
STATUTORY INSTRUMENTS

1996 No. 1875

LOCAL GOVERNMENT, ENGLAND AND WALES

The Essex (Boroughs of Colchester, Southend-on-Sea and Thurrock and District of Tendring) (Structural, Boundary and Electoral Changes) Order 1996

<i>Made</i> - - - -	<i>18th July 1996</i>
<i>Coming into force</i>	
<i>For the purposes of articles 2(2), 4(1), (3) and (4), 7 to 9 and 11</i>	<i>19th July 1996</i>
<i>For the purposes of article 10</i>	<i>1st April 1997</i>
<i>For all other purposes</i>	<i>1st April 1998</i>

Whereas the Local Government Commission for England, acting pursuant to section 15(4) of the Local Government Act 1992⁽¹⁾, has submitted to the Secretary of State a report on its review of the county of Essex together with its recommendations and a report on its review of Basildon and Thurrock in the county of Essex together with its recommendations:

And whereas the Secretary of State has decided to give effect, with modifications, to the recommendations in respect of the boroughs of Colchester, Southend-on-Sea and Thurrock⁽²⁾ and the district of Tendring:

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 17⁽³⁾, 18(3)(a) and 26 of the Local Government Act 1992, and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been laid before, and approved by a resolution of, each House of Parliament:

(1) 1992 c. 19.

(2) Section 245 of the 1972 Act enables district councils to petition Her Majesty for the grant of borough status. The non-metropolitan districts of Colchester, Southend-on-Sea and Thurrock have been granted that status.

(3) Amended by section 39(4) and (5) of the Police and Magistrates' Courts Act 1994 (c. 29).

PART I

GENERAL

Citation and commencement

1. This Order may be cited as the Essex (Boroughs of Colchester, Southend-on-Sea and Thurrock and District of Tendring) (Structural, Boundary and Electoral Changes) Order 1996 and shall come into force for the purposes of articles 2(2), 4(1), (3) and (4), 7 to 9 and 11 on the day after the day on which it is made, for the purposes of article 10 on 1st April 1997 and for all other purposes on 1st April 1998.

Interpretation

2.—(1) In this Order —

“the Act” means the Local Government Act 1992;

“the 1972 Act” means the Local Government Act 1972;(4)

“the 1990 Act” means the Town and Country Planning Act 1990(5)

“Essex” means the non-metropolitan county of Essex and “the County Council” means the council of that county;

“map” means the map prepared by the Department of the Environment, marked “Map of the Essex (Boroughs of Colchester, Southend-on-Sea and Thurrock and District of Tendring) (Structural, Boundary and Electoral Changes) Order 1996” and deposited in accordance with regulation 27 of the Local Government Changes for England Regulations 1994;(6)

“the relevant date” means 5th May 1997;

“relevant provision” means a provision in any subordinate legislation made under the Act or made, in connection with the Act or such provision, under any other enactment;

“the reorganisation date” means 1st April 1998;

“Southend” means the borough of Southend-on-Sea and “the Southend Council” means the council of that borough;

“subordinate legislation” has the same meaning as in section 21 of the Interpretation Act 1978;(7)

“Thurrock” means the borough of Thurrock and “the Thurrock Council” means the council of that borough; and

“the transferee authorities” means the councils of Southend and Thurrock.

(2) The period beginning with the relevant date and ending immediately before the reorganisation date is specified as the preliminary period for the purposes of any statutory instrument made under the Act.

(4) 1972 c. 70.

(5) 1990 c. 8.

(6) S.I.1994/867, to which there are amendments not relevant to this Order.

(7) 1978 c. 30.

PART II

LOCAL GOVERNMENT REORGANISATION IN SOUTHEND AND THURROCK

Structural change

3. The functions of the County Council in relation to Southend and Thurrock (other than functions under Chapter II of Part II of the 1990 Act in respect of Thurrock) shall, subject to the following provisions of this Part and to any other relevant provision, be transferred to the transferee authorities.

Fire services

4.—(1) In this article —

“the 1947 Act” means the Fire Services Act 1947;⁽⁸⁾ and

“the relevant area” means the area comprising Essex (as constituted on and after the reorganisation date) and the areas of the transferee authorities.

(2) The area of each transferee authority shall, subject to any combination scheme under the 1947 Act, become the area of a fire authority for the purposes of that Act.

