



Extraordinary Cabinet

Wednesday, 28 November 2018 at 5.00 pm

Room 6 - Capswood, Oxford Road, Denham

SUPPLEMENTARY AGENDA

Item

4. Implementation of the New District Unitary Council (*Pages 3 - 9*)

Appendix 1: Written Ministerial Statement - HCWS1058 (Pages 10 - 11)

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: N Naylor (Leader)
J Read (Deputy Leader)
B Gibbs
P Hogan
D Smith
L Sullivan

Date of next meeting – Wednesday, 12 December 2018

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SUBJECT:	<i>Implementation of a New District Unitary Council</i>
RELEVANT MEMBER:	<i>Leader, Councillor Nick Naylor</i>
RESPONSIBLE OFFICER	<i>Chief Executive; Bob Smith; bob.smith@southbucks.gov.uk</i>
REPORT AUTHOR	<i>Head of Legal and Democratic Services; Joanna Swift; Joanna.swift@southbucks.gov.uk</i>
WARD/S AFFECTED	<i>'Not Ward Specific'</i>

1. Purpose of Report

This report seeks Members' approval to the process for agreeing the wording of representations to be made in response to the Written Ministerial Statement ("WMS") made by the Secretary of State for the Ministry of Housing, Communities and Local Government, James Brokenshire on 1 November 2018. It also seeks to ensure that sufficient resources are available to enable the authority to respond to the requirements of the proposed Structural Change Orders and to support transition within the Council.

RECOMMENDATIONS TO COUNCIL

- 1. That the wording of the representations to be made in response to the Written Ministerial Statement and the proposed content of the Structural Change Orders on single tier arrangements for Buckinghamshire be delegated to the Chief Executive in consultation with the Cabinet Leader.**
- 2. To note that the Leader will continue to take part in discussions with the County Leader, Ministers and other parties with a view to taking forward the implementation provided that where decisions are required from this authority these will be made in accordance with existing governance requirements.**
- 3. To set aside a provisional budget in 2019/20 for the delivery of the implementation to include the proportion of the costs of the Shadow Authority as may be required, project management resource and provision for potential redundancy costs in 2019/20 that may fall directly to South Bucks District Council subject to a review at year end by the Director of Resources in consultation with the Portfolio Holder for Resources.**

2. Reasons for Recommendations

To respond to the WMS of 1 November 2018 and to seek to secure the best arrangements for the delivery of services to the residents of South Bucks District.

To enable the Council to meet the legal requirements of the proposed Structural Change Orders including the provision of the Shadow Authority budget and project management support.

3. Content of Report

- 3.1. Members will recall that on 16 January 2017, South Bucks District Council alongside the other three District Councils agreed to submit a proposal to the then Secretary of State for the Ministry of Communities and Local Government for a single tier arrangement for the existing two tier part of the County of Buckinghamshire comprising two new Councils one in the north covering the current area served by Aylesbury Vale District Council and one in the south covering the areas served by Wycombe, Chiltern and South Bucks District Councils.
- 3.2. Members will also recall that in September 2016 Buckinghamshire County Council (BCC) submitted a proposal for a single tier arrangement comprising a single council covering the area currently administered by BCC.
- 3.3. The Secretary of State delayed consideration of both proposals until after the general election which took place in June 2017 and further until 12th March 2018 when he announced his intention to support a single tier council but to have only one council covering the whole of the current administrative area of BCC.
- 3.4. The Council together with the other District Councils submitted detailed representations to the Secretary of State in support of a two unitary arrangement. The representations demonstrated that there was broad local support and consensus for a two unitary proposal. However, the Secretary of State, James Brokenshire, has concluded that the two unitary arrangement does not meet the requirement for improved local government and a credible geography. As a result he announced a decision in favour of a single new unitary District Council for the area in a Written Ministerial Statement (WMS) attached at Appendix 1.
- 3.5. So that final adjustments to any wording can be made quickly and in order to comply with the timetable set out by MHCLG, it is proposed that the Chief Executive has the ability to finalise the wording of representations on the WMS and associated Orders in consultation with the Cabinet Leader.

The Written Ministerial Statement (WMS)

- 3.6. The WMS makes it clear that the decision is to implement the proposal made by BCC to create a single unitary council. The statement includes some matters which are decided and other matters which he intends to consult on before reaching a decision.

