
STATUTORY INSTRUMENTS

2020 No. 426

LOCAL GOVERNMENT, ENGLAND

**The Local Government (Coronavirus) (Structural Changes)
(Consequential Amendments) (England) Regulations 2020**

<i>Made</i>	- - - -	<i>15th April 2020</i>
<i>Laid before Parliament</i>		<i>16th April 2020</i>
<i>Coming into force</i>	- -	<i>8th May 2020</i>

The Secretary of State for Housing, Communities and Local Government in exercise of the powers conferred by section 63 of the Coronavirus Act 2020⁽¹⁾, makes the following Regulations.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Local Government (Coronavirus) (Structural Changes) (Consequential Amendments) (England) Regulations 2020.

(2) These Regulations come into force on 8th May 2020.

(3) These Regulations extend to England and Wales and apply in relation to England only.

Amendment of the Buckinghamshire (Structural Changes) Order 2019

2. The Buckinghamshire (Structural Changes) Order 2019⁽²⁾ is amended in accordance with regulations 3 to 8.

3. In article 2 (interpretation)—

(a) for the definition of “the 2020 election” substitute—

““the 2021 election” means the election required by article 18(1) to be held in 2021;”;

(b) for the definition of “the 2020 election day” substitute—

““the 2021 election day” means the ordinary day of election of councillors in 2021⁽³⁾;”;

(c) in the definition of “the shadow period” for “the fourth day after the 2020 election day” substitute “11th May 2020”.

⁽¹⁾ 2020 c.7.

⁽²⁾ S.I. 2019/957.

⁽³⁾ See section 37 of the Representation of the People Act 1983 (c. 2).

4. In article 3 (single tier of local government in Buckinghamshire) after paragraph (4) insert—

“(5) Immediately after the end of the shadow period those persons who are members of Buckinghamshire Council (having been members of the shadow authority) immediately before the end of that period are to continue to be the members of that council.

(6) The term of office of those members referred to in paragraph (5) ends on the fourth day after the 2021 election day.

(7) Until the fourth day after the 2021 election day, a meeting of Buckinghamshire Council is to be deemed quorate for the purposes of paragraph 6 of Schedule 12 to the 1972 Act where there are present at least twenty members of the council.”.

5. After article 6 insert—

“Executive arrangements for Buckinghamshire Council from the end of the shadow period

6A.—(1) This article applies during the period beginning immediately after the end of the shadow period and ending on the fourth day after the 2021 election day.

(2) Subject to the following provisions those persons who are members of the shadow executive immediately before the end of the shadow period are the members of the executive of Buckinghamshire Council.

(3) Section 9C of the 2000 Act (local authority executives) has effect, for the purposes of paragraph (2), as if subsection (5) were omitted.

(4) Immediately after the end of the shadow period the requirements at paragraphs (9) and (10) of article 6 to nominate substitute members of the executive cease to apply and those persons who were substitute members immediately before the end of the shadow period cease to be such members.

(5) The leader of the executive is the person who is the leader of the shadow executive immediately before the end of the shadow period.

(6) Subsection (3)(a) of section 9C of the 2000 Act has effect, for the purposes of paragraph (5) as if for the words “elected as leader of the executive by the authority” there were substituted “who is leader of the Buckinghamshire Council executive”.

(7) Section 9IA of the 2000 Act has effect, for the purposes of paragraph (5), as if—

(a) in subsection (1) for “council” there were substituted “executive”; and

(b) in subsection (2) for “a council” there were substituted “an executive”.

(8) Where a vacancy occurs in the membership of the executive the leader must appoint another member of Buckinghamshire Council to act as a member of the executive.

(9) The executive is to have two deputy leaders who are to be—

(a) the person who is the deputy leader of the executive immediately before the end of the shadow period; and

(b) one other person appointed by the leader at the first meeting of the executive after the end of the shadow period from among the members of the executive.

(10) Where a vacancy occurs in the office of deputy leader of the executive the leader must appoint a replacement.

(11) Where the office of leader becomes vacant the executive must elect a new leader from among the members of the executive.

(12) Subject to paragraph (13), the following provisions of the 2000 Act do not apply to the executive arrangements of Buckinghamshire Council—

- (a) section 9I; and
- (b) with the exception of sub-paragraphs (7) and (8) of that paragraph, paragraph 2 of Schedule A1.

(13) Sub-paragraph (7) of paragraph 2 of Schedule A1 to the 2000 Act is to be read as if for the words from “the deputy” to the end there were substituted “where the executive leader has designated a deputy executive leader to act in place of the leader, that deputy executive leader must so act, but where no such designation has been made the deputy executive leaders must act jointly”.