(3) For the purposes of the making of a combination scheme with respect to the relevant area before the reorganisation date in accordance with section 10 of the 1947 Act (power to make schemes in advance of alterations to local government areas), section 5(2) of that Act shall have effect, in relation to that area, as if —

(a) in paragraphs (a) and (d) of that subsection, for “the constituent authorities”, wherever those words occur, there were substituted “the council of the county of Essex”; and

(b) in paragraphs (e) and (f) of that subsection, for “any of the constituent authorities” there were substituted “the council of the county of Essex”.

(4) Section 10 of the 1947 Act shall have effect, in relation to the relevant area, as if after the word “but” there were inserted the words “, except so far as it relates to the constitution of an authority as the fire authority for the combined area constituted by the scheme and the performance by that authority of any functions necessary for bringing the scheme into full operation on that date,”.

Planning functions

5.—(1) Any structure plan applying immediately before the reorganisation date to Essex, excluding the area of Thurrock, and any proposals prepared before that date for the alteration or replacement of such a plan shall be treated as if they had been prepared jointly by the County Council and the Southend Council; and section 50 of the 1990 Act⁽⁹⁾ shall apply accordingly.

(2) In relation to the Southend Council —

(a) section 36(5) of the 1990 Act⁽¹⁰⁾ (which provides that a local plan shall not contain policies in respect of minerals or waste) shall not apply;

(b) subsection (1) of section 37 of that Act (minerals local plans) shall have effect as if, after the words “local plan”, there were added the words “or include in their local plan their detailed policies in respect of development consisting of the winning and working of minerals or involving the deposit of mineral waste”; and

⁽⁸⁾ 1947 c. 41; section 10 of this Act is amended by paragraph 2 of Schedule 3 to the Local Government Act 1992.

⁽⁹⁾ Section 50 of the 1990 Act was amended by paragraph 24 of Schedule 4 to the Planning and Compensation Act 1991 (c. 34).

⁽¹⁰⁾ Sections 36 to 38 of the 1990 Act were substituted by paragraph 17 of Schedule 4 to the Planning and Compensation Act 1991.

(c) subsection (2) of section 38 of that Act (waste policies) shall have effect as if, after paragraph (b), there were added the following —

“or

(c) include their waste policies in their local plan.”.

(3) Thurrock Council shall be treated as an authority to whose area Chapter I of Part II of the 1990 Act (“Chapter I”) (unitary plans) applies, instead of Chapter II of that Part (structure and local plans).

(4) For the purposes of paragraph (3) above, Thurrock shall be treated as if it were the area of a local planning authority in a metropolitan county and references in Chapter I to the local planning authority shall be construed accordingly.

(5) The 1990 Act shall have effect in relation to Thurrock as if —

(a) in section 27 (meaning of “development plan” in Greater London and metropolitan counties), for the words “any district in Greater London or a metropolitan county (whether the whole or part of the area of a local planning authority)” there were substituted the words “the district of Thurrock (whether the whole or part of the area of that district)”; and

(b) section 28 (commencement of Chapter I: transitional provisions) did not apply.

(6) Until a unitary development plan becomes operative for the area of Thurrock (or where parts of such a plan become operative on different dates until every part of such a plan has become operative) —

(a) Part I of Schedule 2 to the 1990 Act (which provides for existing development plans to continue in force) shall apply to that area; and

(b) Part III of that Schedule shall apply to it for the purposes of making continuing provision for the transitional matters for which provision was made immediately before the commencement of the 1990 Act by Schedule 7 to the Town and Country Planning Act 1971 (old development plans, etc);⁽¹¹⁾

and Part I of Schedule 2 shall have effect in relation to Thurrock as if the reference in paragraph 1(1) to the commencement of the 1990 Act were a reference to the coming into force of this article.

Constitution of new counties of Southend-on-Sea and Thurrock

6.—(1) Southend and Thurrock shall cease to form part of Essex.

(2) A new county shall be constituted comprising the area of Southend and shall be named the county of Southend-on-Sea.

(3) A new county shall be constituted comprising the area of Thurrock and shall be named the county of Thurrock.

(4) Section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply in relation to the counties of Southend-on-Sea and Thurrock.

PART III

TRANSITIONAL PROVISION

Election of councillors in Southend in 1997 and subsequent years

7. The Borough of Southend-on-Sea (Electoral Arrangements) Order 1975⁽¹²⁾ shall be amended by the substitution of the following article for article 9 —

⁽¹¹⁾ 1971 c. 78.

