

THE SOMERSET WEST AND TAUNTON (MODIFICATION OF BOUNDARY CHANGE ENACTMENTS) REGULATIONS 2018

1. About this report

- 1.1 Section 15 (subsections 12 and 13) of the Cities and Local Government Devolution Act 2016 (the 2016 Act) requires that at the same time as laying a draft of a statutory instrument containing regulations under this section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the regulations and why the Secretary of State considers it appropriate to make the regulations.
- 1.2 This report must include:
- a) a description of any consultation taken into account by the Secretary of State,
 - b) information about any representations considered by the Secretary of State in connection with the regulations, and
 - c) any other evidence or contextual information that the Secretary of State considers it appropriate to include.
- 1.3 This report accompanies the draft Somerset West and Taunton (Modification of Boundary Change Enactments) Regulations 2018 and the linked statutory instrument, the draft Somerset West and Taunton (Local Government Changes) Order 2018.

2 Description of the proposal to merge the councils

- 2.1 The Government made a manifesto commitment to support those authorities that wish to combine to serve their communities better, and the Ministry of Housing, Communities and Local Government is committed to consider locally-led proposals for unitarisation and mergers between councils when requested. The Government set out the criteria against which merger proposals would be considered in a Written Ministerial Statement on 7 November 2017. These are that:
- the proposal is likely to improve local government in the area (by improving service delivery, giving greater value for money, yielding cost savings, providing stronger strategic and local leadership, and/or delivering more sustainable structures);
 - the proposal commands local support, in particular that the merger is proposed by all councils which are to be merged and there is evidence of a good deal of local support; and
 - the proposed merged area is a credible geography, consisting of two or more existing local government areas that are adjacent, and which, if established, would not pose an obstacle to locally-led proposals for authorities to combine to serve their communities better and would facilitate joint working between local authorities.
- 2.2 West Somerset District Council and Taunton Deane Borough Council developed and consulted on a proposal to merge their respective local government areas and

councils, which they submitted to the Secretary of State on 27 March 2017. The Secretary of State considered the proposal put forward by the two councils and, on 30 November 2017, announced that he was ‘minded to’ implement the proposal. There then followed a period for representations, which lasted until 19 January 2018. After carefully considering all the material and representations he received, the Secretary of State concluded that the criteria outlined above are likely to be fully met and announced his final decision to implement the merger on 22 March 2018.

3. The effect of the statutory instruments

- 3.1 As a manifesto commitment, the Government wishes to support those authorities that wish to combine to serve their communities better. The Secretary of State therefore considers that when an area comes forward with plans to merge which are locally-led and with the consent of those councils, whilst also meeting the criteria set down by the Secretary of State for council mergers (as outlined in paragraph 2.1), then these should be capable of being implemented without further delay. The Secretary of State has assessed the proposal submitted by West Somerset District Council and Taunton Deane Borough Council on these criteria and concluded that the proposal, if implemented, would meet these criteria, concluding that there is evidence that the proposal commands a good deal of local support, would improve local government and services in the area, and would be of a credible geography.
- 3.2 The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) allows the Secretary of State to legislate for local government reorganisation, including district council mergers and boundary changes, after a proposal has been received from the local authorities and after the independent Local Government Boundary Commission for England (the Commission) has undertaken a Principal Area Boundary Review of the area. The Commission may undertake such a review at the request of a local authority, the Secretary of State or of its own volition. Hence if two local authorities are proposing a merger they would need first to request that the Commission undertake a Principal Area Boundary Review of the area.
- 3.3 The Somerset West and Taunton (Modification of Boundary Change Enactments) Regulations 2018 varies the 2007 Act in its application to West Somerset District Council and Taunton Deane Borough Council. These Regulations are made under the 2016 Act, enabling regulations to be made to streamline the processes for local government reorganisation, for which provision is made in the 2007 Act.
- 3.4 Accordingly, to implement the proposal made in a timely manner, regulations made under section 15 of the 2016 Act provide that Part 1 of the 2007 Act is to be varied in its application to the case of West Somerset and Taunton Deane so that the Secretary of State is able to act upon the proposal from the local areas for a merger, whilst still maintaining the ability for the Commission to carry out an electoral review of the area.
- 3.5 Under the 2007 Act, as proposed to be modified by these Regulations, the intention is that, subject to Parliamentary approval, to make the Somerset West and Taunton (Local Government Changes) Order 2018, which would establish the new non-metropolitan district and district council for Somerset West and Taunton.