(14) Notwithstanding any provision made under, or by virtue of, sections 9D (functions which are the responsibility of an executive), 9DA (functions of an executive: further provision) or 13(4) (functions which are the responsibility of an executive) of the 2000 Act or made under or by virtue of any other enactment, the function of appointment of members of the following committees which have been established pursuant to the resolution of Buckinghamshire Council made on 27th February 2020(5) is, in each case, to be a function which is the responsibility of the executive—

- (a) the Strategic Planning Committee and the Area Planning Committees established under sections 101 (arrangements for discharge of functions by local authorities) and 102 (appointment of committees) of the 1972 Act;
- (b) the Licensing Committee established under section 101 of the 1972 Act and in accordance with section 6 of the Licensing Act 2003(6) (licensing committees);
- (c) the Health and Wellbeing Board established in accordance with section 194 of the Health and Social Care Act 2012(7) (establishment of Health and Wellbeing Boards);
- (d) the Pensions Committee established under section 101 of the 1972 Act;
- (e) the Senior Appointments and Pay Committee established under sections 101 and 102 of the 1972 Act;
- (f) the Standards and General Purposes Committee established under sections 101 and 102 of the 1972 Act;
- (g) the Audit and Governance Committee established under sections 101 and 102 of the 1972 Act.

(15) Notwithstanding any provision made under, or by virtue of, sections 9D, 9DA or 13 of the 2000 Act or made under or by virtue of any other enactment, the function of appointment of members of an overview and scrutiny committee established in accordance with section 9F of the 2000 Act (overview and scrutiny committees: functions) is to be exercised by the head of paid service of Buckinghamshire Council, following consultation with the leader of each political group.

(16) Notwithstanding any provision made under, or by virtue of, sections 9D, 9DA or 13 of the 2000 Act or made under or by virtue of any other enactment, the function of appointment of an independent person in accordance with section 28(7) of the Localism Act 2011 (codes of conduct) is to be exercised by the chair of Buckinghamshire Council’s Audit and Governance Committee, following consultation with the head of paid service.”.

(4) Section 13 was amended by Schedule 3 to the Localism Act 2011 so that it applies to Wales only from 4th May 2012. The Local Authorities (Functions and Responsibilities) (England) Regulations (S.I. 2000/2853) made under section 13 continue to apply in relation to England.

(5) The resolution may be obtained in hard copy from Buckinghamshire Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF and online at <https://buckinghamshire.moderngov.co.uk/documents/g143/printed%20minutes%2027th-Feb-2020%2016.00%20Shadow%20Authority.pdf?T=1>.

(6) 2003 c. 17.

(7) 2012 c. 7. Section 194(11) provides that a Health and Wellbeing Board is a committee of the local authority which established it and is to be treated as if it were a committee appointed by the authority under section 102 of the 1972 Act.

6. Omit article 7(7).
7. In article 18—
 - (a) in paragraph (1)(a) for “2020 election day” substitute “2021 election day”;
 - (b) omit paragraphs (3) to (6);
 - (c) in paragraphs (7) and (8)(a) for “2020” substitute “2021”.
8. In article 19(b) for “2020” substitute “2021”.

Amendment of the Northamptonshire (Structural Changes) Order 2020

9. The Northamptonshire (Structural Changes) Order 2020(8) is amended in accordance with regulations 10 to 16.

10. In article 2 (interpretation)—
 - (a) for the definition of “2020 election” substitute—

““2021 election” means an election required by article 20(1)(a) to be held in 2021”;
 - (b) for the definition of “the 2020 election day” substitute—

““the 2021 election day” means the ordinary day of elections of councillors in 2021(9);”;
 - (c) after the definition of “the North Northamptonshire Councils” insert—

““North Northamptonshire electoral division” means an electoral division of the county council which comprises part of the area of one of the North Northamptonshire councils;”;
 - (d) for the definition of “the shadow period” substitute—

““the shadow period” means the period beginning with 11th May 2020 and ending on the fourth day after the 2021 election day;”;
 - (e) after the definition of “the West Northamptonshire councils” insert—

““West Northamptonshire electoral division” means an electoral division of the county council which comprises part of the area of one of the West Northamptonshire councils”.
11. For article 6 substitute—

“Shadow authorities

6.—(1) During the shadow period North Northamptonshire Council and West Northamptonshire Council shall each be a shadow authority for the purposes of the following provisions of this Part.