⁽¹²⁾ S.I. 1975/1698.

“9.—(1) Elections of all councillors for wards of the borough shall be held simultaneously on the ordinary day of election of councillors in 1997.

(2) The councillors holding office for any ward in the borough immediately before 5th May 1997 shall retire on that date and the newly elected councillors for any such ward shall come into office on that date.

(3) Of the councillors elected in 1997 for any ward of the borough —

(a) one-third shall retire in 1999 being, subject to paragraphs (4) and (5) below, the councillor elected by the smallest number of votes,

(b) one-third shall retire in 2000 being, subject as aforesaid, the councillor elected by the next smallest number of votes,

(c) the remaining councillor shall retire in 2001.

(4) In the case of an equality of votes between any persons elected which makes it uncertain which of them is to retire in any such year, the person to retire in that year shall be determined by lot.

(5) If an election of councillors for any ward is not contested, the person to retire in each such year shall be determined by lot.

(6) Where under this article any question is to be determined by lot, the lot shall be drawn at the next practicable meeting of the council after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

(7) In each year in which a councillor for a ward in the borough retires in accordance with paragraphs (3) to (6) above an election of a councillor for that ward shall be held on the ordinary day of election of councillors in that year; and the term of office of councillors elected at such an election shall be three years.

(8) Except as otherwise provided in the foregoing paragraphs of this article, the term of office of councillors shall be four years, and all councillors shall retire on the fourth day after the ordinary day of election of councillors of the borough in the year of retirement, and the newly elected councillors shall come into office on the day on which their predecessors retire.”

Election of councillors in Thurrock in 1997 and subsequent years

8.—(1) The Borough of Thurrock (Electoral Arrangements) Order 1976(13) shall be amended in accordance with the following paragraphs of this article.

(2) The following shall be substituted for article 9 —

“9.—(1) Elections of all councillors for wards of the borough shall be held simultaneously on the ordinary day of election of councillors in 1997.

(2) The councillors holding office for any ward in the borough immediately before 5th May 1997 shall retire on that date and the newly elected councillors for any such ward shall come into office on that date.

(3) The order of retirement of the councillors shall be as set out in Schedule 2 to this Order.

(4) Where the number of councillors elected in 1997 for any ward of the borough is two, the first to retire shall be, subject to paragraphs (6) and (7) below, the councillor elected by the smaller number of votes.

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(5) Where the number of councillors elected in 1997 for any ward of the borough is three —

- (a) one-third shall retire in 1999 being, subject to paragraphs (6) and (7) below, the councillor elected by the smallest number of votes,
- (b) one-third shall retire in 2000 being, subject as aforesaid, the councillor elected by the next smallest number of votes,
- (c) the remaining councillor shall retire in 2001.

(6) In the case of an equality of votes between any persons elected which makes it uncertain which of them is to retire in any such year, the person to retire in that year shall be determined by lot.

(7) If an election of councillors for any ward is not contested, the person to retire in each such year shall be determined by lot.

(8) Where under this article any question is to be determined by lot, the lot shall be drawn at the next practicable meeting of the council after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

(9) In each year in which a councillor for a ward in the borough retires in accordance with paragraphs (3) to (8) above an election of a councillor for that ward shall be held on the ordinary day of election of councillors in that year; and the term of office of councillors elected at such an election shall be three years.

(10) Except as otherwise provided in the foregoing paragraphs of this article, the term of office of councillors shall be four years, and all councillors shall retire on the fourth day after the ordinary day of election of councillors of the borough in the year of retirement, and the newly elected councillors shall come into office on the day on which their predecessors retire.”.

(3) The following shall be substituted for Schedule 2 —

“SCHEDULE 2

Article 9(3)

ORDER OF RETIREMENT OF COUNCILLORS

<i>Name of ward</i>	<i>Number of councillors to retire in 1999</i>	<i>Number of councillors to retire in 2000</i>	<i>Number of councillors to retire in 2001</i>
Aveley	1	1	1
Belhus	1	1	1
Chadwell St Mary	1	1	1
Corringham and Fobbing	1	1	1
East Tilbury	1	0	1
Grays Thurrock North	1	0	0
Grays Thurrock Town	1	1	1
Little Thurrock	1	1	1
Ockendon	1	1	1
Orsett	0	1	1
Stanford-le-Hope	1	1	1
Stifford	1	1	1

<i>Name of ward</i>	<i>Number of councillors to retire in 1999</i>	<i>Number of councillors to retire in 2000</i>	<i>Number of councillors to retire in 2001</i>
The Homesteads	1	1	1
Tilbury	1	1	1
West Thurrock	1	1	1”.

