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CHILTERN
District Council

Extraordinary Cabinet

Wednesday, 9 January 2019 at 4.30 pm

Council Chamber, King George V House, King George V Road, Amersham

S U P P L E M E N T A R Y A G E N D A

Item

5 Implementation of a new Unitary District Council (*Pages 3 - 6*)

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Cabinet

Councillors: I Darby (Chairman)
M Stannard (Deputy Leader)
P Martin
M Smith
E Walsh
F Wilson

Date of next meeting – Tuesday, 5 February 2019

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SUBJECT	Supplementary report for Implementation of a New Unitary District Council
RELEVANT MEMBER	Leader, Councillor Isobel Darby
RESPONSIBLE OFFICER	Chief Executive; Bob Smith; bsmith@chiltern.gov.uk
REPORT AUTHOR	Head of Legal and Democratic Services; Joanna Swift; jswift@chiltern.gov.uk
WARD/S AFFECTED	'Not ward specific'

1. Purpose of Report

This supplementary report provides an update on the proposed Structural Changes and Modifications Orders.

RECOMMENDATIONS:

As set out in the main report

2. Content of Report

- 2.1 A working draft of the proposed Structural Changes Order has been shared with the Leaders and Chief Executives. The content of this Order has been subject to informal consultation with the five local authorities and the Secretary of State has made the decisions necessary to determine the content where agreement could not be reached between the authorities. The Table below summarises the decisions made as reflected in the draft Order.

Arrangements	District View	County View	Decision of the Secretary of State
Name	Buckinghamshire Council	Buckinghamshire Council	By agreement
Size of the New Council	Three members per ward (147)	Two members per ward (98)	Three members per ward (147)
Election dates and cycles	Electoral cycle for the new Council to be 2020, 2025, 2029	Electoral cycle for the new Council to be 2020,2025,2029	By agreement
Shadow Authority Membership	All existing members (202)	Equal (49:49) District and County membership (98)	All existing Members (202)
Shadow Executive Membership	Equal representation from each of the 5 Councils	Majority of County members	17 members: 8 from the Districts, 8 from the County plus County Leader

Shadow Executive Chairman	To be elected by the Shadow Authority	To specify the County Council Leader	To specify the County Council Leader with a District Council nominee as Deputy.
Appointment of Interim Officers	To be appointed by the Shadow Authority	To be appointed by the Shadow Executive	To be appointed by the Shadow Executive following consultation with the Shadow Authority.
Officer to set up the first meeting of the Shadow Authority	Proper Officer of Wycombe District Council	Proper Officer of County Council	Both officers with the WDC Proper Officer as deputy
Officer to lead Implementation Team	To be appointed by the Shadow Authority	The Chief Executive of the County Council	The Chief Executive of the County Council. The deputy to be a District Council Officer.

- 2.2 A draft of a proposed Modification Order made under the Cities and Local Government Devolution Act 2016 has also been shared with Leaders and Chief Executives. The effect of this Order is explained in more below.

Consent to transition to a new Unitary District Council

- 2.3 The Structural Changes Order will be made under the provisions of the Local Government and Public Involvement in Health Act 2007. This Act requires amongst other things, that an invitation is made by the Secretary of State to all the Councils in the area. If there is no such invitation then a modification to the legislation is required. The Modification Order is made under the provisions of either section 15 (4) or 15 (5) of the Cities and Local Government Devolution Act 2016. The Secretary of State has two options under the 2016 Act. He must either have the consent of all Councils under subsection 4.

(4) Regulations under this section may be made only with the consent of the local authorities to whom the regulations apply (subject to subsection (5)).

Or he can make regulations under subsection 5 in relation to structural or boundary provision which will require the consent of only one Council.

(5) Regulations under this section, so far as including structural or boundary provision in relation to a non-unitary district council area, may be made if at least one relevant local authority consents.

- 2.4 This latter provision is time limited and will expire at the end of March 2019. This means that if for any reason there is insufficient Parliamentary time to make the Order then it will not be possible to do so without the consent of all five Councils. Subsections (5) to (7) expire at the end of 31st March 2019 (but without affecting any regulations already made under this section by virtue of subsection (5)).
- 2.5 In summary therefore Subsection (4) requires the consent of all local authorities, whereas subsection (5) requires the consent of just one. Subsection (5) expires at the end of March. Subsection (4) does not expire.
- 2.6 The proposed modification sets aside the requirement to invite local authorities to make submissions (the County Council made its submission without a formal invitation from the Secretary of State). It also sets aside the requirement to carry out public consultation. It also removes the discretion to consult the Local Government Boundary Commission for England. Instead the Secretary of State is able to proceed to make a decision with the consent of the relevant local authorities and on the basis of the proposal received from the County Council.
- 2.7 The Secretary of State will have to specify the relevant subsection when he lays the regulations and so will need to know whether he is relying on the consent of one authority (and therefore must ensure the legislation makes its way through the parliamentary process before the end of March) or whether he has the consent of all five (and there is no deadline for the legislation to be made). If just one authority does not consent the regulations will be made under subsection (5). The proposed Parliamentary timetable would ensure the Orders are made before the expiry of subsection (5).

3. Consultation

As set out in the main report.

4. Options (if any)

As set out in the main report.

5. Corporate Implications

As set out in the main report.

6. Next Steps

- 6.1 The draft Orders are scheduled to be laid in Parliament as soon as practicable on or after 14th January 2019 and should appear on the parliamentary website that day or the day after. They would then subject to the affirmative Parliamentary procedure

referred to in the main report. This process is expected to be completed before 31 March 2019.

- 6.2 Once the Orders come into force the first meetings of the Shadow Authority and Shadow Executive must take place within 14 days and 21 days respectively. The first meetings are required to consider the Implementation Plan, the budget and the forthcoming calendar of meetings, as well as decisions about the interim officer appointments.
- 6.3 The officers of the five Councils are already engaged in working together to draw up the schedule of activity necessary to deliver the transition which will form the basis of the Implementation Plan.

Background Papers:	Council Report 16th January 2017 Council Report 11th April 2018 Council Report 27 November 2018 Submission of the District Councils to the Secretary of State
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