(2) The members of the shadow authority for North Northamptonshire are the persons who are the members for the time being of the North Northamptonshire councils and the members of the county council for the time being for the North Northamptonshire electoral divisions.

(3) The members of the shadow authority for West Northamptonshire are the persons who are the members for the time being of the West Northamptonshire councils and the members of the county council for the time being for the West Northamptonshire electoral divisions.

(8) S.I. 2020/156.

(9) See section 37 of the Representation of the People Act 1982 (c. 2).

(4) Those persons mentioned in paragraphs (2) and (3) who are members of a shadow authority immediately before 1st April 2021 are to be members of North Northamptonshire Council and West Northamptonshire Council (as the case may be) until the end of the shadow period notwithstanding the dissolution of the county council, the North Northamptonshire councils and the West Northamptonshire councils on that date.

(5) Any member of the shadow authority for North Northamptonshire who is a member for the time being of both the county council and any of the North Northamptonshire councils shall have one vote on all questions coming or arising before the shadow authority.

(6) Any member of the shadow authority for West Northamptonshire who is a member for the time being of both the county council and any of the West Northamptonshire councils shall have one vote on all questions coming or arising before the shadow authority.

(7) A meeting of the shadow authority for North Northamptonshire is to be deemed quorate for the purposes of paragraph 6 of Schedule 12 to the 1972 Act where there are present at least twenty-five members of the shadow authority comprising—

- (a) five members, each of whom has been elected as a member of Corby Borough Council;
- (b) five members, each of whom has been elected as a member of East Northamptonshire District Council;
- (c) five members, each of whom has been elected as a member of Kettering Borough Council;
- (d) five members, each of whom has been elected as a member of Wellingborough Borough Council; and
- (e) five members, each of whom has been elected to represent a North Northamptonshire electoral division.

(8) For the purposes of paragraph (7) any member of the shadow authority for North Northamptonshire who is a member for the time being of both the county council and any of the North Northamptonshire councils may elect to be counted as present for the purposes of the quorum in relation either—

- (a) to that person's membership of the relevant North Northamptonshire council; or
- (b) to that person's membership of the county council for a North Northamptonshire electoral division,

but may not be counted in relation to both.

(9) A meeting of the shadow authority for West Northamptonshire is to be deemed quorate for the purposes of paragraph 6 of Schedule 12 to the 1972 Act where there are present at least twenty members of the shadow authority comprising—

- (a) five members, each of whom has been elected as a member of Daventry District Council;
- (b) five members, each of whom has been elected as a member of Northampton Borough Council;
- (c) five members, each of whom has been elected as a member of South Northamptonshire District Council; and
- (d) five members, each of whom has been elected to represent a West Northamptonshire electoral division.

(10) For the purposes of paragraph (9) any member of the shadow authority for West Northamptonshire who is a member for the time being of both the county council and any of the West Northamptonshire councils may elect to be counted as present for the purposes of the quorum in relation either—

- (a) to that person’s membership of the relevant West Northamptonshire council; or
- (b) to that person’s membership of the county council for a West Northamptonshire electoral division,

but may not be counted in relation to both.

(11) The head of paid service of the county council must convene and make all necessary arrangements for—

- (a) the first meeting of the shadow authority for North Northamptonshire; and
- (b) the first meeting of the shadow authority for West Northamptonshire,

both of which must be held no later than 4th June 2020.”.

12. For article 7 substitute—

“ Duties of shadow authorities: executive arrangements

7.—(1) At its first meeting, the shadow authority for North Northamptonshire must, in accordance with paragraphs (2) to (9), create a leader and cabinet executive within the meaning of Part 1A of the 2000 Act⁽¹⁰⁾ (arrangements with respect to local authority governance) (“the shadow executive”).

(2) Section 9C of the 2000 Act (local authority executives) has effect, for the purposes of paragraph (1), as if subsection (5) were omitted; and the shadow executive is to consist of—

- (a) two persons to be nominated by the leader of the county council, each of whom at the time of nomination must be a member of the executive of the county council and represent a North Northamptonshire electoral division;
- (b) the person who is the leader for the time being of Corby Borough Council;
- (c) one person who is a member for the time being of Corby Borough Council, to be nominated by the leader of that council;
- (d) the person who is the leader for the time being of East Northamptonshire District Council;
- (e) one person who is a member for the time being of East Northamptonshire District Council, to be nominated by the leader of that council;
- (f) the person who is the leader for the time being of Kettering Borough Council;
- (g) one person who is a member for the time being of Kettering Borough Council, to be nominated by the leader of that council;
- (h) the person who is the leader for the time being of Wellingborough Borough Council; and
- (i) one person who is a member for the time being of Wellingborough Borough Council, to be nominated by the leader of that council.

