

WILTSHIRE COUNCIL

IMPLEMENTATION EXECUTIVE

19 MARCH 2008

Re: Transitional Functions of the Wiltshire Council and Establishment of Implementation Executive.

Purpose of the report

1. To report on the current legal position following the implementation of the Wiltshire (Structural Change) Order 2008 on 26 February 2008.

Main considerations

2. The functions, powers and duties of the Implementation Executive are set out in the Wiltshire (Structural Change) Order 2008.
3. The responsibilities of the Implementation Executive are evolving. Many of the expected powers e.g. staff, finance and budget setting await further statutory instruments, probably early in the summer.
4. Article 6(1) of the Structural Change Order provides that **“...the responsibility for preparing for and facilitating the economic, effective, efficient and timely transfer of district council functions, property rights and liabilities are the ‘main transitional functions’”**.
5. Under Article 7 other functions can be added, but to date none have. The transitional function by virtue of Article 6(3) is the responsibility of the Implementation Executive, which is a committee of the County Council's Cabinet.
6. The Implementation Executive comprises the leader of the council, eight other members of the council and two from each district.
7. Article 8 provides that the transitional function is the responsibility of the Implementation Executive but that they can delegate it to a sub-committee or an officer of the County Council or District Council.
8. Article 9 provides that the Implementation Executive is responsible for the ‘Implementation Plan’. It has to prepare, keep under review and revise as necessary the Implementation Plan which comprises the plans, timetables as the Implementation Executive thinks necessary to secure effective, efficient and timely discharge of the transitional functions. Including budgets and plans to facilitate the effective, efficient and economic and timely discharge of their functions having

regard to the submission which includes strategic leadership, neighbourhood empowerment and value for money.

9. The Chief Executive of the Council has been appointed as the proper officer for the purposes of the Act and Regulations.
10. There is as yet nothing about setting budgets in this order, although the draft Finance Regulations that will follow suggest this will soon be a transitional function.
11. Article 11 provides the power to obtain information.
12. Anything not explicitly with the Implementation Executive remains with the respective executives or policy committees.
13. The current role of the Implementation Executive is more limited than initially anticipated. The consequence of this is that some matters will continue to be dealt with by the respective authorities. However, this will not prevent matters coming to the Implementation Executive for information, nor will it prevent the Implementation Executive's views being sought before important decisions are taken.
14. Two major areas of activity will be the subject of future implementation orders, staffing matters and financial matters relating to the preparation for the new authority. In preparation for these responsibilities being made a transitional function, and therefore the responsibility of the Implementation Executive, it is proposed to:
 - seek the views of the Implementation Executive where possible in advance of the orders
 - ensure the Implementation Executive has sufficient information to start feeding in to these matters in preparation for responsibility for these functions.

Risk assessment

15. The main risk given the piecemeal way in which responsibilities are being included within the definition of "transitional function", is that the implementation executive could find itself with responsibility without being fully prepared. It is proposed to mitigate this risk by ensuring that, regardless of the strict legal position, full consultation and information pending further orders transferring functions.

Equality's impact of the proposal

16. None have been identified as arising directly from this report.

Financial implications

17. These are explicit within this report.

Legal implications

18. These are explicit within this report.

Proposals

19. The Implementation Executive is asked to note the current position with regard to the Implementation Order.

Stephen Gerrard
Solicitor to the Council and Monitoring officer

Unpublished documents relied upon in the preparation of this report: none.

Environmental impact of the recommendations contained in this report: none.