

SOUTH BUCKS DISTRICT COUNCIL

CABINET

Meeting - 9 January 2019

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

183. DECLARATIONS OF INTEREST

Councillors B Gibbs and L Sullivan declared a personal interest in item 4: Implementation of the New Unitary District Council being Members of Buckinghamshire County Council.

184. IMPLEMENTATION OF THE NEW UNITARY DISTRICT COUNCIL

Cabinet considered a report which provided an update on the proposed creation of a new Unitary District Council. A working draft of the proposed Structural Changes Order had been shared with the Leaders and Chief Executives. The content of this Order had been subject to informal consultation with the five local authorities and the Secretary of State had now made the decisions necessary to determine the content where agreement could not be reached between the authorities. A summary of the decisions made, as reflected in the draft Order, were considered.

Cabinet was asked to consider whether the Council should formally consent to the Secretary of State's proposals in the draft Modification Regulations under section 15 of the Cities and Local Government Devolution Act 2016 and respond by the Government's deadline of 10 January 2019 to comply with timescales for laying the necessary Statutory Instrument in Parliament.

The Head of Legal and Democratic Services provided clarification regarding the procedure for the creation of a unitary authority which could be found in Sections 1-7 of the Local Government and Public Involvement in Health Act 2007. Section 15 of the Cities and Local Government Devolution Act 2016 gave the Secretary of State general powers to disapply provisions of the 2007 Act in respect of formally inviting structural change, undertaking public consultation on proposals made and boundary change. The disapplication of these provisions can only take place when the relevant authorities consent which could mean either the county or district councils. As there had been no invitation for structural change in Buckinghamshire and the Secretary of State had not carried out any public consultation then a modification to the 2007 legislation was required and the Modification Regulations would be made under the 2016 Act.

The supplementary report detailed the effect of the proposed Modification Regulations and noted the two options the Secretary of State had 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 could make regulations under subsection 5 in relation to structural or boundary provision which would 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.

Cabinet was advised that the latter provision was time limited and would expire at the end of March 2019. This meant that if for any reason there was insufficient Parliamentary time to make the Order then it would not be possible to do so without the consent of all five Councils. Therefore Subsection (4) required the consent of all local authorities, whereas subsection (5) required the consent of just one. Subsection (5) expired at the end of March. Subsection (4) did not expire. Further detailed information could be seen in the supplementary report.

The Leader went through the table which was set out in the supplementary report regarding the decisions made as reflected in the draft Order which included:-

- Name agreed as Buckinghamshire Council
- Size of the new Council – agreed as three Members per ward
- Election dates and cycles – it was agreed that the first term would be a five year cycle and the second a four year cycle as it was important to separate local council elections with the elections for Police and Crime Commissioners as they were undertaken through a different electoral system.
- Shadow Authority Membership – agreed as all existing Members (202)
- Shadow Executive Membership – 17 Members (8 District, 8 County plus the County Leader)
- Shadow Executive Chairman – County Leader with a District Councillor as Deputy
- Appointment of Interim Officers – to be appointed by the shadow executive following consultation with the shadow authority.
- Officers to set up the first meeting of the shadow authority – Proper Officer of the County Council with the Wycombe District Council Proper Officer as deputy
- Officers to lead the Implementation Team – the County Council Chief Executive with a District Council Officer as deputy.

Clarification was sought on 31 March 2019 date which was a Sunday and the Director of Resources clarified that the date was likely to be the last day of the Parliamentary process on 29 March 2019. During discussion the following points were made:-

- In the spirit of working together, Portfolio Holders would like to consent to the draft Order but had significant concerns about the balance of power with regard to the Shadow Executive. In the Order as drafted there is an additional section with regard to the discharge of the shadow authority's functions by the shadow executive on the proposed designations of interim officers and there was concern that the shadow authority had no right of veto, leaving control in the hands of a small number of executive members. More checks and balances were required to hold the shadow executive to account, particularly bearing in mind the unbalanced make-up of the Executive. This proposal as drafted was considered to be undemocratic.
- The Order did not contain enough detail and was being pushed through in a very short timescale, with little time for consultation.
- Cabinet were disappointed in not being able to consent but looked forward to working with all the Councils as equal partners.

RESOLVED:

1. Cabinet notes the current position in respect of the proposals for creation of a new single tier Unitary District Council in Buckinghamshire.
2. Cabinet do not consider the Structural Changes Order as currently drafted is in the best interests of South Bucks District residents and businesses and other stakeholders and are therefore not minded to consent to the Modification Regulations under section 15 of the Cities and Local Government Devolution Act 2016.
3. 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.

The meeting ended at 6.59 pm