

Title: **Implications of Secretary of State's decision - Local Government Reorganisation in Wiltshire**

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Purpose

The purpose of this report is to:

- Provide Members with background information relating to the Secretary of State's recent decision about the structure of local government in Wiltshire.
- Seek a decision about whether the Council wishes to continue to oppose the reorganisation decision by maintaining its support for the judicial review being led by Shrewsbury and Atcham Borough Council.
- Start to prepare for work involved in the planning for the unitary authority.
- Start to prepare for changes in priorities and service plans for West Wiltshire District Council between now and vesting day for the unitary authority.

Background

There have been several reports to Council about the Local Government Reorganisation. The last reports were on:

- 11 January 2007
- 8 November 2006

There have also been reports to Cabinet, the last reports being on:

- 4 July 2007
- 6 June 2007

At Council the decisions made have been:

11 January 2007

- *Chief Executive to write to GOSW and DCLG to explain WWDC sees the invitation as a distraction, whilst being positive about proposals to improve existing arrangements.*
- *Request County Council ensures their proposal is followed by a referendum*

[28 in favour, 0 against, 7 abstentions]

8 November 2006

- *This Council does not support Wiltshire County Council in its bid for unitary status and considers any such action to be an unwanted distraction and regrets the lack of opportunity for full and proper democratic debate amongst all parties involved.*

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- *This Council looks forward to the opportunity of a measured and paced full and frank discussion involving all three tiers of local Government and everyone this will affect, namely the people of West Wiltshire and beyond to secure a way ahead for the future of local Government.*
- *This Council looks forward to continuing cooperation between the four district councils and the County Council in fields identified already, such as the Customer First Project.*
- *There should be urgent consultation with the other Wiltshire District councils to reach a consensus and that this Council takes the lead in achieving this.*

[17 in favour, 0 against, 19 abstentions]

At Cabinet the decisions were that:

4 July 2007

- *A contribution of up to £5,000 is made in support of the Judicial Review against the Secretary of State by Shrewsbury & Atcham Borough Council.*
- *The hearing dates of 12 & 13 September are noted.*

6 June 2007

- *The Chief Executive writes to the District Auditor to draw his attention to the one-sided voting cards distributed by the County Council*
- *A request is submitted to the County Council to withdraw its misrepresented facts that 80% of residents want a unitary Wiltshire.*
- *The above is brought to the MPs attention*

Local Government Reorganisation Decision

The Secretary of State announced her decisions about the structure of local government on 25 July. It had always been expected that a decision would be taken before the end of July. The decision is to take forward new structures for local government in nine areas and to consider the possibility of a new structure in a 10th area. Wiltshire is one of the areas being taken forward.

Attached to this report is an appendix which summarises the decisions that have been made. There is a list of the areas where reorganisation is intended to take place and of also the areas where it will not proceed (see Appendix 1). In total, there were 13 areas being considered for reorganisation and it appears that there will be a change in structure in 10 of those areas. This is more than was originally predicted in the Local Government White Paper last October. At that time, it was believed that only eight areas would go forward. Since then, there had been speculation that the number may reduce as a result of financial constraints.

Attached as Appendix 2 is a copy of all of the decision letters relating to the review areas. You will see from this that the main issues have been about geography and public support. It is also clear that a number of subjective judgements have been made by the Secretary of State. This raises concerns about the process. In the case of Wiltshire, it is interesting to note that no mention is made of the MORI poll and no mention is made of the difficult geography with Salisbury Plain at the centre of the county. There is also a particularly unusual phrase to describe support for the proposal:

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...if implemented, the proposal would command a broad cross-section of support from a range of stakeholders, both public and private sector, as well as some support from the general public.

The decision was made in the light of the criteria in the invitation to all councils to submit proposals for a change in structure. This invitation was received in October of last year. The Local Government White Paper is being enacted through the Local Government and Public Involvement in Health Bill, which is scheduled for ratification by Parliament around about the end of October.