- 3.6. The Somerset West and Taunton Council would be established on 1 April 2019 and elections would take place in May 2019. We expect the Commission to undertake an electoral review in advance of this, and provide new warding arrangements in readiness for the May 2019 elections. This process retains a key role for the Commission in carrying out an electoral review if the regulations and order are made, subject to Parliamentary approval. The Commission is content with this approach and we are in contact with them about how the electoral review would be undertaken for 2019 elections.

The Somerset West and Taunton (Modification of Boundary Change Enactments) Regulations 2018

- 3.7 Part 1 of the 2007 Act provides for structural and boundary change of local government areas and councils. Section 8 of the 2007 Act provides that the Commission may, either on their own initiative or at the request of the Secretary of State or a local authority, conduct a review of one or more local government areas. Where they have conducted a review under this section the Commission may recommend to the Secretary of State such boundary change as in consequence of the review seems to them desirable. “Boundary change” means the alteration of a local government area boundary; the abolition of a local government area or the constitution of a new local government area (or any combination of these). No recommendation may be made under section 8 which recommends some form of structural change (i.e. the creation of a single tier of local government in an area which previously had two tiers). Structural change is provided for in sections 1 to 7 of the 2007 Act.
- 3.8 Section 10 of the 2007 Act gives the Secretary of State power, by order, to make boundary changes to a local government area following a review by the Commission. The detail of what a section 10 order can include is set out in sections 11 and 12. A section 10 order can, for example, create a new local government area or abolish an existing one; move the boundary of any local government area; create a new council for the area or abolish an existing one and provide for a new name. A section 10 order can also make provision for “electoral matters” which, for example, includes the total number of members (councillors) of the authority; the number and boundaries of electoral areas and the number of councillors to be returned by each area. A section 10 order can also include transitional provision allowing, for example, for the appointment by the Secretary of State of members of an existing local authority to be members of a new local authority for a transitional period.
- 3.9 Section 15 of the 2016 Act provides that the Secretary of State may by regulations (subject to the affirmative resolution procedure) make provision about the structural and boundary arrangements in relation to local authorities under Part 1 of the 2007 Act. In particular, by making provision as to how Part 1 of the 2007 Act is to apply in relation to particular cases (including by disapplying the application of Part 1 or applying it subject to any variations that are specified in the regulations).
- 3.10 Regulations under this section, so far as including structural or boundary provision in relation to a non-unitary district council area, may be made if at least one relevant local authority consents (i.e. one of the councils whose area falls within the area concerned). This consent requirement expires at the end of 31st March 2019 (but

without affecting any regulations already made under this section by virtue of subsection (5). After that date, the exercise of powers under section 15 will require the consent of all relevant authorities in the area in question.

- 3.11 These regulations made under section 15 of the 2016 Act would provide that Part 1 of the 2007 Act is to be varied in its application to the case of West Somerset and Taunton Deane so that those councils can make proposals for boundary change in their area to the Secretary of State rather than to the Commission and allowing the Secretary of State to implement those proposals by order under section 10 of the 2007 Act. The regulations would allow for pre-existing proposals (i.e. ones that were made before the commencement of the regulations) to be implemented. The regulations would expire at the end of March 2020 – allowing sufficient time for the proposals referred to in paragraph 2.2 to be implemented.

The Somerset West and Taunton (Local Government Changes) Order 2018

- 3.12 This Order is made in exercise of the powers conferred by sections 10, 11, 12 and 13 of the 2007 Act. It implements the proposal made by the two councils concerned under the 2007 Act that there should be a new non-metropolitan district council for Somerset West and Taunton.
- 3.13 Section 14 of the 2007 Act enables the Secretary of State, by regulations of general application, to make incidental, consequential, transitional and supplementary provision to give full effect to these local government changes. The Secretary of State intends to exercise his powers under this section to, among other things, make provision for transferring functions, property, rights and liabilities to the new council, as well as providing for transitional provisions relating to financial matters.

4. Consultation

- 4.1. Following the decision of the councils to proceed in principle with the proposal to merge, the councils undertook a programme of engagement designed to gather the views of a broad range of people, bodies and organisations within both Taunton Deane and West Somerset, including residents, business, key partners, precepting authorities, the charitable and voluntary sector, local members of parliament and town and parish councils.
- 4.2. The consultation was publicised in a number of ways including via the Somerset County Council newspaper ‘Your Somerset’, sent to 63,000 homes throughout West Somerset and Taunton Deane, in the local press, through letters to key stakeholders, through newsletters to each of Taunton Deane Borough Council’s housing tenants, through social media, via the councils’ websites and through poster displays in key locations. A dedicated website (yournewcouncil.org) was created containing background information and an online questionnaire, with paper versions of each also made available. A series of eight public road-shows were held to encourage participation and allow those uncomfortable with, or unable to use, the internet to get involved. The road-shows were held at locations throughout the Taunton Deane and West Somerset area to encourage engagement, and events were run on a Saturday to ensure those who were working on weekdays could attend. Nine specially arranged meetings with representatives of town and parish councils (and community groups

for the unparished area) also took place to capture further opinion, and to stimulate interest and debate.

