

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT BUCKINGHAMSHIRE (STRUCTURAL
CHANGES) (MODIFICATION OF THE LOCAL
GOVERNMENT AND PUBLIC INVOLVEMENT IN
HEALTH ACT 2007) REGULATIONS 2019

Monday 4 February 2019

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The Committee consisted of the following Members:

Chair: IAN AUSTIN

Burden, Richard (*Birmingham, Northfield*) (Lab)
 † Courts, Robert (*Witney*) (Con)
 † Docherty, Leo (*Aldershot*) (Con)
 † Eagle, Ms Angela (*Wallasey*) (Lab)
 † Elmore, Chris (*Ogmore*) (Lab)
 † Fitzpatrick, Jim (*Poplar and Limehouse*) (Lab)
 † Grant, Mrs Helen (*Maidstone and The Weald*)
 (Con)
 † Hoare, Simon (*North Dorset*) (Con)
 † McMahon, Jim (*Oldham West and Royton*) (Lab/
 Co-op)
 † Menzies, Mark (*Fylde*) (Con)
 † Percy, Andrew (*Brigg and Goole*) (Con)

† Quin, Jeremy (*Lord Commissioner of Her Majesty's
 Treasury*)
 † Rashid, Faisal (*Warrington South*) (Lab)
 Reeves, Ellie (*Lewisham West and Penge*) (Lab)
 † Rimmer, Ms Marie (*St Helens South and Whiston*)
 (Lab)
 † Sturdy, Julian (*York Outer*) (Con)
 † Sunak, Rishi (*Parliamentary Under-Secretary of
 State for Housing, Communities and Local
 Government*)

Ian Bradshaw, *Committee Clerk*

† **attended the Committee**

The following also attended (Standing Order No. 118(2)):

Gillan, Dame Cheryl (*Chesham and Amersham*)
 (Con)

Third Delegated Legislation Committee

Monday 4 February 2019

[IAN AUSTIN *in the Chair*]

Draft Buckinghamshire (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2019

4.30 pm

The Parliamentary Under-Secretary of State for Housing, Communities and Local Government (Rishi Sunak): I beg to move,

That the Committee has considered the draft Buckinghamshire (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Austin. These regulations were laid before the House on 14 January. If approved and made, they will pave the way for further statutory instruments to give full effect to my right hon. Friend the Secretary of State's decision to implement the locally led proposal to replace the five existing Buckinghamshire councils with a new single unitary council. The regulations are therefore an enabling element in the process of implementing that locally led proposal.

If approved by Parliament and made, the regulations will allow orders to be made under the Local Government and Public Involvement in Health Act 2007 to implement the Buckinghamshire proposal. They provide for part 1 of the 2007 Act to be varied in relation to Buckinghamshire so that first, proposals may be made for the purposes of the 2007 Act by any principal authority in Buckinghamshire on its own initiative; secondly, any proposal received from Buckinghamshire councils by the Secretary of State—including proposals existing before the regulations are made—may be implemented by order, with or without modification; and thirdly, the requirement for the Secretary of State to consult the councils affected by the proposals and other persons will not apply, reflecting the extensive consultation undertaken by the county council and the subsequent period for representations.

The regulations would expire at the end of March 2021, to allow sufficient time for all necessary orders to be made under the 2007 Act to give full effect to the proposals. The Cities and Local Government Devolution Act 2016 requires that, for regulations made on or before 31 March 2019, at least one of the councils must give its consent for those regulations to be made. Buckinghamshire County Council has given its consent to the making of these regulations.

In conclusion, we are responding to a locally led proposal to replace the existing, unsustainable local government structures in Buckinghamshire with a new council that will be able to deliver high-quality, sustainable local services to the people of Buckinghamshire and provide effective leadership at both the strategic and most local levels. All the existing councils have made clear their commitment to delivering the best services

for Buckinghamshire communities. These regulations open the door to delivering that commitment, and on that basis I commend them to the Committee.

4.33 pm

Jim McMahon (Oldham West and Royton) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Austin. The Opposition do not intend to divide the Committee on these regulations, but we have some questions about the Government's approach, and it would be helpful to get some feedback on those.

We accept that the initiation of a review has been locally led, but that is not the same as saying that the Government's current position has universal support at local level. I will highlight a couple of points: first, as has been mentioned, there was an extensive public consultation to which there were over 3,000 responses. However, only 35% of those who responded supported the proposal for a single unitary council covering the whole of that geography. A greater number of respondents—47%—supported the creation of two unitary councils, so it is not correct to say that the current proposal for a single unitary council has local support. It is also the case that four district councils have opposed the plan that has been tabled.

Of course, the county council is supportive, but that brings me to a further concern: it is my understanding that the Government have decided to impose on the new authority the leadership of the county council leader, and I would like the Minister to explain why the Government think that is appropriate. Surely the leader of any local authority should command the support of that authority, and be either directly elected by the population or elected by the membership of that body; I am not sure that it is in the spirit of localism for the Secretary of State to impose a leader on a local authority. I wonder whether the Minister could point to an example of that action being taken in recent times, so that we can understand a bit more about why the Government have taken that decision. It would always be controversial—there has always been a disproportionate amount of power in a county council compared with the district councils. To move forward in a unified way on a shared platform, surely it would be helpful not to make such a contentious decision right at the start of that new relationship.

