

Report for Resolution

Report to Council
29 June 2010
Report of Chief Executive
Subject Unitary status – Future of the Implementation Executive

7

Purpose

To make recommendations on the future of the Implementation Executive (IE), in the light of the Government's Local Government Bill which will revoke the Structural Change Order for a Norwich unitary council.

Recommendations

1. To note that since the announcements of the government's intention to revoke unitary status for Norwich, considerable steps have already been taken to suspend implementation work, and to cease expenditure on implementation wherever possible.
2. To note that the Implementation Executive needs to remain in place in order to fulfil our statutory duty to implement.
3. To suspend member allowances for the Implementation Executive with effect from 1 July 2010.
4. To authorise, once the Local Government Bill has been passed, officers to seek reimbursement for implementation costs incurred since the Structural Change Order was approved by Parliament on 25 March 2010.

Financial Consequences

Since the Structural Change Order was approved by Parliament on 25 March 2010, Norwich City Council has been complying with its statutory duty to implement unitary status, and has therefore incurred expenditure associated with that duty.

These costs will be met from the £500,000 earmarked amount in the general fund reserve agreed for unitary status preparation by full Council on 23 February 2010. However, any remaining uncommitted funds will now be returned back to the general fund reserve.

Council is being asked to consider seeking repayment of the funds spent on implementation since 25 March 2010.

Risk Assessment

The report indicates that whilst the City Council remains under a statutory duty to comply with the Structural Change Order to create a unitary Norwich Council, it is now very clear that the new coalition government is determined to try to overturn

that legislation. In this situation, it is considered prudent to scale down unitary implementation and expenditure as quickly as possible.

Strategic Priority and Outcome/Service Priorities

The report helps to meet all of the City Council's strategic priorities.

Executive Member: Councillor Morphew - Leader of the Council

Ward: All

Contact Officers

Laura McGillivray, Chief Executive
Paul Spencer, Director of Transformation

01603 212001
01603 212238

Background Documents

None

Report

Background

1. The Structural Change Order to create a unitary Norwich remains in place. This requires Norwich City Council, as the preparing council, to:
 - Establish an Implementation Executive (in place)
 - Establish an implementation team (was in place)
 - Prepare an implementation plan (in place and approved by the IE)
 - Perform the main transitional functions (commenced but not completed).
2. However, the new Government's "Our programme for government" document and the Queen's speech has signalled a clear intention to revoke the Structural Change order. The coalition clearly has the Parliamentary majority in place to make this happen, and the Local Government Bill to revoke the Order has now been introduced into Parliament.
3. The Department for Communities and Local Government have also written advising that "the Government expects councils will take no further steps, or incur expenditure on taking forward plans to implement unitary status". Bob Neill MP, Parliamentary Under Secretary of State for CLG, has also written to the City Council Leader and Chair of the IE to reinforce this.
4. Technically, the City Council cannot cease to comply with its duties under the Order, as it would then be in breach of a statutory duty (and could be challenged by the Audit Commission and others). The Monitoring Officer also has a duty to report any contravention of the law by the council.
5. As long as the Order remains in place expenditure on implementation will remain lawful, and there is no requirement for the S151 officer to make a report under S114 of the Local Government Finance act 1988. However, there is always a parallel fiduciary duty to the local taxpayers.

Scaling back of implementation activity

6. In view of the continuing uncertainty about unitary implementation, the Chair of the Implementation Executive has asked City Council officers to suspend the majority of implementation work with immediate effect.
7. The preparation work that has been suspended immediately does not undermine our statutory duty to implement. This includes stopping the following activity:

• No new financial commitments on implementation work
• Recruitment of Chief Executive and Strategic Directors
• Recruitment of officers into the joint implementation team (eg Finance, Customer Contact, procurement, ICT etc etc)
• Recruitment of a Human Resources workstream manager
• Secondments from Norfolk CC into joint implementation team
• Briefings for IE members on the full range of County Council services
• Planned visits to other unitary councils

• All Programme Management Office activity related to unitary status
• Disaggregation work (eg for finances, staffing, assets etc)
• Senior management liaison meetings with Norfolk County Council
• All communications and consultation activity

Future of the Implementation Executive

8. As long as the Structural Change Order remains in place the Council continues to be duty bound to have an Implementation Executive. At present it is not absolutely clear when the Local Government Bill may receive Royal Assent, but this may take several months to complete.
9. Therefore it is recommended that the Implementation Executive remain in place for the time being. However, there is considerable flexibility about how often it meets, and it is recommended that in the current circumstances we retain monthly meeting dates in the diary, but that a meeting only be held if there is an urgent matter to discuss.

Members' allowances

10. The current situation means that effectively unitary implementation work has stopped. In this circumstance, even though the Implementation Executive technically remains in place, there is in practice no unitary work for members of the IE to do. Therefore, there is no real justification for member allowances to be paid.
11. A number of IE members have already voluntarily given up their allowances. Executive has considered this matter, and is proposing to recommend that full Council formally suspend the Special Responsibility Allowance for all IE members with effect from 1 July 2010 pending formal disbanding of the IE, after which these SRA's can be removed from the members Allowances Scheme..

Expenditure on unitary implementation

12. The Structural Change Order was laid on 25 March 2010. This immediately put Norwich City Council, as the preparing authority, under a statutory obligation to start implementation work. Given the very tight 12 month timetable, the City Council moved quickly to put the necessary resources and implementation work into place.
13. As at 21 May 2010 when steps were taken to scale back implementation activity, the City Council had already incurred significant costs in implementation activity. These costs will be met from the implementation budget already agreed by full Council on 23 February 2010.
14. Norfolk County Council will also have incurred some costs in supporting implementation.
15. Both councils have pursued implementation in good faith, and have committed resources in support of a statutory obligation. This statutory obligation is now being removed, through no action of our own. In this light it seems unfair that we have been legally required to spend taxpayers' money on a project that has

then been cancelled. It is therefore proposed that, once the Local Government Bill has been passed, Norwich City Council should seek reimbursement for its expenditure on implementation since 25 March 2010. Executive has considered this matter, and is proposing to recommend that full Council agree to this.

Continuing review

16. It will be necessary to continually review the progress of the draft Local Government Bill, and our statutory obligations. If the situation changes with regard to unitary status, then it may be necessary to review the need for implementation work, the Implementation Executive and member allowances.