Judicial Review

Shrewsbury and Atcham, together with Congleton Borough Council, are pursuing the judicial review against the Secretary of State. The grounds for their review are as follows:

- The Secretary of State had no power to undertake the process.
- An absence of powers for local authorities to respond to the invitation and consultation
- The Shropshire "One Council" proposal did not meet the Secretary of State's criteria
- An unfair and biased process

I've enclosed as Appendix 3 further information about the grounds for the judicial review. We are taking legal advice about how we might best engage with this review. Cabinet has already expressed an intention to support Shrewsbury and Atcham.

The review is scheduled to be heard at the High Court on 12 and 13 September. It has already been accepted that the Secretary of State has a case to answer. If it is determined that the Secretary of State has exceeded her powers, this would potentially give rise to one of the following scenarios:

- The Local Government Reorganisation process needing to be corrected, possibly involving fresh periods of consultation.
- The Secretary of State deciding to terminate the review process.

The relevant legislative background for the review is contained within the Local Government and Public Involvement in Health Bill. This Bill is part way to adoption and has been through the following stages:

- Commons: Readings
12 December 2006, 22 January 2007, 22 May 2007
- Commons: Committee
30 January 2007 – 8 March 2007
- Commons: Report
17 May 2007 and 22 May 2007
- Lords: 1 and 2 Readings
23 May 2007 and 20 June 2007, respectively
- Lords: Committees

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The next stages for the Bill are as follows:

- Commons: Report
Provisional dates – 8, 10 and 15 October 2007
- Commons: 3 Reading
Provisional date - 22 October 2007
- Ping-Pong - where the Bill is debated between the two houses
Minimum of three days after final reading
- Royal Assent
By 6 November 2007

It is possible that the judicial review will affect the adoption of the Bill either by causing some late amendments to the Bill or some delay. It is difficult to predict these outcomes with any accuracy.

A number of other councils are considering the possibility of judicial review. They may do this in concert with Shrewsbury and Atcham, or there may be separate proceedings taken against the Secretary of State. There is a real possibility that some of the Wiltshire districts will either decide to embark in separate action or engage with the Shrewsbury and Atcham judicial review. Further information will be available at the meeting.

Next Steps

The draft implementation timetable for Wiltshire, that is proposed by the County Council, is attached as Appendix 4. This information has already been circulated to staff and members and is the best information available at this stage.

The timetable will be affected by decisions and directions to be issued by the Department for Communities and Local Government (CLG). A series of directions will be issued following the enactment of the Local Government and Public Involvement in Health Bill. These are expected in the autumn and it is possible that some will be backdated to the day on which the Bill became law.

At this stage, it is not certain that the County Council will be a "continuing authority" or whether a "new authority" will be created. If it is to be a "continuing authority", it will take over the district council powers and responsibilities from vesting day. If a "new authority" is created then that authority will take on both the district and county responsibilities from vesting day. These different legal processes will affect the style of the change, although there will be a number of "checks and balances" that will be designed to ensure a fair and transparent process whichever legal route is followed.

Work has already commenced to agree protocols for the secondment and recruitment of staff. It can be expected that a number of casual vacancies will occur as a result of staff perceiving a threat to their jobs. The County Council case indicated there would be in the region of 200 redundancies. They would seek to reduce this by ensuring that natural turnover of staff has the right impact, with as many vacancies being filled on a temporary basis as possible.

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Prior to vesting day, a great deal of work will need to take place to turn the County Council's bid into a series of service plans, draft budgets and staff structures. Many of the assumptions in the bid will need to be revisited and decisions will need to be made about where savings realistically can be achieved in the first year. This will be a detailed and complex process and will benefit from the cooperation from both district and county staff. This means that working groups will need to be established in the very near future if the transition process is to be effective and disruption to services kept to a minimum.