My second point is about the drivers for the change. As I understand it, quite a lot of them were the efficiency savings that can be realised when local authorities come together, and I recognise some of the numbers that have been referred to. However, those local authorities combined used to receive £88 million of central Government funding, but by 2020 they will receive zero. Many local authorities around the country are forced to look at new ways of saving money and being efficient—something which many central Government Departments could learn from.

The Government have refused to invest in people-driven services; meanwhile, demand is going through the roof. In particular, in adult social care and children safeguarding, the Local Government Association points to an £8 billion gap in local government funding, which the Treasury has refused to fund. In those circumstances, it cannot be the case that reorganisation is being led solely by the starving of funding from central Government. It is not acceptable that, even when reorganisation is seen as needed, or at least as needing review, central Government come

in and impose a plan, which does not have majority support of those who took part in the consultation, involves a difference of opinion between the district councils and the county council, and in which the Government decide that they, instead of the membership of that new authority, should determine who its leader should be.

The Minister needs to outline why the Government have arrived at that decision and point to a very recent example of such a case that we can look at after considering this statutory instrument, so that, hopefully, we can move forward in a way that creates not just a unified local authority, but a sense of common purpose. If the Government do not listen to local concerns and continue to impose a model from the top down, against local public opinion, against where the district councils in that area are at, and then, on top of that, impose a leader, I fear that that is not in the spirit of localism and will not create a sense of common purpose at all.

4.37 pm

Dame Cheryl Gillan (Chesham and Amersham) (Con): Thank you for calling me to speak, Mr Austin. As you know, I am not a member of this Committee. I am allowed to speak, but unfortunately I cannot vote. I was very surprised to hear the hon. Member for Oldham West and Royton declare that he would not force this particular SI to a vote. Obviously, he has made that decision. I encourage colleagues and Opposition Members to vote against this particular piece of subsidiary legislation.

It falls to me to be the only voice for Buckinghamshire in the room.

Ms Angela Eagle (Wallasey) (Lab): I assure the right hon. Lady that I will say a few words after her in support of the points that I suspect she will make.

Dame Cheryl Gillan: I will take support from any part of the House. Perhaps I should have said that I would be the only elected Member for a Buckinghamshire constituency to speak. The hon. Lady and I have been in this House for exactly the same length of time, so she will forgive me for my inadvertent error. I look forward to some support from her.

When the local government reorganisation propositions were put forward from certain quarters in Buckinghamshire, I was one of the few voices at the time to ask myriad questions of both Secretaries of State who have been involved in these plans. Although I am not intrinsically against local government reorganisation—indeed, it can be very beneficial—I questioned what problems in Buckinghamshire they were trying to solve with this particular set of proposals.

As has been said, the reorganisation was driven by one quarter from the county council and by the local enterprise partnership—one of the LEPs, because unfortunately we have two LEPs in Buckinghamshire. I remain to be convinced that the path the Government have chosen is the best for Buckinghamshire. I am standing up today to represent partly my views, but mostly those of Chiltern District Council, because the constituency of Chesham and Amersham has contiguous boundaries with Chiltern District Council, and if someone is a Chiltern District Council council tax payer they are a constituent of mine.

Chiltern District Council has asked me to speak on its behalf today, because the combined single authority was certainly not its choice. It has said all along that if

there was going to be reorganisation, it should be by evolution, not revolution, and I particularly evidence the fact that Chiltern District Council and South Bucks District Council have been working together for years, putting their back rooms together, if people will forgive that expression. They have both put their administration together to save money for council tax payers and to deliver better and more efficient local services.

I would have thought that that very progress that was being made by those district councils coming together would be the way forward and the way to encourage local government reorganisation. There is also the fact that Buckinghamshire is an exceedingly large area, with great differences between the north and the south of the county, and there is much more synergy between the three southern district council areas than there is between all the four district council areas that make up Buckinghamshire County Council. I am afraid, however, that such a way forward was not to be. Nevertheless, my district authority said on the record that if this reorganisation is going to happen, it wanted to work together with the other councils. Until it saw the detail, that was indeed its plan.

I will just mention a few points that Chiltern District Council has raised with me, because I think that they are important for members of this Committee. When the Cities and Local Government Devolution Act 2016 was passed in this House, the Minister said that it was to overcome obstacles to combined arrangements and devolution. However, the Minister—James Wharton MP, as he was at the time, the Parliamentary Under-Secretary of State—actually said that

“it is indeed the Government’s intention to build that consensus... We are not going to impose change on areas that do not want it.”—[*Official Report*, 7 December 2015; Vol. 603, c. 723.]

While considering an amendment during the passage of that Bill, he said it was important that these matters were delivered in a “straightforward” way as part of a deal, “where there is consensus”.