Decisions

- 3.7. The new authority will be implemented on 1st April 2020 and that elections to the Council will take place on 7th May 2020.
- 3.8. A new Council will be created and there will be no continuation of any existing Councils. The decision is to implement a proposal to replace all 5 existing councils including the abolition of the county council (as BCC itself proposed) and to replace them with a single new District Council for Buckinghamshire.

Matters for Consultation

- 3.9. The WMS suggests a modification to the proposal put forward by BCC. Instead of the 98 councillors proposed by BCC the WMS suggests there could be 3 members per County division which would result in 147 members. This is something that the Minister is open to but not yet decided upon.
- 3.10. The WMS also includes a proposal to consult the District Councils about whether the election due to be held in 2019 should be postponed to avoid District councillors being elected for a single year, if Parliament approves the Order. This suggestion is open to representations from the District Councils only (as these are District Council elections).

The Consultation Process

- 3.11. The Chief Executives met with civil servants within the MHCLG and were advised of the process for parliamentary approval of the draft Orders to give effect to the WMS. The Orders are very similar to Orders which have previously been approved in relation to the new unitary councils in Dorset.
- 3.12. There are different ways in which secondary legislation can be made. The legislation relevant to this decision requires what is known as the approval process. This is important because it requires the positive approval of both Houses of Parliament. The Electoral Arrangements order is in contrast by a negative process which simply requires that an order is laid and if there is no objection within the relevant number of days the order will come into force. The approval process is a longer process and

will require the orders to be laid in time for the passage through both houses of Parliament.

- 3.13. The civil servants have advised that the Orders will be laid on 14th January 2019. To meet that timescale they will need to have the final content agreed in early December and representations from the Councils need to be made by 30th November 2018 at the latest.

The Content of the Structural Change Orders

Creating the new District Council

- 3.14. The Orders used for some previous reorganisations such as Durham, Wiltshire and Cornwall for example, were continuing authority Orders. These provide that a new District area is created which coincides with the County area but there is no Council for that area, as the County Council is in existence and will continue. The District Councils are abolished and the Orders provide for District Council functions to be transferred to the County.
- 3.15. In contrast the recent Orders for the reorganisation in Dorset provide that a new District area is created to coincide with the County area but in this case the County is abolished and a new District Council is created. The existing District Councils are also abolished.
- 3.16. The civil servants have provided the content of the proposed Buckinghamshire Structural Change Orders which is consistent with the Orders used in Dorset and this position has been confirmed by the Minister for Local Government.

Shadow Arrangements

- 3.17. The Order sets out provisions for the proposed shadow arrangements in Buckinghamshire. This includes an implementation process which establishes a new shadow authority comprising all the members of the existing District and County Councils. That body will have the transition powers and will carry them out through a smaller Shadow Executive which will make the day to day transition decisions.
- 3.18. The duties of the Shadow Authority include:-
- Approving an Implementation Plan
 - Designating the interim statutory officers (head of paid service, chief financial officer and monitoring officer)
 - Designating the Returning Officer for the 2020 elections
 - Formulating proposals for the executive arrangements, code of conduct and scheme of member allowances for the new Council
 - Preparing budgets and plans required by the new Council

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- Liaising with the Districts and BCC to ensure continuity in the delivery of public services from 1 April 2020
- 3.19. There will also be an Implementation Team made up of District and County employees who will be responsible for carrying out the Implementation Plan which will need to be approved by the Shadow Authority.
- 3.20. Unlike previous processes for developing new unitary councils these arrangements are collaborative and allow the District and County Council to work together to set up the new arrangements. This process was developed by the Councils in Dorset which started out the development of their submission on a conciliatory and joint approach.
- 3.21. The Order also imposes the following transitional duties on the County and District Councils:-
- To take the necessary steps to prepare for transferring their functions, property, rights and liabilities to the new Council
 - To consult and co-operate with one another and with the Shadow Authority in order to secure economic, effective, efficient and timely transfer of their functions, property, rights and liabilities
 - Generally to exercise their functions so as to further the purposes of the Structural Changes Order
 - To co-operate in the formation of the Implementation Plan and release the officers concerned from their normal duties as reasonably required
 - Provide such information about their functions as is reasonably required to give effect to the Order

The Proposal

- 3.22. The Draft Statutory Orders provide that their purpose is to implement the proposal for a single Unitary Council submitted by BCC as set out below.

