant Councils and the shadow authority.

(3) The leader of the Central Implementation Team is to be an officer of one of the Relevant Councils.

PART 4

Electoral matters

Election to West Suffolk Council in 2019 and subsequent years

20.—(1) A whole council election of councillors of West Suffolk Council is to be held on the ordinary day of election of councillors in 2019 and in every fourth year thereafter.

(2) For the purposes of elections of councillors of West Suffolk Council—

(a) West Suffolk is to be divided into wards;

(b) the names of the new wards are those indicated in column 1 of the Table set out in the Schedule to this Order;

(c) the area of each new ward is to be the same as that of the ward or, as the case may be, the wards of the Relevant Councils as those wards existed on 31st March 2019, and as indicated in column 2 of that Table;

(d) each new ward is to return the number of councillors indicated in column 3 of that Table.

(**a**) 2014 c.2.
(**b**) S.I. 2001/3384.

(3) At the 2019 election the returning officer shall be the proper officer appointed by the Relevant Councils ("the West Suffolk Council returning officer").

(4) The West Suffolk Council returning officer must take such steps as are necessary or appropriate to prepare for the 2019 election, including the making of all necessary alterations in the electoral register.

(5) The total of the expenditure properly incurred by the West Suffolk Council returning officer before 1st April 2019 in relation to the holding of the 2019 election is to be divided among, and paid by, the Relevant Councils in such proportion as may be agreed between them; but, where the returning officer notifies the Secretary of State that there is not such agreement, the Secretary of State may—

(a) determine the proportion; or

(b) appoint an arbitrator for that purpose.

(6) The total of the expenditure properly incurred by the West Suffolk Council returning officer on and after 1st April 2019 in relation to the holding of the 2019 election is to be paid by the West Suffolk Council.

(7) In relation to the 2019 election, "the appropriate officer" in Parts 1 and 2 of the Representation of the People Act 1983(**a**) does not have the meaning given by section 67(7) of that Act but means the West Suffolk Council returning officer.

(8) All councillors elected in 2019 or any later year are to retire on the fourth day after the ordinary day of elections of councillors in the year of retirement and the newly-elected councillors are to come into office on the day on which their predecessors retire.

PART 5

General transitional duties of the Relevant Councils

General transitional duties of the Relevant Councils

21.—(1) The Relevant Councils must—

(a) take, whether alone or together, such steps as may be necessary to prepare for the transfer to West Suffolk Council of the Relevant Councils' functions, property, rights and liabilities relating to West Suffolk or its inhabitants;

(b) consult and co-operate with one another in order to secure the economic, effective, efficient and timely transfer of those functions, property, rights and liabilities; and

(c) generally, exercise their functions so as to further the purposes of this Order.

(2) Each of the Relevant Councils must—

(a) co-operate in the formation of the Central Implementation Team appointed under article 19, and release the officers concerned from their normal duties at such times or for such periods as the shadow executive may reasonably require; and

(b) provide such information relating to its functions as the other council may reasonably request for the purpose of giving effect to this Order.

(3) Any person authorised in that behalf by the council making the request is entitled, at all reasonable times, on producing evidence of the authority given by that council (if so required by the council from which the information is sought)—

(a) to inspect any record belonging to or under the control of the council providing the information and relating to the council or its functions; and

(b) to take, or be supplied with, a copy of any such record or part of it.

(**a**) 1983 c. 2.

(4) The rights conferred by paragraph (3) include the right to require any record which is not in legible form to be made available in legible form so that the authorised person may inspect or copy it or be supplied with copies.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

name
Parliamentary Under Secretary of State
Date Ministry of Housing, Communities and Local Government

SCHEDULE

Article 20

Wards of West Suffolk

Table

New Ward *Column 1*	*Existing Wards* *Column 2*	*Number of Councillors* *Column 3*
Abbeygate	Abbeygate	2
All Saints and Severals	All Saints Severals	3
Bardwell and Barningham	Bardwell Barningham	2
Barrow	Barrow	1
Brandon East	Brandon East	2
Brandon West	Brandon West	2
Cavendish	Cavendish	1
Chedburgh	Chedburgh	1
Clare and Hundon	Clare Hundon	2
Eastgate	Eastgate	1
Eriswell and the Rows and Lakenheath	Eriswell and the Rows Lakenheath	3
Exning and St Marys	Exning St Marys	3
Fornham and Great Barton	Fornham Great Barton	2
Great Heath and Market	Great Heath Market	3
Haverhill East	Haverhill East	3
Haverhill North	Haverhill North	3
Haverhill South	Haverhill South	2
Haverhill West	Haverhill West	2
Horringer and Whelnetham	Horringer and Whelnetham	1
Iceni	Iceni	1
Ixworth and Stanton	Ixworth Stanton	2
Kedington	Kedington	1
Manor	Manor	1
Moreton Hall	Moreton Hall	3
Minden	Minden	2

Northgate and St Olaves	Northgate St Olaves	3
Pakenham	Pakenham	1
Risby	Risby	1
Risbygate	Risbygate	2
Rougham	Rougham	1
South and Red Lodge	Red Lodge South	2
Southgate and Westgate	Southgate Westgate	3
Wickhambrook	Wickhambrook	1
Withersfield	Withersfield	1

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes a new non-metropolitan district, West Suffolk, in the county of Suffolk; establishes West Suffolk Council as the district council for West Suffolk and abolishes Forest Heath and St Edmundsbury districts and their councils *(articles 3 to 5)*.

The Order provides for the establishment of a shadow authority before West Suffolk Council takes on full responsibility for local government matters on 1st April 2019 with members appointed from the existing councils; for the creation of a shadow executive and for the creation of a Central Implementation Team to support the executive. The shadow authority and shadow executive are tasked with making all necessary preparations in advance of 1st April 2019 (including preparing and keeping under review an implementation plan and appointment of key officers); the costs of the shadow authority and shadow executive are to be met by the existing district councils *(articles 6 to 19)*.

Part 4 of the Order deals with electoral matters including provision that a whole council election of councillors of West Suffolk Council is to take place on the ordinary day of election in 2019 and in every fourth year thereafter *(article 20)*.

Part 5 of the Order imposes general transitional duties on the existing district councils, in particular to co-operate with each other and the shadow authority and shadow executive *(article 21)*.

The Schedule sets out the electoral wards of West Suffolk.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

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£6.00

UK201803161005 03/2018 19585

http://www.legislation.gov.uk/id/ukdsi/2018/9780111167588

ISBN 978-0-11-116758-8