I think that it is quite obvious that there is not consensus, because sadly four out of the five authorities—the four district councils—did not consent to a single authority. The Minister in the Lords, Baroness Williams of Trafford, who was then the Parliamentary Under-Secretary of State, said, when looking at this area particularly, in a Government response concerning whether a single authority vetoed the change:

“During the passage of the Bill, it became very clear that in certain circumstances, and in particular in relation to structural or boundary change, the consent provisions as initially drafted gave to any single council in an area an effective power of veto over any such change, even if as might be the case in two tier local government, another council in that same area was in favour. The potential for the exercise of such veto may close down consideration and discussion of any such proposals regardless of the wider benefits they could bring to an area or the degree to which they had local support.

Amendment 36 removes that barrier to discussion and consideration of proposals, and, as has been made clear in debate in the Commons, is designed to facilitate the continuation of such wider conversations which it would be hoped would lead to a consensus across the area. We have made very clear that whenever the Secretary of State exercises these powers, he will maintain the preference for consensus, but with this Amendment there is greater flexibility to deliver devolution deals and the underpinning governance which areas want and need.”

I am afraid that there is no consensus.

[*Dame Cheryl Gillan*]

Furthermore, upon consultation I think that people will find that, as was said by the Opposition spokesperson, there was only one survey that was robust in terms of its statistical analysis, and that survey of residents supported two unitary authorities.

Polls of the parishes also showed over 70% support for two unitaries, and there was greater support for two unitaries from business and stakeholders.

The Secretary of State admitted in his written ministerial statement that there was broad local support for two unitaries, so there is no consensus. I therefore ask the Minister to justify the use of section 15(5) of the 2016 Act, with which he will be familiar. It was intended to be used as a last resort. At the time, the Local Government Association worked with parliamentarians “to secure assurances from the Secretary of State that the powers to determine the composition of local governance arrangements and remove functions from local authorities without local consent will be used sparingly and only as a last resort.”

In fact, the Minister, James Wharton, said:

“The Government’s intention is to work with local areas to deliver economically sensible areas of devolution, with structures that sit beneath them that allow those things to be delivered and that potential to be realised.”—[*Official Report*, 7 December 2015; Vol. 603, c. 773.]

There is no devolution deal or combined authority proposal in Buckinghamshire; this is a straightforward local government reorganisation, which, as that junior Minister was at pains to point out, the Secretary of State already has powers to carry out, just as he is doing right now in Northamptonshire by means of an invitation that requires him to carry out local public consultation, so that he properly understands the views of the local area before reaching his decision.

The proposals are not part of a pilot; they are being rushed through. Under section 15(8) of the 2016 Act, the regulation-making power expires—guess when?—on 31 March 2019. The end of March will be such an exciting time. The regulations are being pushed through Parliament before that power expires to circumvent the time limits in the parent Act.

These regulations are being laid before Parliament before the associated order—I have a copy of the draft order here—is laid before Parliament. I think the regulations have been separated from that order to get the regulations through Parliament on time. I understand that officials would advise Parliament to consider the two together; I do not understand why the Minister is not doing that, though if we did, we would not be able to meet the ambitious timetable of the end of March. We know what happens when one is up against timetables: one starts to rush things. I feel strongly that the Committee is being asked to put the cart before the horse, and to judge before we have seen the whole picture.

The Minister mentioned the requirement in the Act for the consent of at least one authority to the regulations being laid before Parliament. Four out of five authorities did not consent. The only authority that consented did so conditionally. The resolution of Buckinghamshire County Council’s cabinet made it clear that it was a subjective consent, based on certain terms in the order that were set out in a letter from the Secretary of State. The order giving effect to the decision set out in the letter is yet to be laid before Parliament.

The county council has said:

“In line with the main report Unitary Transition Arrangements Cabinet is recommended to confirm that the County Council gives consent to the making of the Regulations.”

So far, so good; the council is giving consent. Then comes the rub:

“This consent is on the basis of the Secretary of State’s decision on the draft Structural Changes Order as set out in the letter at Appendix 2 and detailed in the table at paragraph 1 below.”

That order has not yet appeared. The result is that three of our district councils are subjecting the Department to judicial review: Wycombe District Council, South Bucks District Council and my council, Chiltern District Council. They argue that the regulations are ultra vires. I want to hear what the Minister has to say about all of those points. I could probably write his speech for him—they are all going to be brushed aside—but it is important to Chiltern District Council that they are put on the record, so that they are all out in the open.

Dislocating the regulations from the order means asking Members of Parliament to blindly open the door to an order that would impose undemocratic arrangements on Buckinghamshire. As the gentleman who speaks for the Opposition, the hon. Member for Oldham West and Royton said, the imposition of a leader and the usurping of the powers of the shadow executive is likely to result in a new council being created in the image of one of the old ones, Buckinghamshire County Council. That is not a bad council, but the principle is to create a new council that takes the best from all the local councils involved. Effectively giving Buckinghamshire County Council a majority on the executive and potentially imposing that council’s chief executive as implementation leader is not what that process should be about. In addition, without the order, how can Parliament properly scrutinise the modification regulations that are before the Committee?

