



## Transformation Committee 20 February 2019

### Structural Change Order for North Northamptonshire Unitary Council

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#### Purpose of report

This report highlights the likely issues to be covered by the Structural Change Order for Local Government in Northamptonshire should the Secretary of State make a decision to progress unitary councils in the area, and presents recommendations on the key choices.

#### Appendices

A – Summary of Anticipated Content of the Structural Change Order

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#### 1.0 Background

- 1.1 In August 2018, this Council and six other Northamptonshire Councils resolved to submit a Joint Proposal for two new unitary authorities covering the county to the Secretary of State for Housing, Communities and Local Government. (Corby Borough Council did not support the Joint Proposal). The Secretary of State has subsequently undertaken an eight-week public consultation on the proposal. This ended on 25 January 2019.
- 1.2 After his consideration of consultation responses, the Secretary of State will decide whether or not to make a Parliamentary decision to establish a new unitary authority for North Northamptonshire. It is anticipated that, if he decides to proceed, the North Northamptonshire Unitary will take effect from 1 April 2020, with a Shadow Unitary Authority as the interim transition body from summer 2019.
- 1.3 An important element in this process of creating a Unitary authority will be the drafting and making of a Structural Change Order (SCO). The SCO is made by the Secretary of State for Housing, Communities and Local Government in the exercise of his powers within the Local Government and Public Involvement in Health Act 2007.
- 1.4 Based on recent experience elsewhere, it is anticipated that this will be one Order covering both the North and West Northamptonshire areas – albeit in correspondingly distinct sections. The purpose of the Order is to facilitate the transition from existing Councils to the new authorities. The Order will define the basic governance and operating principles in the lead up to new unitary authorities in Northamptonshire.
- 1.5 There are two key reasons as to why it is important for this committee to consider the implications of the SCO now:
  - a) Although the SCO is the ultimate decision of the Secretary of State (SOS), it is clear that there will be the opportunity for formal dialogue between representatives of the Local Authorities and MCHLG prior to the drafting of the SCO. Therefore, it will be important to be clear about the individual authorities and ultimately North Northamptonshire's preferences as to its content.

- b) Secondly, once the SCO is laid before parliament, the first meeting of the “Shadow Authority” must be held not later than 14 days after the order comes into force. Therefore, it will be important that all the background work relating to the content of that first meeting, as laid out in the SCO, has been completed.

## **2.0 Likely Content of the Structural Change Order**

- 2.1 Although much of the Order will be technical in nature, the Secretary of State has options in some instances which are likely to be politically sensitive locally or have some practical implications and where local choice is likely to prevail.
- 2.2 Attached to this report at Appendix A is a table that includes:
  - a) The issues likely to be included within the SCO and those to be considered either by a North Northamptonshire Joint Committee or under delegated powers prior to the first meeting of the Shadow Authority.
  - b) Notes relating to each issue.
  - c) The current preferences outlined by the Leaders of the North Northamptonshire authorities that make up the North Northamptonshire Steering Group (i.e. Corby, Kettering, Wellingborough, Northamptonshire and this Council).

## **3.0 Next Steps**

- 3.1 Local government reorganisation is a complex process and there have been numerous issues for which clarification has been necessary and is still being sought. Hence, it is stressed that the recommended content for the Structural Change Order (amended or not) will no doubt require refinement. As noted in section 1.5 above, before the SCO is formally laid before Parliament there is likely to be further dialogue with Government officials in relation to its content; some of which will be administrative in nature and some more substantive.
- 3.2 In order to provide a framework for negotiation and agreement of changes, but recognising what is likely to be a fast-moving and challenging timeframe, the opportunity to influence future iterations of the Order should not to be lost due to timing restrictions of formal committee deadlines. Accordingly, it is recommended in such circumstances that authority for negotiating changes be delegated to the Chief Executive following consultation with the Leader and Monitoring Officer in order to meet Government timeframes.
- 3.3 Once the Order is made, other consequential orders will follow that will achieve the demise of the councils and establishment of successor authorities. These will include further details of financial, staff and civic matters.

## **4.0 Equality and Diversity Implications**

- 4.1 There are no equality or diversity implications arising directly from this report.

## **5.0 Privacy Impact Implications**

- 5.1 There are no privacy implications arising directly from this report

## **6.0 Legal Implications**

- 6.1 The Structural Change Order is made by the Secretary of State for Housing, Communities and Local Government in the exercise of the powers conferred by sections 7,11,12 and 13 of the Local Government and Public Involvement in Health Act 2007 (a) ("the 2007 Act"). A draft of the order would be laid before, and need to be approved by a resolution of, each of House of Parliament in accordance with section 240 (6) of the 2007 Act.
- 6.2 The proposals in Appendix A will create a new legal body to replace the existing councils of the Borough Council of Wellingborough, Corby Borough Council, this Council, Kettering Borough Council and Northamptonshire County Council.

## **7.0 Risk Management**

- 7.1 The primary risk to this Council associated with the drafting of the SCO is that the Secretary of State overrides local preferences for some of the content. Delegation of authority as recommended will enable speedy responses to any queries and enable the local perspective to be strongly argued.
- 7.2 The other key risk in relation to the SCO is that either the laying or making of the order is delayed by other parliamentary activity which could in turn lead to a delay in the creation of the new Unitaries.
- 7.3 There are other risks to this Council associated with the implementation of the new unitaries. These risks and the steps being taken to mitigate them are set out in the risk register.

