

Agenda Item No. 3

Title:	Membership Implementation Executive
Portfolio Holders:	Cllr Graham Payne - Leader
Reporting Officer:	Nicola Mathiason - Head of Legal Services
Key Decision:	No

Objective

Confirm this Council's representation on the Implementation Executive now that the Wiltshire (Structural Change) Order 2008 has been approved by both Houses of Parliament and has become law.

Background

The Wiltshire (Structural Change) Order 2008 specifies the arrangements to enable the planning for the unitary council for Wiltshire. The Order became law on 26th February 2008.

The legal view previously held and agreed with the County Council was that a special meeting of Council could be avoided by the method employed in the previous report to Council on 20th February.

In other words the approval of two nominations and the delegation of formal arrangements to confirm the nomination when the order became law to the Head of Paid service.

Further legal advice has now been obtained in the light of concerns about this approach which could be regarded as pre-empting the Structural Change Order.

Implementation Executive

The following extract from the previous report remains relevant:

The unitary council will, in legal terms, be a continuation of the County Council. For that reason the Implementation Executive is to be led by the Leader of the County Council and is to be a committee of the County Council.

The membership of the Implementation Executive is specified to the extent that it must:

- Be chaired by the Leader of the County Council

- Have 8 County Council members
- Have 2 District Council members from each District.

It is also specified that, if practical, the membership must ensure:

- Each of the three main political parties are represented.

There is no requirement of political proportionality and the cross party representation relates to the total membership, not the representatives from any one council.

Despite the title of the committee its role may involve it in executive and non executive duties. For this reason, under our Constitution, Council needs to decide the representation from West Wiltshire.

Because of the principle duties of:

- Planning for the new service arrangements
- Recommending a budget
- Dealing with related staffing matters.

It is reasonable for the membership to be derived from the Cabinet. This would leave other members free to engage in joint scrutiny of the emerging arrangements.

In the light of the latest legal advice received from Counsel it is clear there is some risk of challenge if this Council does not confirm the nominations made on the 20th February through a new resolution passed after the Structural Change Order has become law. This advice can be explained in further detail at the meeting if required.

In the light of this advice a special meeting has been arranged to consider and approve the nominations.

Key Issues

Representation for the Implementation Executive has been recommended by Cabinet as follows:

- Tony Phillips – Deputy Leader
- Rod Eaton – Portfolio Holder for Change and Integration

These representatives were nominated by Council on the 20th February. Unless Council confirms the nominations at this meeting they will be unable to vote on the Implementation Executive.

Representation on the Joint Overview and Scrutiny Transition Board is unaffected.

Once implemented there will be an issue about allowances suitable for these representatives. The County Council will address this issue as the Implementation Executive will legally be a part of the County Council.

Risk Management

The Implementation Executive role will be demanding and will be instrumental in establishing future local government arrangements for Wiltshire.

The risks for West Wiltshire during its remaining legal existence are minimal. The risks associated with establishing the new unitary are all relevant albeit that the responsibility is not a personal one. The County Council will ultimately be responsible for setting the budgets and service plans for the unitary authority taking into account the recommendations of the Implementation Executive.

Further regulations have been and will be published dealing with contractual, staffing and financial matters to help guide the process.

The approval of council is required afresh to avoid any risk of legal challenge in the light of the late approval of the Structural Change Order by Parliament.

The Judicial Review of the Secretary of state's decision has now been ruled on by the Appeal court and dismissed. Cabinet has confirmed the intention previously expressed by Council that if this were to happen, this Council would seek no further legal action to challenge the Secretary of State's decision.

This means that West Wiltshire will no longer be engaged in any action to challenge the Secretary of State's decision and is fully engaged in contributing to the creation of the unitary Council.

Finance and Performance Implications

The costs will be limited or nil depending on who pays the allowances and the level of allowances agreed. The total costs estimated by neighbouring Districts amount to no more than £5,000.

The related performance issues are as follows:

- Business will gradually transfer from the Cabinet and Scrutiny Committee to the Implementation Executive and JOSTB respectively.
- This Council will have less decisions to make, no new strategies, and no budgets following the agreement of the budget for 2008-09.
- Less meetings of WWDC Cabinet and Council may be needed.
- The priorities as set out in the budget and service plans, and the report to November Cabinet, will need to be kept under review.

Legal and Human Rights

The membership needs to be agreed in accordance with the requirements of this Council's Constitution and the Wiltshire (Structural Change Order) 2008. This report, if implemented, would achieve those requirements.

Next steps

Participate fully in the formal meetings of the Implementation Executive.

Keep under review the need to set a member allowance for this duty to be applied from the date the bodies are formally established.

Recommendation

Council is recommended to formally approve:

- Tony Phillips and Rod Eaton as this Council's nominations for the Implementation Executive for Wiltshire.

Background papers

Structural Change Order for Wiltshire –

<http://www.wiltshire.gov.uk/council/local-government-white-paper/wiltshire-order.htm>

Wiltshire County Council bid for one council and the related transition budget -

<http://www.wiltshire.gov.uk/council/local-government-white-paper/bid-for-one-council.htm>