Retirement of councillors and casual vacancies

9.—(1) The ordinary election of councillors in 1997 for the electoral divisions of Essex comprised in Southend and Thurrock(14) shall not take place; and any councillor for such a division holding office immediately before the relevant date who would, but for this paragraph, have retired on that date shall, unless he resigns his office or it otherwise becomes vacant, continue to hold office until the reorganisation date.

(2) Section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall have effect —

- (a) in the case of a casual vacancy occurring in the office of councillor of a transferee authority before the relevant date, as if the reference in subsection (3) of that section to the day on which the councillor whose office is vacant would regularly have retired were a reference to the relevant date; and
- (b) in the case of a casual vacancy occurring in the office of councillor for any electoral division referred to in paragraph (1) above, as if that reference in that subsection were a reference to the reorganisation date.

(3) The electoral divisions of Essex comprised in Southend and Thurrock shall cease to be electoral divisions on the reorganisation date.

PART IV

BOUNDARY CHANGES

Transfers of areas between the borough of Colchester and district of Tendring

10.—(1) The area marked A1 on the map shall be transferred from —

- (a) the borough of Colchester;
- (b) the Wivenhoe St Andrews electoral division;
- (c) the Wivenhoe ward of the borough; and
- (d) the parish of Wivenhoe;

to —

- (i) the district of Tendring;
- (ii) the Tendring Rural West electoral division;
- (iii) the Elmstead ward of the district; and
- (iv) the parish of Elmstead.

(2) The area marked A2 on the map shall be transferred from —

- (a) the district of Tendring;

(14) The electoral divisions of the county of Essex are those described in the Schedule to the County of Essex (Electoral Arrangements) Order 1981 (S.I. 1981/141).

- (b) the Tendring Rural West electoral division;
- (c) the Elmstead ward of the district; and
- (d) the parish of Elmstead;

to —

- (i) the borough of Colchester;
- (ii) the Wivenhoe St Andrews electoral division;
- (iii) the Wivenhoe ward of the borough; and
- (iv) the parish of Wivenhoe.

PART V

ELECTORAL ARRANGEMENTS

Additional councillors in Thurrock

11. For the purposes of any election held on or after 1st May 1997 the number of councillors for the East Tilbury and West Thurrock wards in the borough of Thurrock shall be two and three respectively.

Signed by authority of the Secretary of State

Department of the Environment
18th July 1996

David Curry
Minister of State,

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to recommendations by the Local Government Commission for England (“the Commission”) in respect of the structure of local government in the borough of Southend-on-Sea (“Southend”) and the borough of Thurrock (“Thurrock”), and recommendations in relation to boundaries and electoral arrangements in other districts in the county of Essex.

Article 3 effects the structural changes by providing for the transfer, on 1st April 1998, of the functions of Essex County Council in relation to Southend and Thurrock to their respective councils.

Article 4 makes provision for the purposes of subordinate legislation which may be made under the Fire Services Act 1947 in respect of fire services.

Article 5 makes provision in relation to the structure plan applying to Essex and to enable the local plan prepared by the council of Southend under the Town and Country Planning Act 1990 (“the 1990 Act”) to contain minerals and waste policies. It provides that the council of Thurrock, as local planning authority, shall prepare a unitary development plan for its area instead of separate structure and local plans, and makes consequential modifications of the 1990 Act.

Article 6 provides for Southend and Thurrock to cease to form part of Essex on 1st April 1998 and for new counties of Southend-on-Sea and Thurrock to be constituted on that date (but without county councils).

Article 7 makes provision for a whole council election in Southend in 1997 and for reversion to election by thirds in subsequent years.

Article 8 makes provision for a whole council election in Thurrock in 1997 and for reversion to election by thirds in subsequent years.

