

TEESDALE DISTRICT COUNCIL

Report To: EXECUTIVE COMMITTEE
7 April 2008

From: Leader of the Council, Councillor Richard Betton

Ward Members: All

Subject: LOCAL GOVERNMENT REORGANISATION: UPDATE

1.0 SUMMARY

1.1 This report gives an update on matters relating to the reorganisation of local government in County Durham, due to be implemented on 1 April 2009.

1.2 The matters covered in this report are as follows:

- The County Durham (Structural Change) Order 2008
- Review of Electoral Ward Boundaries and Date of Next Election
- Legal Challenge to Local Government Reorganisation

2.0 RECOMMENDATION

2.1 It is recommended that the report be received.

3.0 LINK TO CORPORATE KEY PRIORITIES/AMBITIONS

3.1 Priority: All

3.2 Ambition: All

3.3 Outcome: Smooth transition towards a new unitary authority which safeguards the interests of the Teesdale community.

4.0 THE COUNTY DURHAM (STRUCTURAL CHANGE) ORDER 2008

4.1 The order, which provides for the establishment, on 1 April 2009, of a single tier principal local authority in County Durham, came into effect on 26 February 2008. The seven existing district councils, and the districts themselves, will be abolished as from 1 April 2009. The term of office of all existing district councillors within County Durham are abolished, too, on 1 April 2009.

4.2 The order provides for the setting up of an Implementation Executive, comprising members from each of the eight existing councils, to be

responsible for preparing an Implementation Plan for the transfer of the district councils' functions, property, rights and liabilities to the new County Durham council. The Implementation Executive will be dissolved and its functions taken over by the new council on the fourth day after the 1 May 2008 elections (in practical terms, this will be on Tuesday 6 May, the day after the bank holiday). The Implementation Executive and then, from 6 May 2008, the new council will be assisted by a team of officers, to be known as the Joint Implementation Team, drawn from the existing councils; this Team to be dissolved on 1 April 2009. All existing councils are required to co-operate to further the purposes of the order.

- 4.3 A whole council election to the County Durham council will be held on 1 May 2008, on the basis of two councillors being returned for each of the existing 63 Durham County Council electoral divisions, giving a total of 126 councillors for the new council. These councillors' term of office will expire in 2013 when further elections will be held (see Section 5 below). The parish council elections which were due to take place in 2011 will be cancelled and be held, instead, in 2013.
- 4.4 The Secretary for State for Communities and Local Government , on 4 March 2008, issued, under Section 24 of the Local Government and Public Involvement in Health Act 2007, a 'Direction to Authorities around the Control of Disposals, Contracts and Reserves'. This has been considered by the Implementation Executive, on 7 March, around the context of 'Business as Usual' decision making.
- 4.5 The principal decisions made by the Implementation Executive in this context are as follows:
- a general consent to permit disposals of land and capital/revenue contracts identified within 2008/09 budgets
 - a general consent to permit disposals of land where its value is less than £250,000
 - authority given to the County Council Section 151 Officer to approve, on referral from the appropriate District Council Section 151 Officer, any land disposal or revenue/capital contract not covered above
 - changes to staff contracts (including new staff), redundancies and early retirements to be the subject of proposals to be brought forward by the Human Resources Workstream.

5.0 REVIEW OF ELECTORAL WARD BOUNDARIES AND DATE OF NEXT ELECTION

- 5.1 As stated in 4.3 above, the County Durham Structural Change Order provides for further whole elections to take place in 2013, five years after the May 2008 elections.

- 5.2 In January 2008, the Director of the Boundary Committee informed the Chief Executive of Durham County Council that it had been directed by the Electoral Commission to begin a review of electoral ward boundaries in County Durham in July 2008, to be completed in August 2009, prior to further elections to the new council being held in 2010. The Boundary Committee and Electoral Commission are of the view that a five year term of office for a new unitary council is unacceptable.
- 5.3 The 'G8' (the forerunner to the Implementation Executive) had previously expressed strong cross-party and cross-council opposition to the notion that unitary councillors should face an election just one year after assuming unitary responsibilities. The review of ward boundaries itself was expected, although the 13 month timescale is considered to be extremely tight.
- 5.4 The Implementation Executive has now agreed a letter, signed by the Leaders of all eight local authorities, to the Chairman of the Electoral Commission, expressing the view that if the review goes ahead followed by a further election in 2010, 'this will significantly undermine the transitional process and constitute a major disruptive influence for the new unitary authority for the first year of its existence'.
- 5.5 The principal points in the letter, sent on 7 March, should an electoral review and further election be held as proposed, are as follows:
- would lead to instability of leadership
 - likely discouragement of potential candidates, particularly among those in employment who would have only a two year guarantee of council membership
 - the need to make a significant investment in the new councillors, in terms of training and development, equipment, support and accommodation, which would be unlikely to show full return after only two years
 - the cost of running the election itself, estimated to be in the order of £750,000
 - the proposed review in 2008/09 would distract the new councillors from their new role and be detrimental to their effectiveness, at a time when 126 councillors will be preparing to absorb the roles and responsibilities of the current 375 councillors.

6.0 **LEGAL CHALLENGE TO LOCAL GOVERNMENT REORGANISATION**

- 6.1 Members will be aware that a number of district councils affected by local government reorganisation, led by Shrewsbury and Atcham Borough Council, and supported by the seven district councils in County Durham, sought judicial review of the Government's actions on the basis that the Secretary of State had no statutory powers to proceed as she had done and had failed to demonstrate that her decisions were rational ones based upon sufficient public support for the proposed reorganisation.

- 6.2 The High Court rejected that challenge (October 2007), but gave the district councils leave to appeal. The appeal was led by Congleton Borough Council; the Durham district councils stayed their challenge (allowed it to remain on the table pending the outcome of any appeal). The appeal was dismissed by the Court of Appeal on 4 March, on the basis that the Local Government and Public Involvement in Health Act 2007 legitimised the actions taken by the Secretary of State.
- 6.3 The district councils affected gave serious consideration to seeking leave to appeal to the House of Lords. The Leaders of the County Durham district councils agreed collectively that no further action should now be taken to continue with their legal challenge. The Chief Executive, after consultation with the Leader of the Council and the other Group Leaders, formally notified this Council's decision, in pursuance of the Council decision that the Chief Executive, in consultation with the Leader, be authorised to take appropriate action relating to local government reorganisation which was considered to be in the best interests of the Teesdale community.

7.0 STATUTORY CONSIDERATIONS

7.1 Financial Implications: There are unlikely to be any new financial implications for this council arising from any issues in this report.

7.2 Risk:

Risk	Category	Implications
The council does not comply with the 'Business as Usual' provisions agreed by the Implementation Executive.	Service delivery Legal Reputation Financial	Damage to working relationships with other Durham authorities; possible breach of Structural Change Order.
The Council continues with its legal challenge to local government reorganisation.		Likely liability to meet own and defendants' legal costs; deflection from securing the best interests for the Teesdale community

7.3 Equality and Diversity: Need to ensure that the transitional arrangements for local government reorganisation do not disadvantage any groups within the community.

7.4 Human Resources: Personnel will be required to operate in compliance with Structural Change Order; review of electoral ward boundaries will require staff input; continuation of legal challenge would involve member/officer input.

7.5 Community Safety: None

7.6 Legal Issues: All matters covered in this report are governed by the provisions of the Local Government and Public Involvement in Health Act 2007.

Background papers: Correspondence and legislation referred to in the report.

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