

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

NOTICE OF URGENT IMPLEMENTATION

Under Rule 4.2 of the Council's Overview and Scrutiny Procedure Rules the Chairman of Overview and Scrutiny Committee has agreed to urgent implementation of the Cabinet's Decision without the call-in procedure applying because the MHCLG require the Council's decision on consent to proposed structural change in Buckinghamshire by 10 January 2019, to enable the necessary legislation to be laid in Parliament.

1. Purpose of Report

This report provides an update on the proposed creation of a new unitary District Council since the Cabinet and Council meetings on 27 November and invites Cabinet to consider whether the Council should formally consent to the Secretary of State's proposals under section 15 of the Cities and Local Government Devolution Act 2016.

RECOMMENDATIONS

- 1. That Cabinet note the current position in respect of the proposals for creation of a new single tier Unitary District Council in Buckinghamshire.**
- 2. That Cabinet consider whether the Council should consent to the Secretary of State's proposals under section 15 of the Cities and Local Government Devolution Act 2016.**
- 3. That the Chief Executive in consultation with the Leader be authorised to finalise the Council's formal response to the Ministry of Housing, Communities and Local Government.**

2. Reasons for Recommendations

To enable Cabinet to consider whether to give formal consent to the proposed creation of a single tier unitary District Council in Buckinghamshire and for a response

to be given by the government's deadline of 10 January 2019 to comply with timescales for laying the necessary Statutory Instrument in Parliament.

3. Content of Report

- 3.1. On 28 November Cabinet and Full Council considered the Secretary of State's decision of 1 November to create a single tier unitary District Council in Buckinghamshire from 1 April 2020, with elections to the new Council taking place in May 2020 and a proposal to postpone the local elections due to take place on 2 May 2019 to avoid District Councillors being elected for a single year, if Parliament approves the legislation establishing a new unitary Council.
- 3.2. Having noted members' views expressed at both Cabinet and Full Council, representations were submitted to the Secretary of State by the Leader in response to the unitary proposals. The Leader has continued to take part in discussions with the County Leader, other District Leaders, Ministers and other parties with regard to the contents of the draft Buckinghamshire Structural Changes Order and will update Cabinet verbally on matters arising since this report was written.
- 3.3. An update on specific issues is set out below;

Local Elections in May 2019

- 3.4. All Councils agreed that it was appropriate to postpone the Local Elections due to be held on 2 May 2019 until May 2020. On 14 December the necessary Orders were laid in Parliament to formally postpone the 2019 District and Parish elections until 7 May 2020. The Order is subject to the negative procedure for Statutory Instrument and is due to come into effect on 18 January 2019.

Draft Buckinghamshire Structural Changes Order

- 3.5. The new authority will be implemented on 1st April 2020 and elections to the Council will take place on 7th May 2020. It has been agreed by all Councils that the first term of the new Council will be for 5 years with elections being held in May 2025 to coincide with local elections held in that year.
- 3.6. A new unitary District 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.

Number of Councillors

- 3.7. The Secretary of State's announcement suggested a modification to the proposal put forward by BCC in terms of the number of members elected to the unitary Council. Instead of the 98 councillors proposed by BCC it was suggested there could be 3 members per County division which would result in 147 members. This was supported by all the District Leaders as addressing some of the democratic deficit arising from the unitary proposal but currently there is no consensus with BCC on this issue. A local government boundary review would, in any event, take place during the first term of the new Council.

Shadow Authority

- 3.8. 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. BCC has proposed an alternative that the Shadow Authority comprise an equal number of County and District Councillors. This is not supported by the District Leaders. With regard to voting on the Shadow Authority a consensus has been reached that dual-hatted members will only have one vote.
- 3.9. The Shadow Authority will have the transition powers and will carry them out through a smaller Shadow Executive Committee which will make the day to day transition decisions.

Shadow Executive Committee

- 3.10. The arrangements for the Shadow Executive will be key to driving implementation of the new Council forward. The District Leaders therefore consider it is 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. The composition of the Shadow Executive needs to be set out in the Order including the number of Members and arrangements for electing the Executive Leader. Currently there is no consensus on these issues.

Name of the new Council

- 3.11. Consensus has been reached that the new Council will be called Buckinghamshire Council.

The Proposal

- 3.12. As drafted the Structural Changes Orders provides that the purpose is to implement the proposal 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.

3.13. The Orders do not implement the proposal put forward by the District Councils for two unitary Councils in Buckinghamshire but 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 MHCLG have clarified that the Shadow Authority will need to consider the information, but does not have to follow it. Therefore the District Leaders have proposed that in the final Order the Shadow Authority should 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.

Councils' Obligations

3.14. 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

3.15. The Councils must also provide such information about their functions as is reasonably required to give effect to the Order.

4. Consultation

The alternative proposals for structural change in Buckinghamshire have been the subject of stakeholder consultation and engagement.

5. Options (if any)

As set out above.

6. Corporate Implications

6.1 Financial

The financial provision which will be required as transition work progresses will come forward in the Council's 2019/20 budget proposals.

6.2 Legal

The Local Government and Public Involvement in Health Act 2007 sets out the procedure for creation of unitary councils. Section 15 of the Cities and Local Government Devolution Act 2016 enables the Secretary of State to make regulations to modify the procedures where there is a consensus between authorities. Where there is not a consensus the Act gives the Secretary of State power to impose a solution provided that at least one relevant authority consents. The use of this power is subject to a "sunset clause" and requires any legislation to be made by 31 March 2019

7. Next Steps

The Structural Changes Order for a new unitary District Council will be laid in Parliament 14 January and proceed through the affirmative procedure for Statutory Instruments. This involves consideration by the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee, debate in the House of Commons and House of Lords and an approval motion in both Houses. The Order will then be signed by the Secretary of State and comes into effect the next day. This is anticipated to be in mid-March 2019.

Background	Council 16 January 2017
Papers:	Council 9 April 2018
	Council 28 November 2018
	Submission of the District Councils to the Secretary of State