Local Government Reform in Northamptonshire – Draft Structural Change Order (SCO)

SYNOPSIS BOX
For Full Council to consider recommendations from the North Northamptonshire Steering Group, in relation to preferences to be registered with Government regarding the content of any future Northamptonshire Structural Change Order.

1. Relevant Background Details

Subject to a final decision being made by the Secretary of State following his recent consultation exercise, there has been a need for senior officers and Members to discuss options for the creation of a Shadow Authority for North Northamptonshire ahead of the potential establishment of a new North Northamptonshire unitary authority.

These discussions have been held with senior representatives of the Ministry of Housing, Communities and Local Government and been influenced by the recent local government reform exercise being conducted in Dorset.

Government has indicated that should the Secretary of State support the reform proposal submitted by seven of the county’s local authorities on the 31st August 2018, then the preferred Vesting Day (the day the new council(s) would come into being) would be 1st April 2020. Given previous delays the timetable to organise Vesting Day has restricted. It has therefore been necessary to discuss plans and options ahead of the Secretary of State’s decision.

Members will be aware that Parliament has already postponed the scheduled local elections in Northamptonshire due to have been held in May 2019.

A decision by the Secretary of State is unlikely to be made until Spring 2019. If the decision is to proceed with the reform programme, there is a legislative timetable to be followed. This involves the laying before Parliament of a Structural Change Order (SCO).

The purpose of the SCO would be to facilitate the transition from the existing local authorities to the new unitary councils. The Order would define the basic governance and operating principles in the lead up to the new unitary authorities coming into existence on Vesting Day.

A Shadow Council would be created comprising all of the Members from Corby Borough Council, East Northamptonshire District Council, Kettering Borough Council, the Borough Council of Wellingborough and those Members from Northamptonshire County Council (NCC) representing divisions within the North Northamptonshire area.

This Shadow Council would be in operation until Vesting Day. The purpose of the Shadow Council would be to oversee arrangements for the creation of the new unitary authority and ensure there was continuity of service delivery to the public from 31st March 2020 (abolition of existing authorities) to 1st April 2020 (Vesting Day).
2. **Report**

Detailed below are some of the key areas where the MHCLG have indicated they would be willing to consider local preferences within the Order. These have been subject to discussion by senior Members and officers within North Northamptonshire and the wider county groups.

Matters included within the recent Dorset Order and the advice of MHCLG civil servants have been taken into account. West Northamptonshire councils are considering their local preferences.

**Form of governance for Shadow Authority**

The Shadow Authority will exist from the time any Order is enacted until the creation of the new unitary authority (Vesting Day). This “shadow period” is currently likely to run from late summer 2019 until 31st March 2020.

The MHCLG have recommended that an executive style of governance be adopted for this shadow period.

It is therefore likely to be proposed that the governance structure for the Shadow Authority be – Full Council, Executive Committee, Overview & Scrutiny Committee, Standards Committee and Appointments Committee. It likely that the Chair of the Shadow Executive Committee would be Leader of the Shadow Council. **Exact arrangements for any executive style would need to be agreed by the Shadow Authority at its first Full Council meeting.**

Adoption of executive style arrangements for the shadow period does not prohibit the new unitary authority from adopting alternative arrangements (committee style). No final proposal has been made for governance arrangements for the Unitary Authority.

In recognition of the new Unitary Council needing to support existing County services, in particular, Adults and Children's services, there would be a planned approach in place. This approach would include gaining lessons learned and advice by engaging with leading local authorities on these services and also working with organisations such as the LGA. There would also be training plans in place for Members where we build capacity.

It is considered advantageous to work with leading authorities and the LGA, as it allows greater insight into how people services have been delivered successfully, whilst equally working with County colleagues in understanding the current challenges and developments at a local level.

**Number of votes per twin hatters**

Some Members represent both district wards and county divisions. All North Northamptonshire Members will be able to attend Shadow Authority Full Council meetings. Those who are “twin hatters” would be able to vote twice. This applies to Shadow Authority Full Council meetings only, not any Shadow Authority committees.

**Composition of Shadow Executive Committee**

It is being proposed that each partner authority be represented by 3 Members on the Shadow Executive Committee. There would be a total of 15 Members on the Committee.