Creating an irrational executive dominance of the shadow authority—which, as currently drafted, the order that is not before the House does—is going to be a major problem. The functions of the shadow authority will be provided for throughout the order, and will theoretically be extensive: it will have powers to formulate the executive arrangements, the code of conduct and members’ allowances, and must prepare, review and revise an implementation plan. However, in practice, those functions are all but extinguished by article 16, which effectively usurps the shadow authority’s functions. They are to be exercised by the shadow executive itself.

The default position in the order that should come before the House is that the shadow authority is disempowered at the hands and whims of a shadow executive, in a context in which that shadow executive is heavily dominated by the county council and can take any decision by steamrolling over legitimately critical opposition within it. That appears to grant the shadow executive a line of patronage to key offices in the shadow authority, including the appointment of the substantive chief executive of the new council. It reduces those offices’ independence and creates the perception that their scrutiny of the executive is weakened.

I appeal to the Minister to think again. If we are to have local government reorganisation in Buckinghamshire, it will be a once-in-a-generation opportunity to improve local government. Irrespective of any political differences,

all of us in this House strive to provide services to our constituents, and to ensure that local government and services are provided at reasonable cost and with reasonable efficiency. The non-consensual approach that is being adopted by the Government carries with it a high risk of creating a new, but unhappy, council that is not on the road to success and could be on the road to failure. I urge the Minister to try to secure local consent for a model that will genuinely be based on excellence, rather than on short-term expediency and the rapid timetable that he is working to, so that we can be seen to be working in the best interests of our residents. I think that is a goal that we all share, and I look forward to hearing the Minister's response.

4.53 pm

Ms Eagle: It is a pleasure to serve on this Committee under your chairmanship, Mr Austin. I am glad that I am able to follow the right hon. Member for Chesham and Amersham, who has filled in a bit of the local colour that I assumed might exist when I read the documents that the Committee has been provided with. She has raised some extremely important questions, which I hope the Minister has extremely good answers to.

While looking at the documents, I noticed that, funnily enough, effectively all of the smaller local authorities in the Buckinghamshire area that are going to be swallowed up are against what the Minister is suggesting. Four local authorities—South Bucks District Council, Wycombe District Council, Aylesbury Vale District Council and Chiltern District Council, which covers the right hon. Lady's constituency—have rejected the final plans for a unitary authority. It sounds to me, listening to the right hon. Lady's comments a moment ago, that they have reasonable worries, which ought to be properly answered. However, given that the Minister's powers will expire at the end of March, what we have here appears to be a bureaucratically driven exercise, which is trying to force a change through, despite there being plenty of evidence of local worries and a complete lack of local consent to some of these changes.

Does it matter that the people who object happen to come from the smaller district councils, rather than the leviathan county council, which will be empowered, it seems to me, by these plans? It ought to matter to those of us who are interested in local democracy being meaningful. If these kinds of things are to be done appropriately and in a successful way, it is not appropriate for the Minister to do it in a top-down, fast way, empowering the largest and most powerful local authority in the area, so that it can dominate the rest of the authorities that have been swallowed up by it. That will lead to getting off on the wrong foot, resentments, which will not disappear quickly, and the alienation of local people, who believe that their district council is being swallowed up in a way that leaves them with little chance to influence the new unitary authority that is being created.

In my area, we have experience of being forced to become unitary: our metropolitan council—the Merseyside one—was simply abolished, with no consent either, it must be said. That leads to a struggle. Despite the fact that we may in principle want authorities to be unitary, surely, if there is local democracy, there must be a local, democratic way of bringing that about, which does not just mean that the largest fish swallows all the smaller fish, whether they want to be swallowed or not.

It seems to me that in their bureaucratic efforts to get this done and dusted in time, the Government are riding roughshod over perfectly reasonable local interests. The fact that the Government have not seen it fit to lay before Parliament the appropriate documentation, so that we can check the assurances that they say they will give us, is a disgrace. This Committee should not be meeting without the appropriate documentation in front of it.

I hope the Minister will consider withdrawing these regulations, until he can sort himself out and bring to the Committee the appropriate documentation, so that everyone in Parliament can have a proper look at what we are meant to be approving. I certainly hope that if the Minister does not do that, the Opposition Front Bench will consider voting against this proposal.

The proposal is half-baked, it does not have the consent that it claims to have and the Minister has not even bothered to provide the appropriate documentation for us to consider. He ought to go back to the drawing board and come back with all the appropriate documentation. I look forward to him explaining that consent does not mean the consent of four of the five local authorities. It looks to me that there is a reasonable case for judicial review, because of the Government's lack of ability to put before Parliament and the people in Buckinghamshire the appropriate documentation in an appropriate and timely fashion. I look forward to the Minister's response, but I would like him to say that he will withdraw this SI temporarily, and bring it back when he has all his ducks in order and has done the appropriate amount of work.

4.59 pm

Simon Hoare (North Dorset) (Con): It might come as a disappointment to my hon. Friend the Minister and the shadow Minister that I do not intend to reprise my mammoth, 55-minute address in support of the reorganisation of Dorset councils. I just want to make a couple of remarks.