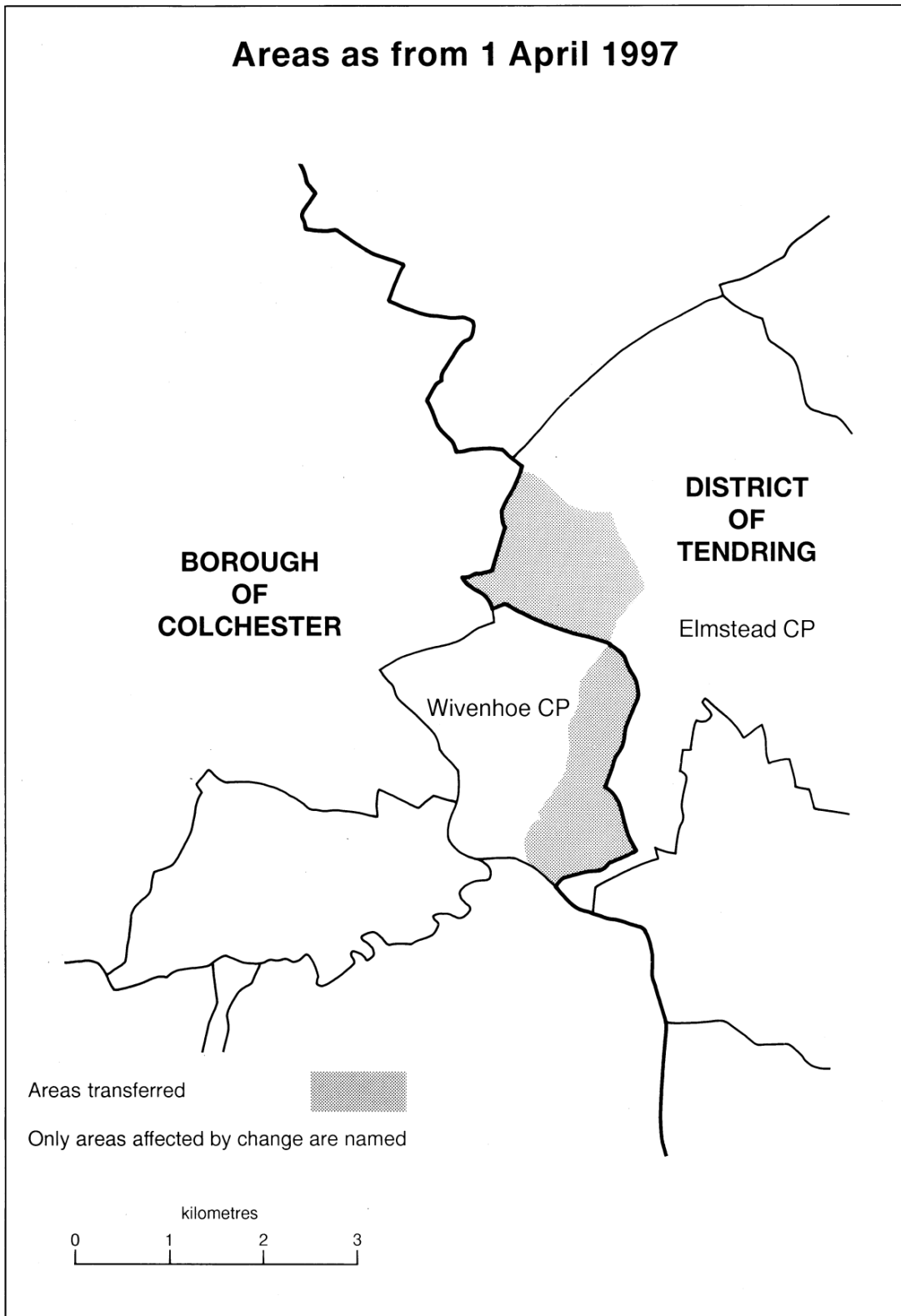
Article 9 provides for the retirement on 1st April 1998 of existing county councillors elected for divisions in Southend and Thurrock. It also provides in respect of casual vacancies in the office of a councillor who, by virtue of the Order, would retire before the day they would regularly have retired.

Article 10 implements recommendations of the Commission in respect of minor changes to the boundary between the borough of Colchester and the district of Tendring. The map forming part of this Note shows, as a general guide only, the areas which are transferred. Prints of the detailed map (described in article 2) may be inspected at all reasonable times at the offices of the county council, the borough council and the district council concerned and, additionally, at the offices of the Secretary of State for the Environment located at 2 Marsham Street, London SW1P 3EB.

Article 11 provides for additional councillors in two wards of the borough of Thurrock in any election on or after 1st May 1997.

map
map

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Based on the Ordnance Survey map

DOE/DDP Services, 1995

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