Appointment of representation would be decided by the respective partner. The respective political balance regulations apply. It is currently envisaged that Corby’s representation would be 2 Labour and 1 Conservative.

**Who will be responsible for convening the first meeting of the Shadow Authority**

The Shadow Authority Full Council will need to meet within 14 days of the Order coming into force. All 154 Members within North Northamptonshire (13 of who are twin hatted) would be entitled to attend.
The North Northamptonshire Steering Group are recommending that Corby's Chief Executive summon the meeting, with the organisation for the meeting being co-ordinated by Corby’s Monitoring Officer working with North Northamptonshire colleagues.

**Do we want an order under s24 Local Government and Public Involvement in Health Act 2007**

Where authorities are to be abolished by Orders legislation allows the Secretary of State to direct limitations on the spend of those authorities. These powers do not apply to approved Budgets (set at Council Tax/Budget Full Council) but additional in-year spend above certain thresholds. MHCLG have indicated that this provision may be included within consequential Orders.

The opinion of the North Northamptonshire Steering Group is that reference to this be made as a means of ensuring fairness and consistency among the partner authorities. It would not prevent additional in-house spend by an authority operating within the thresholds, but where additional expenditure above the thresholds was proposed an additional layer of decision making would be required.

Further information is provided under Financial Implications in this report.

**Form of Unitary Council**

It is being suggested that the new unitary authority be classified as a “district council with county powers”.

**Number of councillors for first election (May 2020) for North Northamptonshire Unitary Authority**

The Boundary Commission have confirmed that a boundary review cannot be commenced and completed in time for the May 2020 elections. A boundary review would be conducted after 2020 and prior to the subsequent elections.

It is proposed that the default position be to adopt the county division boundaries for the May 2020 elections. For the 2020 elections each division would elect 3 Members (currently they elect one). The total number of Members in the new unitary would be 78 in total.

**Electoral cycle for the new Unitary Authority**

Subject to the Secretary of State's decision, the first elections for the new unitary authority would be in May 2020. It is being proposed that the subsequent elections would be held in 2025, thus giving an initial period of office of 5-years. The Order would also need to align town and parish elections accordingly. The electoral cycle would return to 4-years from 2025 onwards.

**Revocation of Statutory Instrument creating the North Northamptonshire Joint Planning Committee and transferring planning powers to the new Unitary Authority**

Currently a North Northamptonshire Joint Planning Committee exists. Once a new Unitary Authority for the area is created this Committee ceases to have a role. Revocation of the original Order creating the Committee and transfer of its current duties and responsibilities is being requested.

### 3. Options to be considered (if any)

The Government have requested that a collective response be made by authorities within North Northamptonshire regarding any local preferences for inclusion in the Order. Any collective local preferences made would be considered for inclusion.

The proposed preferences included in this report have been influenced by those included within the Dorset Order and discussions with MHCLG. As stated previously, if agreed, these are local preferences for inclusion in the Order; the Secretary of State will ultimately make the final decision on the content of the Order based on recommendations from civil servants.
It is being suggested that the local preferences agreed by the North Northamptonshire Steering Group (Appendix A) be endorsed and submitted to MHCLG.

In addition, the potential exists for urgent comment from authorities to requests for clarification/views on the final draft Order prepared by MHCLG. It is being suggested that delegated authority be granted to the Chief Executive, in consultation with the Leader and the Monitoring Officer, to respond accordingly through the North Northamptonshire group network.

4. Issues to be taken into account:-

   Policy Priorities

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.

   Financial

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

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.

   Risk

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.

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 unitary authorities.

   Legal

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.

The proposals in Appendix A will create a new legal body (the “Shadow Authority”) which would oversee the creation of a new unitary authority to replace the existing councils of Borough Council of Wellingborough, Corby Borough Council, East Northamptonshire District Council, Kettering Borough Council and Northamptonshire County Council.