I know the Buckinghamshire area reasonably well, having served for three years as a county councillor on the neighbouring authority of Oxfordshire. I shall address my remarks to my right hon. Friend the Member for Chesham and Amersham. I guess the spur to reorganise broadly replicates the spur that forced Dorset to seek reorganisation, which was better value for money for the taxpayer and the delivery of quality services at a time when—I say this as a vice-president of the LGA—the local government family has sustained a significant and sustained financial hit since 2010. Some 45% of its income has been lost, and that has often acted as an impetus to find new ways of doing things.

I hear what my right hon. Friend says, but we had this in Dorset as well. District councils buddy up and work closely together. They screw the maximum amount of savings out of operational costs, but the pressure for savings and greater efficiencies continues, creating the need to re-engineer the local government architecture.

There is little or no doubt that with any change to local government—I empathise entirely with the viewpoint of my right hon. Friend—people feel a strong emotional tie to their district councils, particularly if they have been good ones. However, I think the Minister is right and that the general thrust of the Government's approach is right. First, Her Majesty's Government look for grassroots-up proposals and not top-down enforcement.

[Simon Hoare]

That is really important because one size clearly does not fit all. There will be different models for different geographies.

Dame Cheryl Gillan: Having sat on the LGA, my hon. Friend will know that the LGA guidance said that this particular enforcement from central Government was intended to be used as a last resort, and that the power to remove functions from local authorities without local consent would be used sparingly. With respect, Buckinghamshire is very different from Dorset, and the change is being imposed on Buckinghamshire. As for the savings, a new entity is being created, so most of the workers will have to be TUPE-ed across, and the savings need to be looked at very carefully because they might not be achieved.

Simon Hoare: I agree with my right hon. Friend on the latter point. On the idea that the powers were to be used “sparingly”, I would say define “sparingly”. My definition would be “not very often”. I am not aware that the Department and the Government have used that power very often. I therefore suggest it has been used sparingly.

Dame Cheryl Gillan: Will my hon. Friend give way?

Simon Hoare: She smiles so beguilingly. Go on.

Dame Cheryl Gillan: My hon. Friend is always charming. In this case, why should Buckinghamshire be singled out as the only one? Why should it be us? Surely we have a voice and a right to be heard? The residents that voted for two local authorities have a right to be heard, but that is being denied to them.

Simon Hoare: I think that is probably a question for the Minister, but in anything that my right hon. Friend read out from earlier correspondence either here or in the other place in reference to the sparing use, I did not hear her say, “but never Buckinghamshire”.

Dame Cheryl Gillan: Buckinghamshire is the only one.

Simon Hoare: Buckinghamshire might be the only one, but the point still applies.

Mr Austin, I do not want to fall into my trap of speaking for 55 minutes. All I wanted to say to the Minister was all power to his elbow, because I think he is rightly focused on assisting local government to chart a way through in order to deliver even better and more efficient services to their taxpayers. He is absolutely right to recognise that universal support or unanimity will never be found in these things. No one council or third party that has a locus in the process should have a right of veto.

I must say to my right hon. Friend the Member for Chesham and Amersham that, although I understand the knee-jerk reaction to dash off for a judicial review, I know, having had one of our councils in Dorset do exactly that against legal advice, wasting both time and precious public money, that it is not something to be entered into lightly. I say to her that of course such proposals stir emotion and great ties of loyalty to a certain geography, and very often the very worst case

scenario is afeared, but we go into our Dorset unitary elections in May, where we have two councils coming forward—because the geography and the scale worked for that—and the organisation and the shadow authority have been working incredibly hard to get it right.

Although the decision may be a disappointment to a number of district councils within the county—disappointment that I understand and with which I empathise—I would suggest that now is the time for everybody with good will towards the electors of Buckinghamshire to put their shoulder to the wheel to make it work, and to deliver for those people who send us either to this place or to the council chamber to serve their needs and best interests.

5.6 pm

Jim Fitzpatrick (Poplar and Limehouse) (Lab): It is a pleasure to see you chairing this troublesome Committee, Mr Austin. I say “troublesome”, as one who is presently reading Isabel Hardman’s book “Why We Get the Wrong Politicians”, which goes to some lengths in attacking the delegated legislation process, and statutory instrument Committees for not doing their job properly. I am not sure whether this Committee fits that description.

I am grateful to the right hon. Member for Chesham and Amersham for attending to defend her local interests. She put some very serious questions to the Minister, to which I am sure he will respond in due course. I share the concerns of my hon. Friend the Member for Wallasey, who said that the Opposition should perhaps vote against the motion. However, I recognise that the shadow Minister, for whom I have high regard and who has considerable experience in local government, did not intervene to indicate that he was likely to change our position. Given that I am in a bit of trouble with my Whips Office at the moment for recent votes, I will follow the shadow Minister this afternoon. Added to that is the fact that the regulations are to be made under local government legislation from 2007. I was just out of the Department for Communities and Local Government at the time, so my dabs might be on the original of this somewhere.