- 4.3. Before the start of the consultation, between 7 and 12 December 2016, a statistically representative random sample of 512 Taunton Deane and West Somerset residents (aged 18 or over) was polled by telephone by Populus Data Solutions to establish awareness of the proposal and of the financial position of both of the councils. The December poll established that 58 per cent of residents polled were already aware of the financial challenges facing both councils. It further established that 53 per cent of those polled were aware of the proposal to create a new council for West Somerset and Taunton Deane. This was followed by a further telephone poll toward the close of the consultation, which was conducted between 20 and 26 February 2017. The February poll was used to measure the effectiveness of the communication and publicity about the proposal during the consultation. This poll demonstrated a significant increase in levels of awareness of both the councils' financial challenges (awareness rose from 58% to 67%) and of the new council proposal (awareness rose from 53% to 61%).
- 4.4. Open public consultation ran from 12 December 2016 to 28 February 2017. All interested stakeholders were invited to complete a nine-question questionnaire either via a dedicated website or via paper versions that were made available.
- 4.5. In response to the consultation there were 76 written and 528 questionnaire responses that displayed a good level of support for the proposal overall.
- 4.6. Somerset County Council, the two district councils, some town and parish councils, Avon and Somerset Police Authority, and a number of businesses/major employers expressed support for the proposal.
- 4.7. The most commonly expressed concern about the proposal was around the relative financial positions of the two councils and the belief that residents of Taunton Deane would be subsidising West Somerset and that as a consequence Taunton Deane residents would be disadvantaged in a variety of ways including having to pay higher Council Tax or receiving a reduced level of service. However, it was made clear in the joint business case submitted to the Secretary of State that both councils stand to make savings and improve their financial sustainability through the merger. Council tax levels in both areas are very similar and no evidence has been presented to suggest that a significant rise is expected if the merger is implemented.

Representations received by the Secretary of State following his minded to decision

- 4.8. After the Secretary of State announced his initial decision that he was minded to implement the proposal, there was a period for representations lasting from 30 November 2017 until 19 January 2018. 251 representations were received. Of these 114 were supportive of the proposal, 14 were neutral and 123 were opposed.
- 4.9. The County Council and all public bodies, for example the local health authority, were either supportive (15 representations) or raised no objections (4 representations). A majority of businesses and voluntary sector organisations were also either supportive (18 representations) or raised no objections (4 representations).

The majority of town and parish councils were supportive (10 representations) or neutral (1 representation). 53 members of the public were also supportive of the proposal.

4.10. The majority of negative representations received were from members of the public (99 representations) with a further 15 negative representations coming from local councillors. A recurring theme of the negative representations was an unwillingness among Taunton Deane residents to take on West Somerset as a financially unsustainable council. However the proposal put forward by both councils outlines that the merger would result in increased financial sustainability across the area, for both extant councils. A further common issue in the representations was a concern that residents of West Somerset would not be as fully represented in the local democracy as residents of Taunton. However should the merger be implemented following Parliamentary approval, the Local Government Boundary Commission for England is expected to carry out a full electoral review of the whole area to ensure that all communities are properly represented and all votes are worth the same within the local democracy. Moreover, the whole of West Somerset is parished with elected parish councillors representing the local communities. It is also the case that, should the merger be implemented, a Community Governance Review will be carried out to ensure that the currently unparished area of Taunton is parished as soon as possible.

5 Material considered by the Secretary of State from the local area

5.1 Material submitted by West Somerset District Council and Taunton Deane Borough Council:

- *Proposal to create one transformed council* - submitted by West Somerset District Council and Taunton Deane Borough Council.
- Further financial information submitted by West Somerset District Council and Taunton Deane Borough Council.
- Summary of representations received and summary data tables from consultation, both submitted by West Somerset District Council and Taunton Deane Borough Council.
- Equality Impact Assessment submitted by West Somerset District Council and Taunton Deane Borough Council.

5.2 All representations and correspondence received regarding the proposal, including representations received between 30 November 2017 and 19 January 2018.