(3) Where one of the North Northamptonshire councils operates executive arrangements within the meaning of Part 1A of the 2000 Act, the person nominated by the leader of that council for the purposes of paragraph (2) must be a member of the executive of that council.

(4) The leader of the North Northamptonshire shadow executive is the person who at the beginning of the shadow period is the leader of Kettering Borough Council.

(5) Subsection (3)(a) of section 9C of the 2000 Act has effect, for the purposes of paragraph (4), as if for the words “elected as leader of the executive by the authority” there were substituted “who is leader of the North Northamptonshire Council executive”.

⁽¹⁰⁾ Part 1A was inserted by the Localism Act 2011 (c. 20), section 21 and Schedule 2.

- (6) Section 9IA of the 2000 Act has effect, for the purposes of paragraph (4), as if—
- (a) in subsection (1) for “council” there were substituted “executive”; and
 - (b) in subsection (2) for “a council” there were substituted “an executive”.
- (7) Where the office of leader becomes vacant the shadow executive must elect a new leader from among the members of the executive.
- (8) The deputy leader of the North Northamptonshire shadow executive is the person who at the beginning of the shadow period is the leader of Wellingborough Borough Council.
- (9) Where the office of deputy leader becomes vacant the shadow executive must elect a new deputy leader from among the members of the executive.
- (10) At its first meeting, the shadow authority for West Northamptonshire must in accordance with paragraphs (11) to (18), create a leader and cabinet executive within the meaning of Part 1A of the 2000 Act (arrangements with respect to local authority governance) (“the shadow executive”).
- (11) Section 9C of the 2000 Act (local authority executives) has effect, for the purposes of paragraph (1), as if subsection (5) were omitted; and the shadow executive is to consist of—
- (a) the person who is the leader for the time being of the county council;
 - (b) one person who is a member for the time being of the county council for a West Northamptonshire electoral division, to be nominated by the leader of that council;
 - (c) the person who is the leader for the time being of Daventry District Council;
 - (d) one person who is a member for the time being of Daventry District Council, to be nominated by the leader of that council;
 - (e) the person who is the leader for the time being of Northampton Borough Council;
 - (f) one person who is a member for the time being of Northampton Borough Council, to be nominated by the leader of that council;
 - (g) the person who is the leader for the time being of South Northamptonshire District Council; and
 - (h) one person who is a member for the time being of South Northamptonshire District Council, to be nominated by the leader of that council.
- (12) Where one of the West Northamptonshire councils operates executive arrangements within the meaning of Part 1A of the 2000 Act, the person nominated by the leader of that council for the purposes of paragraph (11) must be a member of the executive of that council.
- (13) The leader of the West Northamptonshire shadow executive is the person who at the beginning of the shadow period is the leader of South Northamptonshire District Council.
- (14) Subsection (3)(a) of section 9C of the 2000 Act has effect, for the purposes of paragraph (13), as if for the words “elected as leader of the executive by the authority” there were substituted “who is leader of the West Northamptonshire Council executive”.
- (15) Section 9IA of the 2000 Act has effect, for the purposes of paragraph (13), as if—
- (a) in subsection (1) for “council” there were substituted “executive”; and
 - (b) in subsection (2) for “a council” there were substituted “an executive”.
- (16) Where the office of leader becomes vacant the shadow executive must elect a new leader from among the members of the executive.

(17) The deputy leader of the West Northamptonshire shadow executive is the person who at the beginning of the shadow period is the leader of Northampton Borough Council.

(18) Where the office of deputy leader becomes vacant the shadow executive must elect a new deputy leader from among the members of the executive.

(19) The persons who, immediately before 1st April 2021, are the members of a shadow executive are to—

- (a) continue as members of that executive; and
- (b) on and after 1st April 2021, are the members of the executive of North Northamptonshire Council or West Northamptonshire Council (as the case may be) for the purposes of Part 1A of the 2000 Act,

until the end of the shadow period, notwithstanding the dissolution on that date of the county council, the North Northamptonshire councils and the West Northamptonshire councils.

(20) If a member of an executive constituted as mentioned in paragraph (19)(b) ceases to be a member of that executive before the end of the shadow period, North Northamptonshire Council or West Northamptonshire Council (as the case may be) 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.