In parallel with this, elected members will have a vital role. There is the potential for differing views between district and county members. It is crucial that both district and county councillors recognise the valuable contribution that they can both make, as a new or continuing authority will need to benefit from the combined experience of both sets of councillors.

The draft timetable envisages elections in May 2008. These elections will appoint councillors to the new or continuing authority. It is expected that existing councillors will continue with their existing roles until vesting day. The draft timetable shows vesting day as being August 2008. It was previously indicated that this date will need further discussion and is arguably too soon, given the need for the newly elected members to have ownership of the proposals for the new or continuing authority. In addition, there are issues concerning the appointment of the management team for the new or continuing authority. The earlier vesting day would require temporary arrangements, whereas a slightly later date may enable a better sequencing of the recruitment processes. Again, there is a lot of detail that still needs to be discussed.

The relevant committees of this council can play a vital role:

- Scrutiny can review the proposals as they emerge and provide useful comments to the County Council and the relevant working groups.
- Cabinet can review its existing service plans, together with its work programme to ensure that decision making reflects the new circumstances.
- Staffing committee can look at the emerging staffing processes and protocols.

The sorts of issues that Scrutiny may wish to look at include:

- Matters contained in the County Council bid document and in the District Council's critique and Right Way Forward documents which need further attention as the proposals for the new or continuing authority potentially become a reality.
- Other procedural and policy matters which the Committee wishes the new or continuing authority to take into account.

The sorts of issues that the Cabinet will need to look at include:

- The medium term financial plan and service plans will need to be recast to take into account the proposed vesting day.
- There will be a number of projects already under way that need to be seen through, but there will be others that will no longer be relevant in the context of Local Government Reorganisation.

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- Some changes to staffing policies may be appropriate to help retain and support existing staff through the process. The Cabinet may wish to take some of these decisions itself, or may choose to work through or with the Staffing Committee.

In addition, the District Local Strategic Partnership can play a useful role. Its work plan also needs to be reviewed. It is suggested that the LSP, in particular, needs to look at:

- The County Council's proposals for Area Boards.
- The role that Community Area Partnerships and Town Councils, together with surrounding Parish Councils can play.
- The role of frontline Councillors working with Area Boards.

There are a range of other issues that will need to be considered. The Wiltshire Improvement Partnership, for example, has been playing a vital role in securing a better framework for partnership working. Much of this work still has relevance, but will need to be reviewed.

The Customers First Partnership has been aligning our Customers First programmes. Much of this work needs to be integrated into the programme of change.

The recently approved proposals for Building Control need to be reviewed. The approach remains valid, but the legal mechanisms for taking forward joint working will no doubt change. There is the potential to use the existing programme and approach but to incorporate this into the process of setting up the new or continuing authority.

Recommendations.

The Council is recommended to:

- Decide whether it wishes to continue to support Shrewsbury and Atcham with their judicial review of the Secretary of State's process for Local Government Reorganisation and, in addition, whether it wishes to recommend, in principle, to Cabinet to pursue separate legal action.
- Note the implications of the Local Government review process for the Council's projects and service plans and request Cabinet to review these matters in detail.
- Note the potential role of the Scrutiny Committee, the Staffing Committee and the Local Strategic Partnership and request them to positively assess the roles that they can play to support the change and integration process.

Background Papers

Appendix 1: Summary of decisions made and comparative data.

Appendix 2: Decision letters – 25 July 2007

Appendix 3: Background information – Judicial Review

Appendix 4: Draft implementation timetable – Wiltshire County Council, and

Countdown to a new council – extract from Bitesize: Unitary Wiltshire, July 07

Appendix 1

Summary of Secretary of State's decisions and comparative data

Appendix 2

Decision letters
Department for Communities & Local Government

25 July 2007

Appendix 3

Shrewsbury & Atcham Borough Council Judicial Review
Background information

Appendix 4

Draft Implementation Timetable
Wiltshire County Council

And

Countdown to a new council
Extract from Bitesize – Unitary Wiltshire.
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