## **8.0 Resource and Financial Implications**

- 8.1 If a 'Section 24 Direction' is included in the SCO, it is anticipated that, once the Shadow Authority is in place, written consent would be required from the Secretary of State (or others he determines) for:
- land disposals over £100,000 consideration;
  - entering into capital contracts over £1m consideration or where there is a term allowing the consideration payable to be varied; and
  - entering into non-capital contracts over £100,000 consideration;
- 8.2 Government officials have indicated that these levels can be altered and that, if the Secretary of State directed that consent is required from the shadow authority (which he can do), the shadow authority could, in turn, choose to delegate this role to its Section 151 Officer.

## **9.0 Constitutional Implications**

- 9.1 There are no new implications for this Council's constitution arising from this report.

## **10.0 Implications for our Customers**

- 10.1 When (and if) the decision is made to create unitary councils in Northamptonshire and the SCO is laid before Parliament, this would be the signal for the start of a widespread communication programme to local residents and other stakeholders on the changes ahead and when and how it will affect them.

## 11.0 Corporate Outcomes

11.1 If and when this Council is abolished in 2020, it will be the outcomes adopted by the new North Northamptonshire Council that will become relevant.

## 12.0 Recommendation

12.1 Members of this committee are asked to:

- a) Consider the elements of the SCO as outlined in Appendix A and **resolve to recommend** their endorsement of the preferences in Appendix A to Council for submission to the Ministry of Housing, Communities and Local Government.

*[Reason - to provide early representations to inform the drafting of the Structural Change order by MHCLG]*

- b) Resolve to recommend to Council that delegated authority be given to the Chief Executive following consultation with the Leader and Monitoring Officer, to agree any changes to the submitted Draft Structural Change Order, as arising from negotiations with Government officials where it is not expedient to formally report back to Council or the duly appointed Committee.

*[Reason:- to ensure timely responses to enable the SCO to be laid at the earliest possible opportunity in order to facilitate the creation of the Shadow Authority]*

<b>Legal</b>	Power: <b>Local Government and Public Involvement in Health Act 2007</b>				
	Other considerations:				
<b>Background Papers:</b>					
<b>Person</b>	<b>Originating</b>	Sharn Matthews, Monitoring Officer			
<b>Report:</b>		☎ 01832 742108 ☒ smatthews@east-northamptonshire.gov.uk			
<b>Date:</b> 4 February 2019					
<b>CFO</b>		<b>MO</b> 07/02/19		<b>CEX</b> 07/02/19	

**Summary of North Northants preferences within the Structural Change Order**

	<b><i>Agreed Preference for NN</i></b>	<b><i>Notes</i></b>
<b>Name of the new authority</b>	<b>North Northamptonshire</b>	
<b>Form of Unitary Council</b>	<b>District with County Powers</b>	Unitary Councils have to be established as County Councils with District powers or District Councils with County powers
<b>Form of Governance for Shadow Authority</b>	<b>Executive with an Overview and Scrutiny Committee</b>	It is likely that no reference will be made to the governance form of the new Unitary Council in the SCO. It has been confirmed that that the Committee model could be implemented from the first Annual Council meeting of the new unitary Council if desired
<b>Number of votes per twin hatters</b>	<b>2 votes for twin-hatters on the Shadow Authority</b>	This applies to the Shadow Council only, not to the Shadow Executive
<b>Number of councilors for first election (May 2020) for North Unitary Council.</b>	<b>3 members per existing (26) NN NCC divisions  (78 in total)</b>	The Boundary Commission has confirmed that a review has been included in its 2021/22 work programme.
<b>Composition of Shadow Executive</b>	<b>To be composed of 15 Cllrs nominated as follows:  3 from Borough Council of Wellingborough 3 from Corby Borough Council 3 from East Northamptonshire Council 3 from Kettering Borough Council 3 from Northamptonshire County Council</b>	
<b>Who will be responsible for convening the first meeting of the shadow authority?</b>	<b>Corby Chief Executive</b>	Need to specify which Chief Executive/senior officer in SCO (Although in practice work of clerking committees will then be shared between councils). The North Northamptonshire Steering Group has proposed that Corby's Chief Executive should take on this role as it is Corby's Monitoring Officer who is the lead for the North.
<b>Do we want an order under s24 Local Government and Public Involvement in Health Act 2007?</b>	<b>Yes</b>	This is the order that enables the Shadow Executive to restrict spending/new contracts/disposal of assets by the existing authorities from a certain date.
<b>Electoral Cycle for new Council</b>	<b>Next elections for Unitary in 2025 and subsequently every four years on 'County' cycle.</b>	Need to ensure that SCO makes provision to align Town & Parish Council elections in Unitary area to same cycle

<b>Revocation of Statutory Instrument that created the Joint Planning Committee, and passing of planning powers to new Unitary</b>	<b>Yes</b>	It is not considered possible for the JPC to continue in current form as all partner councils will be abolished
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