Our proposition is to abolish the county council and the four district councils and establish a brand new, county-wide single unitary council at the forefront of modern local government, committed to improving the quality of life and wellbeing for all local residents, designed to engage effectively with each of the multiple communities county-wide, and to develop a prosperous and sustainable future for Buckinghamshire.

- 3.23. The Orders will not implement the proposal put forward by the District Councils for two unitary Councils in Buckinghamshire.
- 3.24. The Orders do however provide that in carrying out the implementation, the Shadow Authority only has to 'have regard' to the information provided by the County in support of their proposal.' The term 'information' refers to the Business Case and

'blueprint' set out in BCC's submission. The District Leaders have sought clarification from MHCLG about the extent to which the Shadow Authority has to follow this information. It has been clarified that the Shadow Authority will need to consider the information, but does not have to follow it. It is also possible that the Shadow Authority could be required to have regard to the information provided in support of the District Council proposal, provided that it is not inconsistent with the County Council proposal set out above. The Shadow Authority could decide to follow the information in the District proposal in preference to the information included in BCC's.

The Name of the Council

- 3.25. In the Durham reorganisation the County Council continued and no new body was created. As a result the new authority is still called Durham County Council.
- 3.26. However, as a new Council is being created in Buckinghamshire there is an opportunity to give this Council a new name which is not the name of the previous County Council. The District Council Leaders have suggested that the name Bucks Council is short and easy to read and say. It is consistent with a wide range of organisations who specialise in providing services to vulnerable people and therefore promote accessibility. It is also a name preferred by organisations such as Bucks New University who are seeking to appeal to a younger generation. Buckinghamshire will continue to be the name of the historical County which includes the area covered by Milton Keynes Council and is the name of the original shire County. The new District Council is not co-terminus with the old shire and it is not a County. It is therefore an appropriate time to find a new name which better describes the future area of the new District Council.
- 3.27. The Minister for Local Government has however indicated that he will be advised by local people about the name and it would not be appropriate for this to be a matter decided by those who do not live in the area.

The Shadow Executive

- 3.28. The arrangements for the Shadow Executive will be key to driving this forward. It is therefore important that there is a broad spread of representation from the different authorities and different geographical parts of the area so that the needs of all residents can be properly represented. Arrangements for the Shadow Executive will need to be set out in the Order and will form part of the matters about which all five Councils will be consulted before the final Orders are laid.

The Negotiations

- 3.29. The Leader, together with the other District Council Leaders and Chief Executives met with Rishi Sunak, Minister for Local Government. The Leaders have also met with the Leader and Chief Executive of the County Council.
- 3.30. These meetings have led to some agreement between the authorities about the decision to defer the 2019 Elections and for elections to occur in 2020, and then five years later in 2025. These arrangements remain subject to a final decision from the Secretary of State and a Parliamentary Order.
- 3.31. The shadow arrangements and other details within the Orders remain subject to further negotiation at the time of writing this report. Final representations can be made until 30th November 2018. After that date all matters will be subject to a decision from the Secretary of State. The final drafting and preparation will be carried out before the Orders are laid on 14th January 2019.

Conclusions

- 3.32. The Chief Executive will ensure that South Bucks District Council is able to make appropriate representations in conjunction with the Leader of the Council and the Leaders of the other three District Councils for Buckinghamshire.

4. Consultation

The proposal for two unitary councils was the subject of stakeholder consultation and engagement.

5. Options (if any)

As set out above.

6. Corporate Implications**6.1 Financial**

This report refers to some financial provisions which will be required as transition work progresses.

6.2 Legal

This report supports the implementation of legislative change which will have fundamental implications for the future of the Council.

7. Next Steps

The extraordinary meeting of Council will be asked to consider the Cabinet recommendations.