However, I think that the Minister has some questions to answer. There was a similar situation in a Delegated Legislation Committee last week when the Government were challenged by our Front-Bench spokesperson for introducing a document that we believed had been revoked, but the Government were bringing it back. Now they are introducing a piece of legislation that the right hon. Member for Chesham and Amersham says is relevant to an order that has not been laid. They seem to be getting into some kind of a muddle in respect of the order in which papers are to be laid. I very much look forward to the Minister responding to the right hon. Lady and persuading the Committee to follow him, as it looks as though we probably shall.

5.8 pm

Andrew Percy (Brigg and Goole) (Con): It is a pleasure to serve under your chairmanship, Mr Austin. If we are all fessing up to our part in this, as the hon. Member for Poplar and Limehouse did, I feel that I should fess up to mine: I was the Devolution Minister for a period when the proposal was under consideration.

I will respond to a couple of points. I think the premise of the contribution made by the hon. Member for Wallasey was that the regulations were not thought through properly. This proposal has been in the mix for

a number of years. There were lots of engagements when I was the Minister with various stakeholders—different council leaders, and different Members of Parliament. It has done the rounds. I do not want to go too much into Buckinghamshire in particular, because I spent quite a bit of time trying to kick the can down the road—that seems to be Government policy on a number of issues at the moment—in the hope that something would come along.

I want to respond to the point about consent. It is not possible with such reorganisations always to gain consent. Of course it is not unreasonable for local authorities to object to councils being abolished. My own region has been through that experience several times in recent years. Horribly, we were put into a county called Humberside, which never really existed, our borough councils were all abolished, and then we were restructured again when Humberside was abolished. Nobody has been able to create consensus in our region on what local government structures should look like.

I congratulate the Minister on having the chutzpah to proceed with what is generally a fairly sensible reorganisation. Leaving the matter of Buckinghamshire aside, it is time we dealt with this nonsense of two-tier authorities. There is no reason, in this day and age—*[Interruption.]* I am not talking specifically about Buckinghamshire; I do not want to upset my right hon. Friend the Member for Chesham and Amersham.

Dame Cheryl Gillan: Obviously I am talking specifically about Buckinghamshire. The problem is that everybody looks to local government reorganisation to deliver the best possible services at the best possible price for the taxpayer, but the consultations point towards two local authorities. I believe that the original proposals began as a result of Aylesbury Vale District Council wanting to go off on its own, but then the county decided to create a huge leviathan of a council. Surely that is not common sense. Surely people should be listened to. The responses were in favour of two district councils; as my hon. Friend the Member for North Dorset says, the geography lends itself to two councils, not one. There would have been a good consensual way forward, so why are we now in a position where the three southern district councils are judicially reviewing the Government's decision? It seems a sad state of affairs.

Andrew Percy: All that I will say on the geography point is that I represent a constituency in the largest unitary authority in the country and I do not necessarily accept the arguments being made. In local government reform, everybody can always make the argument that a particular solution does not fit the unique geography of their area. It is no surprise that whenever there are reorganisations there is always a district council seeking to create a unitary authority based around itself or one of its neighbours. That is not unusual; there have been similar discussions in the other part of my constituency.

All I will say in response to hon. Members' comments is that this has not been done on the back of a fag packet. There have been years and years of—*[Interruption.]* I know that my right hon. Friend did not say that; I am not suggesting that she did.

Dame Cheryl Gillan: Will my hon. Friend give way?

Andrew Percy: I will finish my point, if I may, but I will give way before I sit down.

There can never be total consensus. When Durham County Council was unitarised in 2009, there were probably people opposed to that. The shadow Minister, the hon. Member for Oldham West and Royton, made a comment about leadership being imposed, but that is not unusual in such reforms. As he will be aware, when we created the combined authority in the Greater Manchester area, the then police and crime commissioner—the hon. Member for Rochdale (Tony Lloyd)—was appointed as interim mayor without any election. Such a situation is not unusual.

Jim McMahon: Will the hon. Gentleman give way?

Andrew Percy: No, because the hon. Gentleman and I sat on all the Delegated Legislation Committees on the matter at the time. I have heard many similar speeches from him, he has heard many similar speeches from me, and I suspect that we have nothing new to add.

Dame Cheryl Gillan *rose*—

Andrew Percy: I will give way one final time to my right hon. Friend, given that the debate affects her constituency.

Dame Cheryl Gillan: I am most grateful. If I felt that this had been done on the back of a fag packet, I would probably have spoken even more vociferously today, but the point is that we hope that the reorganisation will last some years into the future. Reorganisation does not happen every five or 10 years. Across the northern part of the county, we are just about to embark on the Oxford to Cambridge connecting routes, with all the resulting housing development and growth. As part of that, the Aylesbury Vale area will therefore be growing rapidly, despite the objection that with only 300,000 people it is too small. In addition to that rapid growth, we will face all the housing pressures from Slough and Wycombe in the southern areas of the county. It would have made much more sense to go for the consensual option that people want: two authorities. We are creating a monster for the future, and frankly I think it will need reorganisation much sooner than we anticipate.