   Data Management

None specific to this report.
5. Conclusion

The Secretary of State has consulted on and is considering the Joint Proposal for Northamptonshire Local Government Reform as submitted by seven of Northamptonshire’s local authorities. If reform is pursued, a key next step for Government would be the production of a Structural Change Order (SCO) and seeking Parliament’s approval for it. As there is some discretion, it is considered wise to influence Government’s preparation of such an Order. Accordingly the suggested preferences for the unitary authority are set out in Appendix A and it is recommended these are approved by Full Council for submission to Government.

There would be the need for consequential Orders to be made later in the process. These would cover other financial, legal and staffing issues.

6. Recommendation

That Full Council:

i) Agree the draft Structural Change Order preferences (as per Appendix A) to be submitted to the Ministry of Housing, Communities and Local Government; and

ii) Any changes to the submitted draft Structural Change Order, as arising from negotiations with Government officials, be delegated to the Chief Executive, in consultation with the Leader of the Council and the Monitoring Officer, where not expedient to formally report back to Full Council or duly appointed committee.

Background Papers

Dorset Structural Change Order

External Consultations

North Northamptonshire Steering Group

Monitoring Officer Group

MHCLG

List of Appendices

Summary of proposed preferences for Northamptonshire Order

Officer to Contact

Paul Goult (Monitoring Officer) ext 4013
### Summary of North Northamptonshire preferences for inclusion within the Structural Change Order

<table>
<thead>
<tr>
<th>Issue</th>
<th>Local Preference for North Northamptonshire</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of the new Unitary Authority</td>
<td>North Northamptonshire</td>
<td>Unitary Authorities have to be established as either a District Council with County Powers OR a County Council with District Powers.</td>
</tr>
<tr>
<td>Form of new Unitary Authority</td>
<td>District with County Powers</td>
<td>The “Executive” structure would apply to the Shadow Authority only at this time. Further discussions regarding the future governance model of the new Unitary Authority are required.</td>
</tr>
<tr>
<td>Form of Governance for Shadow Authority</td>
<td>An “Executive” structure with an overview &amp; scrutiny committee</td>
<td></td>
</tr>
<tr>
<td>Number of votes per “twin hatters” (those elected as both district &amp; county councillors)</td>
<td>Two votes for “twin hatters” on the Shadow Authority</td>
<td>This would apply to meetings of the Shadow Authority Full Council only, not to any Shadow Authority committees.</td>
</tr>
<tr>
<td>Number of councillors to be elected at the first election of the Unitary Authority (May 2020)</td>
<td>Current NCC Divisions to be utilised across North Northamptonshire, with 3 councillors to be elected for each Division</td>
<td>The Boundary Commission have indicated that a review will not take place prior to Vesting Day and has been included in their 2021/2022 work programme.</td>
</tr>
<tr>
<td>Composition of Shadow Executive Committee</td>
<td>To be composed of 15 councillors 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</td>
<td>Appointment by the respective authorities subject to the political balance rules that apply.</td>
</tr>
<tr>
<td>Question</td>
<td>Yes/No</td>
<td>Details</td>
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<tr>
<td>Who will be responsible for convening the first meeting of the Shadow Authority Full Council?</td>
<td></td>
<td>The Chief Executive of Corby Borough Council will issue the summons for the first meeting of the Shadow Authority Full Council. The North Northamptonshire Steering Group are recommending that Corby Council’s Chief Executive issue the summons, as Corby’s Monitoring Officer is the lead MO for the North.</td>
</tr>
<tr>
<td>Do we want an order under s.24 of the Local Government and Public Involvement in Health Act 2007?</td>
<td>YES</td>
<td>Further details as to the scope of any s.24 order included within the covering report.</td>
</tr>
<tr>
<td>Electoral cycle for the new Unitary Authority</td>
<td></td>
<td>Initial elections in May 2020 with subsequent elections in May 2025 then on a 4-year cycle.</td>
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<td>It is felt that the initial term of office (from May 2020) be extended with subsequent elections being held in 2025, and then a return to the normal 4-year cycle. Town &amp; parish council elections would need to be aligned to correspond.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Revocation of the Statutory Order (SI) North Northamptonshire Committee Order 2005 and transfer of planning duties and responsibilities to the new Unitary Authority</td>
<td>YES</td>
<td>The SI creating the Joint Planning Committee would need to be revoked with transfer of duties and responsibilities to the new Unitary Authority.</td>
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