Background	Council Report 16th January 2017
Papers:	Council Report 9th April 2018 Submission of the District Councils to the Secretary of State

Local Government Update: Written statement - HCWS1058

WS Ministry of Housing, Communities and Local Government

Made on: 01 November 2018

Made by: James Brokenshire (Secretary of State for Ministry of Housing, Communities and Local Government)

HCWS1058

Local Government Update

In the written statement of 12 March 2018, (HCWS535), my Rt Hon. Friend, the then Secretary of State for Housing, Communities and Local Government (Sajid Javid), told the House that there was consensus amongst the five Buckinghamshire councils that local government across the county should be reorganised, and that two alternative approaches for doing this were being proposed. He announced that he was minded to implement, subject to Parliamentary approval, the locally-led proposal for replacing the current structures with a single new unitary council, and that he was not minded to implement the locally-led proposal for two new unitary councils for the same area. There followed a period for representations.

Since then I have received over 3,000 representations, which I have carefully considered along with all other relevant information available to me. I am clear that there is broad consent for change in Buckinghamshire. A survey, conducted by Opinion Research Services of a representative sample of residents, found that 75 per cent agreed with the principle of reorganisation in Buckinghamshire, and overall 87 per cent of the representations made to me supported change. Both proposals made it clear that retaining the status quo is not an option.

Having assessed both proposals against the criteria that we announced to the House on 28 February 2017 (PQ 65271), I have concluded that whilst both proposals meet the criterion for a “good deal of local support”, only the proposal for a single unitary council satisfies the criteria for “improving local government” and for “being a credible geography” and that in any event the proposal for a single unitary council is better able to meet the criteria overall.

The Government’s policy – as explained to the House by Ministers on 22 May 2018 (Hansard, Col. 336WH) is that we will not seek to impose top-down solutions on local government; where there is a desire and a thrust for more change and innovation we will look to support those involved, according to the criteria we have laid out. Given the desire and thrust for change and innovation in Buckinghamshire, that the five councils agree that the current structures are not sustainable, and that the locally-led proposal for a single unitary is the only proposal that meets the three criteria, I am persuaded that the right course of action is to establish a new single unitary district council for Buckinghamshire.

Accordingly, I am today announcing that I have decided to implement, subject to Parliamentary approval, the locally-led proposal to replace the existing five councils across Buckinghamshire – the two tier structure of Buckinghamshire County Council and the district councils of Aylesbury Vale, Chiltern, South Bucks and Wycombe – by one new single unitary district council, and that I have decided not to implement the proposal for two new unitary councils.

Whilst I am clear that the single unitary proposal fully meets the three criteria, I recognise that some have questioned whether such a structure might weaken local democratic engagement at the most local level. To help reassure any who might be concerned on this, I intend to speak with the five councils to determine whether I should modify the proposal before implementing it, in relation to councillor numbers, perhaps providing for three-member electoral wards. I will also expect the new unitary council, and in the meantime the existing councils, to engage with their local communities about the appropriate arrangements for civic representation for towns and parishes. I similarly expect the councils to promote and help support the development of neighbourhood plans, as I consider these can be key building blocks for the successful implementation of change in Buckinghamshire that residents deserve.

In March, the then Secretary of State was clear that, in relation to establishing a single council, further steps were needed to secure local consent amongst the local partners. Further steps have been taken, with Ministers having meetings with council leaders. The great majority of local partners do support the proposal for a single unitary council including the police, the ambulance service, CCG, NHS Trust, Independent Chair of the Adult Safeguarding Board, Thames Valley Local Enterprise Partnership, and Bucks Business First. In addition to enjoying a good deal of local support, I am satisfied that the proposal meets the requirement for local consent set out in the Cities and Local Government Devolution Act 2016.

I now intend to prepare and lay before Parliament drafts of the necessary secondary legislation to give effect to my decision. My intention is that if Parliament approves this legislation the new council will be established on 1 April 2020 with the first elections to the council held on 7 May 2020. I intend to explore with the district councils whether they would like me to make and lay before Parliament an Order to delay for one year the May 2019 local elections in Aylesbury Vale, Chiltern, South Bucks and Wycombe, so as to avoid councillors being elected for only one year if Parliament approves the legislation establishing the new council.

From March 2019 the sunset clause means that the consent provisions in the process we are currently using for reorganisations fall away. In future, any proposal considered under the Cities and Local Government Devolution Act process will require unanimous consent from all councils. Alternatively, I may issue a formal invitation for proposals, and the specific circumstances in which I would do so will be set out in due course.