Andrew Percy: I did not suggest that my right hon. Friend had said that the plans were made on the back of a fag packet; I was referring to another speech. She makes her point, but I consider 300,000 a very small population for an authority and I urge the Government to go much further with reorganisation—I include my own area in that. I have two unitaries, one of which, at 170,000, is too small. We need to come up with proposals to make it a much bigger unitary, potentially by merging it with neighbouring authorities. Some of them would not like that, but it will have to be enforced, if necessary.

I hope that the Minister will have more chutzpah than I did in the same role and will push forward unitarisation. I can be much braver now because I am not the one who has to do the Delegated Legislation Committees and it will not affect my diary quite so much. We really need to deal with the issue. I also ask him to look at the number of councillors. I believe the new authority will have 147—

Dame Cheryl Gillan: Only as a starter.

Andrew Percy: I see. I hope that it becomes a more sustainable figure in future.

5.16 pm

Rishi Sunak: I thank all right hon. and hon. Members for their helpful contributions. It is particularly helpful to have contributions from Members who have served in my Department. I pay particular tribute to my right hon. Friend the Member for Chesham and Amersham for the tenacity with which she has represented her district councils' case, not just today but for many months preceding this debate.

I will take the various issues in turn and pick up on the questions that were posed. I will start by informing the Committee of the Government's general approach to reorganisation, which my hon. Friend the Member for Brigg and Goole touched on. There is a formal set of criteria that my predecessor, the hon. Member for Nuneaton (Mr Jones), outlined when he had this job. The Government will consider locally led and locally developed proposals according to three criteria: that they would improve local government in the area; that they represent a credible geography; and that they command a good deal of local support.

I agree with my right hon. Friend the Member for Chesham and Amersham; the Government received two proposals, both locally developed and led. As my hon. Friend the Member for North Dorset said, there is no top-down imposition here. One of the proposals was received at the end of 2016 and the other at the beginning of 2017. As we have heard, the process has been going on for some time, in order to get this right. When both the current Secretary of State and his predecessor evaluated the proposals according to the criteria, they concluded that both of them satisfied the criterion regarding demanding a good deal of local support.

We heard some statistics earlier, and it might be worth informing the Committee that there was widespread support from everyone for the principle of reorganisation in general, to simplify the local government structure. For example, 75% of survey respondents said that they believed in supporting reorganisation and 87% of the representations received by the Government also supported the principle. Similarly, all public sector bodies and business groups supported in general the principle of local government reorganisation in Buckinghamshire. There was, of course, disagreement about whether it should take the form of a single unitary or two unitaries, but it is worth the Committee knowing that all public sector providers were in favour of the single unitary proposal, as were the majority of respondents to the open questionnaire, which totalled just shy of 2,500, the majority of opinion in the focus groups, the Buckinghamshire Thames Valley local enterprise partnership, Buckinghamshire Business First, which represents about 10,000 local businesses, and the children's services commissioner.

That said, both proposals commanded local support. The question for the Secretary of State, therefore, was whether they both also satisfied the two other criteria for local government reorganisation: improving local government and representing a credible geography. For reasons that have been outlined in various statements, the Secretary of State felt that the proposal for two unitaries was not in keeping with those two criteria. One of the LEPs thought that the proposal did not represent a credible geography, and there was concern, especially from the children's services commissioner, about the fragmentation of services in Buckingham if we went for the option of two unitaries.

As my hon. Friend the Member for Brigg and Goole said, there was a significant question about size. One of the unitaries would have 188,000 people in it, which is considerably below the Government's published recommendation that local government reorganisation should happen in areas in excess of about 300,000 or 350,000. That judgment is based on research and analysis carried out by the Department and others, which suggests that the optimal size for a unitary authority is 400,000 to 600,000. As my hon. Friend said, some smaller unitaries are more concerned about financial stability, their ability to attract high-quality leadership and other such things, given their small scale.

On that basis, the Secretary of State decided to implement this locally led proposal. I would be the first to acknowledge that it came as disappointing news to the district councils, but the Government and I have strived hard to work with them to alleviate their concerns about the implementation of the proposal. I have had a very constructive meeting with all the district council leaders, and my officials have had several meetings with them. We are currently working with them on the nuts and bolts of the implementation of the proposal, and we are making good, constructive progress.

I draw the Committee's attention to the press release that all district councils issued when the decision about this proposal was announced. It said:

"This is a golden opportunity to transform all service provision in Bucks".

I hope that is a statement of their constructive attitude. That is what I have found when dealing with them.

There was mention of a judicial review. I am pleased to quote from the letter received from the district councils, which states:

"The legal action is not intended to frustrate the process of creating a new council. We have been working with our district and county colleagues and will continue to do so."

I thank them for that.

Dame Cheryl Gillan: I judge that the Minister is about to conclude his remarks?

Rishi Sunak: No.

Dame Cheryl Gillan: That is good, as I will have another opportunity to intervene later.

On the judicial review, I think the district councils have taken that action because they feel that not enough progress has been made. If the Minister is now offering me assurances that progress will be made with my district council and the other two district councils involved in the judicial review, that gives me some cause for optimism. Will he perhaps say when he will meet them again, and what progress he has made since the judicial review was instigated?

