Appendix B

SHADOW BUCKINGHAMSHIRE AUTHORITY SPENDING PROTOCOL

1. Background

1.1. The business case produced by Buckinghamshire County Council identified annual revenue savings of £18.2m; fully deliverable by the start of year 3 after the new Council goes live. It also highlighted that significant net capital receipts could be achieved from the disposal of surplus council assets across the five Councils. Although the business case is over two years old there is consensus across the Finance Directors from all the Councils in Buckinghamshire that the overall level of savings is still deliverable although this may take slightly longer to fully achieve.

1.2. With the new unitary authority coming into existence from April 2020, all of the financial resources and commitments from the predecessor councils will transfer to the new Buckinghamshire Council at this date. It is important, therefore, that decisions and actions taken in the existing councils are made against the background of not adversely impacting upon the finances of the new Council.

1.3. The introduction of a Section 24 notice (Local Government and Public Involvement in Health Act 2007) could be a helpful tool in protecting the finances and interests of the new Unitary Council. In 2009 this allowed the Secretary of State to direct that a relevant authority may not without the written consent of a person or persons specified to:-

(a) dispose of any land if the consideration payable for the disposal exceeds £100k;
(b) enter into any capital contract under which the consideration exceeds £1m or which includes a term allowing the consideration payable to be varied;
(c) enter into any non-capital contact under which the consideration exceeds £100k;
(d) commit existing financial reserves by a specified amount.

We could, however, discuss with MHCLG about varying the amounts if such a notice was thought to be helpful.

1.4. This is a rather crude instrument and could capture things it was not intended to (e.g. care packages) and not stop things that could have an adverse financial impact (e.g. purchase of an asset). In other reorganisations authorities took this view and felt that it would be better to develop a working protocol that would be more flexible to their local needs. This report represents the proposed protocol for the five Buckinghamshire Council's.

1.5. Each Council has a Section 151 Officer who has responsibility for the stewardship of the Council's finances. Their duty is obviously to their employing Council. However, they also have a wider fiduciary duty concerning public funds. A shadow Section 151 Officer will be appointed by the Shadow Buckinghamshire Authority to consider the interests of the new Council. This suggested protocol has been developed jointly by the s151 officers across all the Councils in Buckinghamshire in advance of that appointment.

2. Principles

2.1 It is suggested that all Councils sign up to some principles during the transition period and that this comes into effect following the first meeting of the Shadow Executive:-

- Councils remain responsible for taking day to day decisions for spending on service delivery within agreed revenue and capital budgets for 2019/20;
- Councils are committed to ensuring that the new Council is in the best possible financial position;
- Councils should not enter into any new financial or asset-related commitments (beyond those specifically agreed within their approved budgets) on behalf of the new Council, or create any new liabilities without the agreement of the Shadow Executive – subject to agreed limits for revenue and capital;
- That any agreed protocol to control spending needs to be agile to avoid introducing delays and risks to decision making.

3. Spending Control

3.1 A key risk for the financial success of the new Unitary Council is that the existing councils have structural problems within their base budgets which then adversely impact upon the new Council. This could include such things as:-

- Overspending in 2018/19 that is not properly addressed when setting the 2019/20 budget
- Use of reserves to fund on-going expenditure;
- Required savings built into the 2019/20 budgets not being fully deliverable (including transformation programmes);
- Staffing establishment budgets having high vacancy factors built in;
- Unrealistic estimates within the 2019/20 budget such as pay award, demand led budgets or income assumptions;
- Unrealistic estimates or provisions within council tax / business rates forecasts;
- Building one-off sources of funding into the base budget;
- A lack of visibility on any projects or developments with an ongoing revenue impact.

3.2 The protocol requires the Section 151 Officer of each Council to report any matters of concern to the shadow Section 151 Officer as they are identified. This will ensure that the shadow Section 151 Officer has a clear understanding of the overall financial picture and associated risks. The summary of these will be reported to the Shadow Executive.

3.3 A high level review of the 2019/20 budgets for the 5 existing Councils will be conducted by the shadow Section 151 Officer and the Section 151 Officers of the existing councils, including understanding all capital commitments and future borrowing requirements.

3.4 If there are any potential unmitigated overspends or income shortfalls in the 2019/20 financial year, the relevant Section 151 Officer must inform the shadow Section 151 Officer as soon as possible and this will then also be reported to the Shadow Executive together with proposed actions to address the issue.

4. Future Commitments

4.1 At present the existing Councils are free to continue to run their affairs and make financial decisions without taking into account the impact upon the new Unitary Council. This protocol requires that any new commitments that could have a future financial impact upon the new Unitary Council be initially assessed by the shadow

Section 151 Officer and, if it has a significant financial impact, seek approval by the Shadow Executive, at its next meeting, before any formal decision is then taken by the individual Council.

4.2 Therefore, it is recommended that all new financial commitments (revenue and capital) above a de-minimis level of £100,000 p.a. be reported to the shadow Section 151 Officer and that those above £500,000 p.a. (or lower if in the view of the shadow Section 151 Officer the commitment requires further consideration) be further reported to the Shadow Executive for their approval. The spirit of this protocol is that a Council should not ‘break down’ expenditure items into parts in order that they become lower than the de-minimis levels. It is further recommended that the proposed limits be reviewed after 2-months in terms of their appropriateness.

4.3 The key areas covered by the protocol would include purchase, disposal and transfer of assets, new contracts with significant on-going financial commitments (but not routine items like care packages), write off of debts / loans, new capital schemes (including those with on-going financial commitments) and use of reserves above those already approved.

4.4 It is also recommended that each Council includes a section in all of their future key decision reports on the financial implications of the decision for the new Council.