

KENNET DISTRICT COUNCIL

Meeting to be held on Tuesday, 4th September 2007

Councils' Proposals for Unitary Local Government – An Approach to Implementation

Report by the Chief Executive

Introduction

1. The purpose of the report is to seek Council's instructions as to any comments they may wish to make in response to a paper published by the Department for Communities and Local Government (DCLG).

Financial Implications

2. None beyond those implicit in a reorganisation.

Staffing Implications

3. None beyond those implicit in a reorganisation.

Legal and Risk Management Implications

4. None.

Introduction

5. On 22 August 2007 the DCLG published a paper entitled "Councils' Proposals for Unitary Local Government – An Approach to Implementation." This sets out the Government's current intentions as to the approach for implementing unitary councils. It does not deal with the merits of creating new unitary councils. The paper will form the basis of discussions with affected councils and the secondary legislation that will be needed. Responses are requested by 28 September.

6. A copy of the paper has been placed in the Members' Room and is available at <http://communities.gov.uk/index.asp?id=1512366>

Background

7. In order to comment on the paper it is helpful to understand the Government's aspirations for the style of the new unitary councils and the manner of their creation. The paper states:

"The Government is clear that the current restructuring of local government is about creating new authorities – authorities with new

functions and responsibilities but just as importantly with revitalised and strengthened local leadership and governance arrangements with a new innovative approach to service delivery in their area. It will be essential to put in place from the outset the engagement arrangements, the strengthened leadership models and devolved service responsibilities envisaged in the unitary proposals.”

8. Having said which, the paper makes clear that, as a matter of law, the county council will continue in existence and take on the powers and duties of the district councils. Earlier DCLG documents called this a “continuing authority” but the paper now calls this a “transitional authority.”

9. The paper states that it is currently planned that the new unitary councils will come into being (sometimes called “vesting day”) *“by 1 April 2009.”*

Representational Arrangements.

10. The paper proposes that transitional authorities will be required to form “joint committees” to prepare for reorganisation. The paper proposes that all the existing councils in an area be represented on the committee. The exact membership of the committee would be left to local agreement with the Secretary of State having reserve powers to appoint if there was no agreement. The paper proposes that the leader of the county council chair the joint committee and that the committee reflect the political balance of the county. It is understood from discussions with DCLG officials that their anticipation is that such a joint committee would be likely to comprise of most or all of the county council cabinet plus the leaders of the 4 district councils.

11. The DCLG regards existing councillors making decisions about the new unitary council in a joint committee as *“...very much a “second best” solution...”* The paper goes on:

“It would be preferable to give legitimacy to those proposals by the holding of an election. The question is when the elections to the new authorities (or prior to the reorganisation date, to the ... transitional authorities) are best held.”

12. The paper makes it clear that the county council elections must revert to the normal cycle by 2013. This gives 2 options:

A. Elections as normal in May 2009 and May 2013. This would enable existing councillors to take part in the transition process but would not provide a fresh electoral mandate until after the reorganisation date. It would enable the Electoral Commission to review electoral arrangements before the elections.

B. Elections to the transitional authority in May 2008 with those councillors serving until May 2013. This would provide a fresh electoral mandate for change. The Electoral Commission would not be able to

review arrangements before May 2008 and so elections would be held on a transitional basis. That is temporary arrangements made by the Secretary of State in accordance with the proposals of the bidding authority (in Wiltshire's case turning each existing division into a 2 member division and so doubling the number of councillors from 49 to 98).

13. The paper states that the arguments are finely balanced but that:

"On balance we favour the option of elections in May 2008 to give a fresh democratic mandate to the transition process."

14. Suggested comment: the arguments are indeed finely balanced but, on balance, elections in May 2008 are favoured as they have the advantage of giving the councillors who will have to run the new unitary council for 4 years a fresh electoral mandate, control over its establishment and the ability to make the key decisions that will shape the new unitary authority.

15. The parish council election cycle will be moved to match the election cycle of the county council.

Transfer of Functions Date

16. The Government's aim is to have the new unitary authorities in place by 1 April 2009. District councils will cease to exist on the same day.

17. The paper notes that some councils have asked for an earlier vesting day (Wiltshire County Council has asked for August 2008). The paper states that:

"This would be an extremely challenging timetable given all the preparatory work needed, but might be possible for some of the county unitaries (where the transfer of functions is likely to be more straightforward)."

18. Suggested comment: a vesting day on 1 April 2009 is preferred because:

A. The preparatory work needed to transfer functions to the new unitary authority and set up new unified services is considerable and complicated. Rushing such work will dramatically and needlessly increase the risk of failures with their consequent costs and impact on service delivery. It is important for the reputation of the new unitary authorities, and to public support for them, that they start off working well rather than mired in confusion and service failure.

B. Some district services; such as tax collection, benefit distribution and town and country planning development control; rely heavily on ICT. The bringing together of that ICT and those services into new unified services will be major projects in their own right. These very

same services are amongst those on which the public most relies for the delivery of vital support or which are vital to the continued smooth running of local government. To increase the very real risk of these services failing by an early vesting date would be unwise.

C. If new councillors are to be elected to a transitional authority in May 2008 so that they can “*give legitimacy*” to “*making decisions that will effectively bind the new authority*” it would seem perverse to then effectively deny them the opportunity to make decisions about the new unitary authority which would come into being only 2 months later. Key decisions will need to be made much earlier than 2 months before vesting day.

D. There will be far less opportunity to create the “*new authorities*” that the Government wants by August 2008. It is understood that the Government hopes to make the implementation orders in December 2008. Bearing this in mind, there will be little time for the transitional authority to develop:

“Revitalised and strengthened local leadership and governance arrangements with a new innovative approach to service delivery in their area [or] to put in place from the outset the engagement arrangements, the strengthened leadership models and devolved service responsibilities envisaged in the unitary proposals.”

Other Matters

19. The paper also discusses other matters such as: provisions for continuity and co-operation; restrictions on the letting of contracts (already in the Local Government and Public Involvement in Health Bill); Joint Implementation Teams to support the Joint Committees; staffing and finance. These are all matters of a more technical nature where there is less scope for politically significant choice.

20. Staffing is obviously an important issue but it is also a large and complicated issue in its own right. It is suggested that commenting on this be delegated to the Manager of Human Resources in consultation with the chairman of the Human Resources Committee.

It is RECOMMENDED that:

The Council respond to the discussion paper “Councils’ Proposals for Unitary Local Government – An Approach to Implementation” in respect of the date of elections and vesting day as set out in the suggested comments above.

Chief Executive