Rishi Sunak: It would be remiss of me to comment in detail on legal proceedings or the legal strategy that district councils might wish to pursue. I met them right at the beginning of the process to understand their concerns and to ensure that the Government work with all the district councils and the county council to put in place structural change orders that can command widespread support.

The Secretary of State's special adviser is meeting all the leaders tomorrow, and I would be happy—as I always am—to meet them to follow up anything that

requires my attention. We have been discussing things such as the number of councillors, the timing of elections and whether the new authority should be a continuing authority. I am pleased to say that, on almost every item of business that the district councils raised with me, we have been able to meet their requirements. There is of course one sticking point, which is the leadership of the shadow executive. The hon. Member for Oldham West and Royton raised that issue, and I will come to it in a second. I am pleased to say that, on almost every other concern they have, the Government have shown them that we are willing to work with them—as, indeed, is the county council, which also deserves credit for its constructive attitude. I remain positive and optimistic that we can all come together, and that the structural change orders, when finalised, will command broad support from all concerned.

That brings me to the question of leadership. It was alleged that the Government are imposing top-down leadership on the new body. It was said that that is not good for localism and is something that the district councils are concerned about. The hon. Member for Oldham West and Royton asked specifically about precedent. I am pleased to tell him that there are considerable precedents for central Government specifying the leader of a shadow executive or an implementation executive in such situations. He may be keen to know that in the last wave of large unitarisation—carried out by the Labour Government in 2009, in Cornwall, Durham, Northumberland, Shropshire and Wiltshire—the Government specified a particular leader for the shadow or implementation executive in all cases. That was also the case in Bedfordshire and Cheshire. I hope that he feels that there is suitable precedent in that regard, at least from his own party.

We are going one better than that, because we believe in localism. From day one, the shadow executive will have the ability to elect its own leader or change the leader that has been appointed, but it will start with an appointed leader who is named. Thereafter, we are specifically discussing that kind of issue with the district councils. I hope that the hon. Member for Oldham West and Royton is reassured that that outcome respects localism and local choice.

I turn to the specific questions about process and the suggestion that the right papers have not been laid, which is not at all the case. As I outlined, we are discussing the regulations that enable the process to take place. The orders that have been mentioned will be the subject of a full parliamentary debate, such as this one, when they have been finalised after discussions with the district councils. There is no question of Parliament being deprived of the opportunity to scrutinise and debate those orders. I look forward to the contributions of Opposition Members and Members on this side of the Committee who have expressed an interest in those orders when we return for that fixture, hopefully in a few weeks or months.

There is no legal requirement for the structural change orders to be laid at the same time as the regulations. That has been possible in the past but, in this case it was not, as the orders are still being worked on with the district councils. That said, a draft of the orders is very much in development and has been shared with all the district councils as it is being worked on and finalised.

On the suggestion that we did not have the right consent to lay the orders, I am pleased to tell the Committee that we received subsequent and unambiguous consent from Buckinghamshire County Council. If there was any suggestion that its original consent was conditional, I would be more than happy to place a copy of that letter in the House of Commons Library, if that will please hon. Members. I assure them that all suitable consents for the regulations have been sought.

Dame Cheryl Gillan: I have two things to say. First, I read a direct quote, as I understand it, from a letter from the Secretary of State that said that that consent is on the basis of his decision on the draft structural changes order. So that is a strange thing for the Minister to say, when that was set out in a letter—I do not have the date it was sent. Certainly, that is how I was advised by my district council.

Secondly, I hope that we will resolve this and get all our councils working together and pulling in one direction, but there needs to be some meeting of minds and joint working. This morning the county council put out a press release, announcing unilaterally its members of the shadow authority, rather than working with the district councils and announcing that jointly, which is not a strong indication that it will work with the district councils. I hope that jumping the gun and doing things unilaterally will become things of the past. If elected representatives would like the new authority to work positively, they should do things together, not separately or individually—that is a red rag to a bull.

The Minister knows that it has been an uncomfortable time in Buckinghamshire for many reasons, and we would like to see that healed. I am sorry that my colleagues are not here to speak up on such matters from their perspective, but I hope that I have put forward the case of Chiltern District Council and the other district councils that are having problems with the way this is moving forward. I urge him to try to find a speedy solution.

Rishi Sunak: That is a perfect place to conclude. I completely agree with my right hon. Friend. It is time for a fresh start for Buckinghamshire. It is time for people to forget about what has happened in the past, leave aside the tags of district and county, and come together to work for the benefit of residents. I hope that I can work collectively with my right hon. Friend, all hon. Members who are interested in the area and all local government agents in Buckinghamshire, to ensure that we foster that new sense of purpose and of new beginnings. Based on my experience in meetings, I remain positive and optimistic that that is happening. Of course these things are difficult, but we are moving through them positively. I remain confident that, before too long, we will have a happy resolution to all outstanding matters, and that the people of Buckinghamshire can look forward to a bright future.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Buckinghamshire (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2019.

5.31 pm

Committee rose.

