

South Bucks District Council

Cabinet Decision Notice

Notice is given that the following decisions have been taken by Cabinet on Friday, 25 January 2019

4 **Implementation of a New District Unitary Council**

(a) DECISION:

Due to the requirement for any legal proceedings to be issued as a matter of urgency because the Regulations in question have already been laid in Parliament, an urgent decision was required by Cabinet to decide if the Council should participate in legal proceedings. As required by the Budget and Policy Framework Procedure Rules the Chairman of the Overview and Scrutiny Committee agreed that the decision to be taken by Cabinet was urgent and it was not practical to convene a quorate meeting of full Council.

The report provided an update on the proposed creation of a new District Unitary Council, following Cabinet's decision on 9 January 2019 not to consent to the Secretary of State's proposed Modification Regulations under section 15 of the Cities and Local Government Devolution Act 2016. Cabinet were asked to consider whether it was expedient for the promotion or protection of the interests of the inhabitants of South Bucks District to participate in legal proceedings for judicial review of the Secretary of State's decisions in respect of the Modification Regulations and the Structural Changes Order, either alone or jointly with other District Councils which could be undertaken under section 222 of the Local Government Act 1972.

RESOLVED that:

1. Cabinet note the current position in respect of The Buckinghamshire (Structural Changes) (Modification of the Local Government and Public Involvement in Health Act 2007) Regulations 2019 and The Buckinghamshire (Structural Changes) Order 2019
2. the Council participates in proceedings for judicial review of decisions taken by the Secretary of State for Housing, Communities and Local Government in respect of the Regulations and Order referred to in 1 above, under section 222 of the Local Government Act 1972.

3. the costs of any legal proceedings should be met from the General reserve in accordance with urgency provisions under the Budget and Policy Framework Procedure Rules.
4. the Head of Legal and Democratic Services in consultation with Leader and Chief Executive be authorised to agree any necessary legal documentation required in the course of legal proceedings and to deal with any settlement, compromise or withdrawal of proceedings.

(b) REASON FOR DECISION:

The Cabinet, after careful consideration of the legal advice provided by the Head of Legal and Democratic Services in private session, were satisfied that there were grounds for challenging the decisions made by the Secretary of State in respect of the Modification Regulations and Structural Changes Order implementing a new unitary District Council in Buckinghamshire, and that to do so was necessary for the promotion and protection of the interests of the inhabitants of South Bucks District. The constitutional arrangements proposed in the Order were considered to be unbalanced and undemocratic and there were procedural flaws in how the Secretary of State had dealt with the Modification Regulations and the Order. As the Regulations had already been laid in Parliament and the Secretary of State intended to make them before 31 March 2019, any legal proceedings, associated documents and legal steps must be issued/undertaken with the utmost urgency.

(c) ALTERNATIVE OPTIONS CONSIDERED:

That the Council does not challenge the decisions taken by the Secretary of State for Housing, Communities and Local Government in respect of the Modification Regulations and Structural Changes Order implementing a new unitary District Council in Buckinghamshire by way of judicial review.

(d) CONFLICTS OF INTERESTS/DISPENSATIONS:

Councillors Gibbs and Sullivan declared a personal interest under the Code as Members of Buckinghamshire County Council

Date Published:	25 January 2019	Date to be implemented:	25 January 2019
------------------------	-----------------	--------------------------------	-----------------

Urgent Implementation: Under Rule 4.2 of the Council's Overview and Scrutiny Procedure Rules the Chairman of the Overview and Scrutiny Committee has agreed to urgent implementation of the Cabinet's Decision without the call-in procedure applying due to the requirement for any legal proceedings to be issued as a matter of urgency because the Regulations in question have already been laid in Parliament.