

PROPOSALS TO MERGE

- (1) SUFFOLK COASTAL AND WAVENEY DISTRICT COUNCILS**
- (2) TAUNTON DEANE BOROUGH AND WEST SOMERSET DISTRICT COUNCILS**
- (3) ST EDMUNDSBURY BOROUGH AND FOREST HEATH DISTRICT COUNCILS**

About ALACE

The Association of Local Authority Chief Executives and Senior Managers is a trade union which represents exclusively senior officers in local government. We have a number of members serving in the district councils affected by merger proposals.

The principle of mergers

ALACE does not have a policy position on individual proposals about mergers, and whether or not they should go ahead. These are a matter for the councils concerned and local residents. However it has an adopted policy position about how chief officers should be dealt with in cases where voluntary mergers are approved and move forward to implementation, which is set out below.

We ask that the approach outlined by ALACE is reflected in any relevant legislation or guidance on the mergers if the Secretary of State approves them.

Chief officer roles in councils which are merging voluntarily

An increasing number of cases where councils are voluntarily considering formal merger has led ALACE to consider how such circumstances should be viewed in relation to ALACE members who may be affected by such proposals.

ALACE recognises that voluntary mergers involve the creation of new councils. "Voluntary mergers" in this policy statement means mergers involving:

- two or more district councils;
- two or more unitary authorities (including London boroughs and metropolitan districts);
- a county council and all the district councils in that county;
- any other variant where all the principal authorities for an area are merging, and no area served by a principal authority is being split.

The position of voluntary merger should be contrasted with local government reorganisations which have occurred since the mid-1990s in several parts of England. In the latter cases, the change was

imposed by Government (although Parliamentary endorsement was required) and it took the view that new councils should be required to advertise for the appointment of their Chief Executive.

The situation of voluntary mergers can be distinguished, because it is locally driven, rather than externally imposed, even if it involves secondary legislation to implement it. The councils concerned might well expect that their existing shared chief officers will continue if there are any (it would be fairly extreme for councils to choose formal merger simply as a means to secure departure of an officer) or that there may be a ring-fenced competition if sharing is not already in place.

A merger of two or more councils means that their whole economic undertakings will be transferred into the new council and therefore that all employees should be transferred to the new council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 or, failing that, in accordance with the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (December 2013).

ALACE's policy stance is that:

- 1) where post holders already hold shared posts that cover all the councils involved in the voluntary merger, they should not be required to re-apply for their jobs;
- 2) where there are no shared posts, the councils concerned are encouraged to reach an agreement with the affected individuals to avoid open competition for chief officer posts, including the chief executive or the other statutory officers, when undertaking a voluntary merger with no change of powers. This is consistent with the principles of local determination;
- 3) therefore Government/Parliament should not impose a requirement for open competition to fill posts where there is a voluntary merger of councils.

This would allow councils merging voluntarily to retain any existing shared employees in post; and to consider ring-fenced recruitment processes from across relevant staff in the councils in cases where posts are not already shared. ALACE believes that this approach recognises that:

- organisational change can be disruptive, and therefore continuity of staff in key roles can be important and provide significant advantages;
- maintaining the confidence of stakeholders and partners when undergoing organisational development is important, and keeping key staff in post can support this objective;
- the staff involved will have been committed to the respective organisations. Building on that commitment to make the change effective may be best served by keeping the key players in place;
- staff below senior levels will be critical to a successful merger project. Staff will respond to how their senior managers are managed and treated;

- there can be an advantage to members in retaining staff that they know and can work with.

A factor applying to Chief Executives (and also monitoring officers and S151 officers) in England and Wales is that they cannot be dismissed by their authorities except in accordance with statutorily defined processes – the ‘independent panel’ procedure of S.I. 2015 No. 881 in England and the designated independent person (DIP) procedure of S.I. 2006 No. 1275 in Wales. Like any trade union, ALACE is anxious to minimise the risk of its members being exposed to redundancy, particularly as this is a route to dismissal which does not require the statutory processes to be invoked.

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