

Item no.

Report to: **District Council of Easington**
Date: **6 September 2007**
Report of: **Chief Executive and Monitoring Officer**
Subject: **LGR Update**
Ward: **All**

1. **Purpose of the Report**

To update Members on developments relating to Local Government Review and to obtain authority to pursue a challenge by way of judicial review of the proposals adopted by Central Government.

2. **Consultation**

The Chief Executive, Leader and Deputy Leader have discussed the proposed legal challenge with their counterparts at all the other District Council within the county.

3. **Background**

The Government announced on 25th July, 2007 that the County Council's bid for a new unitary authority for County Durham would be one of the nine bids proceeding to implementation once the Local Government and Health Improvement Bill currently passing through Parliament, has been enacted. Counsel's advice on the prospects of successfully challenging the Government's decision by way of judicial review has been sought and considered by the District Councils. Following a meeting of the Durham Districts Forum the Leaders of all seven Councils indicated that they wished to support a challenge in the light of the legal advice received. .

Whilst Members are being recommended to approve the issue of legal proceedings to challenge the process Councils have a duty to their residents to continue to respond to the Government's request to plan the implementation of a Unitary Council in case the challenge is unsuccessful. The Government has recently issued a consultation paper entitled "An Approach to Implementation" and all authorities affected are invited to respond to this consultation paper by 28th September, 2007. This report seeks delegated authority for the Chief Executive to respond on the Council's behalf in consultation with the Leader of the Council. This approach was also adopted in responding to the consultation on the original bids for unitary status. It is intended that a progress report including a copy of the response to the consultation be submitted to Council on 4th October, 2007.

4. **Implications**

(i) **Financial**

Acceptance of the recommendations in this report will confirm the Council's commitment to contribute to the costs incurred in mounting the legal challenge. Those costs currently stand at £5,000 plus VAT with a further £230 to be incurred in respect of court fees when the case is commenced. Further charges in respect of Counsel's fees will need to be incurred in the event that the matter proceeds to a hearing. Members will be aware that the case brought by Shrewsbury and Atcham Borough Council and Congleton Borough Council is due to be heard by the court in mid September. Since the grounds of challenge to the legal process adopted are very similar this decision will need to be fully considered in determining whether to pursue our challenge to a hearing. The situation will be reviewed after the outcome of the Shrewsbury case is known and there will be a further report presented to Council at that stage.

Members should note that once the proceedings are lodged the Council as a party to the case would be potentially liable to meet costs incurred by the Secretary of State in preparing and conducting a defence if the Council's case is unsuccessful at court or is withdrawn beforehand. It is considered that work undertaken on the Shrewsbury case will enable these costs to be kept to a minimum.

(ii) **Legal**

The Monitoring Officer is satisfied that in the light of Counsel's advice on the prospects of success the decision to mount a legal challenge is justifiable.

(iii) **Risk**

The risk implications have been referred to the financial section. Careful monitoring of the progress of the Shrewsbury action will enable risk to be kept to a minimum.

5. **Communications**

There has already been considerable publicity about the Durham Districts intention to mount a challenge and this report has been submitted in the public part of the agenda to publicise to residents of the district the steps the Council is taking in response to the Government's decision.

6. **Corporate**

None

7. **Procurement**

None

8 **Equality and Diversity/Social Inclusion**

None.

9. **Recommendations**

The Council is recommended to:-

- (i) approve the proposal that proceedings for judicial review be instituted to challenge the Secretary of State's decision to implement the proposals put forward by Durham County Council for a single unitary authority for County Durham;
- (ii) note that in the meantime the Council will continue to engage fully in the process of implementation of the proposed changes should the legal challenge fail;
- (iii) grant delegated authority for the Chief Executive in consultation with the Leader to respond to the CLG consultation paper "An Approach to Implementation" on behalf of the Council.

Background Papers

Proposals for the future unitary structure for County Durham submitted by Durham County Council

CLG Consultation Guidance – 27th March, 2007

CLG Decision – 25th July, 2007

CLG Consultation Paper – Council's Proposals for Unitary Local Government "An Approach to Implementation".

DT/PH MO/070801
28th August, 2007