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Secret Legal Advice that leaves Surrey high and dry?

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The legal advice that forced the nationwide cancellation of local government reorganisation, with the single exception of Surrey because it was too far down the track, will be kept private, the secretary of state said.

It has led to fears the county has been 'thrown under the bus' with Surrey County Council and its 11 boroughs and districts set to dissolve and be merged into two mega authorities under shadowy legal circumstances.

Last year the county was selected to be fast-tracked to undergo generational reorganising. Councils that had stood for more than half a century would be closed down and their services merged – with residents told it would save money.

It was then to be rolled out across the country but this week came the shock announcement the entire process, save for Surrey where elections had already taken place , would be put on ice.

Those who called to see the legal advice that caused the seismic u-turn were told it wasn't government policy to divulge such information.

West Surrey leader Councillor Paul Follows, writing to Angela Rayner, Secretary of State for Housing, Communities, and Local Government, said: "The change in approach to local government reorganisation (LGR) set out in your ministerial statement…has raised several questions about the process undertake in Surrey.

"Your statement referred to legal advice that has informed the position of the present administration of national government, to the effect that the LGR process to date was not sufficiently robust or legally sound."

He said understood Surrey's position, that legislation to create the East and West Surrey Councils had been passed and elections held, but called for the new legal position to be shared so Surrey could best understand its new landscape.

He added: "If that decision making process has been deemed legally faulty or otherwise unsound I would like to ask for the opportunity for my officer to asses the potential impact on West Surrey, and in particular the crucial matters of finance and inherited debt.

"Would it be possible to have a copy of the legal advice on which the government has based its decision to pause the next tranches of LGR.

"I ask this solely to help correct or compensate for any deficiencies now identified by your department and to ensure the residents of West Surrey are not adversely impacted."

Speaking in the House of Commons, Guildford MP Zoe Franklin echoed the call for the legal advice's publication so communities could understand what went wrong with the original process.

She added: "In my own area of Surrey, councils were forced down a reorganisation route that now appears to be effectively abandoned by the Government and questionable on a legal basis.

"Will the Secretary of State commit to meeting Surrey MPs and the new authority leaders to discuss how our county can avoid the risks and uncertainty that the Government say have prompted this decision elsewhere?"

MP Monica Harding, said: "My constituents in Esher and Walton, in Surrey, are left wondering whether they have been thrown under the bus by a Government who failed to be secure in the legal advice and the costs from the very beginning.

"This is incompetent.

"Will the Government release the legal advice? What are the legal implications for Surrey?

"What extra support will she give Surrey regarding the cost implications?"

Surrey Heath MP Al Pinkerton said: "One of the potential unintended consequences of today's announcement is to leave Surrey in the slightly discomfiting position of being in an experimental cohort with a sample size of one, the one county being reorganised under this legislation.

He added: "Do the legal concerns that the Secretary of State has expressed today also relate to Surrey?

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“If Surrey is affected by those legal concerns, what faith should my residents have that this experiment is not going to come fully off the rails before April 1, 2027?”

The Secretary of State said she understood the strength of feeling but told the commons: “I considered the legal advice provided as part of the judicial review process, and the decision to withdraw the decision reflected updated legal clarity.

“It is a long-standing principle that the Government do not publish or comment on legal advice.

“I have been clear that I want to be able to review these decisions to ensure, as the new Secretary of State, that they are the right ones.

“We will consider the programme in the round in the light of the Government’s priorities, as set out in “Rewiring the State”, and Ministers will meet with Members of this House and will set out decisions at our earliest opportunity.”

Asked after the debate whether it would publish the advice, the department reiterated the ministerial statements raised in the commons.

Chris Caulfield Local Democracy Reporter

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Related report:

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