(21) With the exception of Chapter 4 (changing governance arrangements) and except as otherwise provided in this article 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 a 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) in the case of the shadow authority for North Northamptonshire, section 9E authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the county council and the North Northamptonshire councils;
- (d) in the case of the shadow authority for West Northamptonshire, section 9E authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the county council and the West Northamptonshire councils.

(22) The following provisions of the 2000 Act do not apply to the executive arrangements of a shadow authority—

- (a) section 9I;
- (b) with the exception of sub-paragraphs (7) and (8) of that paragraph, paragraph 2 of Schedule A1.

(23) Chapter 7 of Part 1 of the 2011 Act⁽¹¹⁾ (standards) applies in relation to a 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.”.

13. In article 17 (other functions of the shadow authorities) at the end insert—

(11) 2011 c. 20.

“(3) The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020(12) apply in relation to each shadow authority as if that authority were a district council and its executive were the executive of a district council.”.

14. In article 20 (election of councillors of North Northamptonshire and West Northamptonshire, etc)—

- (a) in each place in which it occurs for “2020 elections” substitute “2021 elections”;
- (b) in paragraphs (1)(a), (9) and (10) for “2020” substitute “2021”;
- (c) for paragraphs (4) and (5) substitute—

“(4) The shadow authority for North Northamptonshire must designate an officer of the county council or one of the North Northamptonshire councils to act at the 2021 election as the returning officer for North Northamptonshire (“the North Northamptonshire Council returning officer”).

(5) The shadow authority for West Northamptonshire must designate an officer of the county council or one of the West Northamptonshire councils to act at the 2021 election as the returning officer for West Northamptonshire (“the West Northamptonshire Council returning officer”).”;

- (d) omit paragraphs (11) to (19).

15. In article 21(a) and (c) (cancellation of parish council elections, etc) omit “2021”.

16. In article 22, in each place in which it occurs, for “the fourteenth day after the 2020 election day” substitute “4th June 2020”.

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

Simon Clarke
Minister of State
Ministry of Housing, Communities and Local
Government

15th April 2020

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Buckinghamshire (Structural Changes) Order 2019 (S.1. 2019/957) (“the Buckinghamshire Order”) and the Northamptonshire (Structural Changes) Order 2020 (S.1. 2020/156) (“the Northamptonshire Order”). The amendments are required due to the postponement of local elections in England, which were due to take place on 7th May 2020, and which have been postponed to 6th May 2021 by section 60 of the Coronavirus Act 2020 (c. 7).

Under article 3 of the Buckinghamshire Order, on 1st April 2020 Buckinghamshire Council became the sole principal local authority for the non-metropolitan county and coterminous non-metropolitan district of Buckinghamshire, with all the powers and duties of a non-metropolitan county council and non-metropolitan district council for that area. Under article 4 of the Buckinghamshire Order, on that date Buckinghamshire County Council and the four existing district councils were abolished and all functions, property, rights and liabilities of those councils were transferred to Buckinghamshire Council.

Regulations 3 to 5 make provision in relation to the membership and executive arrangements of Buckinghamshire Council. The Buckinghamshire Order made provision for existing members of Buckinghamshire County Council and the four district councils in the county to be members of the new unitary Buckinghamshire Council until the fourth day after the ordinary day of election of councillors in 2020, when the newly elected councillors were due to take office. Due to the postponement of the May 2020 elections, article 3 is amended to extend the term of office of the existing members of the new council and new article 6A is inserted to extend the term of office of the council’s executive, both to the fourth day after the postponed election in May 2021.

Regulations 6 to 8 make consequential amendments to the Buckinghamshire Order in relation to the postponement of elections to May 2021.

Regulations 9 to 12 make provision in relation to the membership and executive arrangements of North Northamptonshire Council and West Northamptonshire Council, which are both due to assume the full responsibilities of a local authority on 1st April 2021 upon the abolition on that day of Northamptonshire County Council and the seven district councils in that county. The Northamptonshire Order provided for elections in May 2020 to North Northamptonshire Council and West Northamptonshire Council as shadow authorities, with the councillors thus elected to continue in office on and after 1st April 2021. Due to the postponement of the 2020 elections, regulations 11 and 12 substitute article 6 and 7 in the Northamptonshire Order to make provision for the existing councillors of the county council and district councils for each new area to be the members of the shadow authorities until the newly elected councillors take office after the May 2021 election and makes provision for executive arrangements of those authorities.

To ensure that meetings can be conducted remotely during the relevant period, regulation 13 applies to the shadow authorities the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Regulations 14 to 16 make consequential amendments to the Northamptonshire Order in relation to the postponement of elections to May 2021.

A full impact assessment has not been produced for the instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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