

9 March 2021		ITEM: 5
Corporate Overview and Scrutiny Committee		
Memorandum of Understanding – Local Government Reorganisation		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Rob Gledhill, Leader of the Council and Portfolio Holder for Anti-Social Behaviour		
Accountable Assistant Director: Ian Hunt, Assistant Director Law and Governance		
Accountable Director: Lyn Carpenter, Chief Executive		
This report is Public		

Executive Summary

The Council intends to enter a Memorandum of Understanding (MOU) with Basildon Borough Council to investigate the benefits of becoming one unitary council in support and preparation for the government's forthcoming devolution white paper. This report is before Scrutiny in advance of the Cabinet meeting to consider the substantive decision.

The Councils will jointly look to explore all aspects of merging, both benefits and risks, to develop proposals in advance of the Government's Devolution White Paper. It is also intended to support the most advantageous form of long term governance for the residents and businesses of South West Essex.

The MOU does not determine the future shape of arrangements but will explore options including the creation of a new unitary Council for the area. Future decision making will assess the merits of the proposals.

1. Recommendation:

1.1 That the Corporate Overview and Scrutiny committee comment on the report and the proposal for consideration by Cabinet at their meeting on the 10 March 2021.

2. Introduction and Background

2.1 At the meeting of Cabinet on the 10 February 2021 the Leader announced the intention to bring forward a report to the March meeting of Cabinet to consider

entering into a Memorandum of Understanding (MOU) with Basildon Borough Council to pursue joint working on proposals around Local Government reform linked to the potential formation of a new unitary council.

- 2.2 Under the then Secretary of State, Government announced a forthcoming White Paper on Local Government and Devolution to be published in Autumn 2020. This paper has been delayed and is now expected in Spring/Summer 2021 although as yet there is no clear timeline. The emphasis on the White Paper, whilst potentially still including reference to devolution, may focus primarily on recovery although the detail will only be clear on publication.
- 2.3 The work proposed under the MOU will enable the two Councils to explore options in order to prepare for the release of this white paper. This will include considering opportunities for reform for the two areas with a view to maximising the economic and social benefits for residents and businesses across the two Boroughs. By developing this work in advance of the white paper it will help the two authorities to take control over the decisions made about the two boroughs and develop robust proposals for the future ensuring that neither residents nor businesses are disadvantaged by any future proposals.
- 2.4 The MOU anticipates work to assess the merits of a potential proposal for the creation of a South West Essex Unitary Authority. Although based on the two Boroughs initially there is no fixed view on the final proposed geography of potential reform and the proposed MOU specifically enshrines the principle that the proposals will be developed in consultation with neighbours. It should be noted that any proposal would under current rules need the support of Essex County Council and any Districts / Unitary Authorities impacted in order to proceed.

What is not covered by the MOU:

- 2.5 This MOU does not in and of itself determine the future direction of the Council. There are a number of stages of decision making and consideration, if indeed the proposals are to be taken forward. The MOU does not directly impact on current service delivery, budgeting and Council Tax or staff structures at this time.
- 2.6 Thurrock Council's commitment to continuing its joint work across the whole of the South of Essex within the Association of South Essex Local Authorities (ASELA) is not diminished and the Council intends to take an active part in that work including the setting up of the Joint Committee approved at Cabinet on the 10 February 2020.

3. Issues, Options and Analysis of Options

- 3.1 Structural reform in Local Government is regulated through legislation and is subject to specific frameworks. Whilst the potential Devolution White Paper may change details within this the current framework is set out for context.

- 3.2 The procedure for the creation of a unitary authority can be found in sections 1-7 of the Local Government and Public Involvement in Health Act 2007. The Secretary of State can 'invite' a proposal from a local authority to make a proposal for a county or district, or group of districts, to become unitary. The Local Government Boundary Commission for England (LGBCE) can be, but need not be, asked for advice on any matter related to the proposal.
- 3.3 Regulations may be made covering how local authorities should go about preparing their proposal. The Secretary of State may then make an order implementing the proposal, or s/he may reject the proposal.
- 3.4 If accepted by the Secretary of State the change must be implemented by way of statutory regulations which must be approved by both Houses of Parliament.
- 3.5 The usual process for forming a new authority under these proposals follows the following steps:
- Invitation for Proposals to the Secretary of State is issued.
 - All councils within an area develop proposals which assess the impacts for residents, business and the sustainability of the new Council. This step usually engages with residents and business.
 - Submission of proposals to Secretary of State
 - If the Secretary of State is minded to pursue these proposals they may:
 - Invite the LGBCE to consider proposals (which may involve public consultation)
 - If there has been inadequate consultation at the earlier stages undertake (or direct that) consultation with residents and businesses.
 - Approval of proposals by the Secretary of State
 - Consideration of regulations by Parliament
 - Formation of a new Shadow Council (this usually runs for 12 Months)
 - Elections to the New Council
 - Formal transfer of functions and termination of the existing Councils.
- 3.6 At this point in time there has been no invitation for proposals within the meaning of the regulations, however there is precedent that where an area comes forward with proposals the Secretary of State can display the invitation stage.
- 3.7 The regulations provide that the proposals have to have the consent of all relevant authorities (in the present proposal Thurrock and Basildon Borough Councils and Essex County Council) who would be impacted in order to proceed. A previous section which allowed the Secretary of State to proceed where only some of the authorities consented expired on the 31 March 2019.
- 3.8 In this context it has to be recognised that whilst Thurrock is a Unitary Authority, Basildon Council is a District Council. Accordingly either there needs to be consent from Essex County Council or the Government would

need to legislate that their consent is not required. An understanding of the demand on services Essex County Council manages will be critical for the understanding of the viability of any proposed new unitary authority, without this information there would be substantial risks to any analysis and the potential new authority, in that there may be significant unbudgeted and unexpected demands which may impact the ability to deliver on proposals.

- 3.9 Any proposals which are developed would need to be approved by the Council prior to submission, this would ensure there is an opportunity for full scrutiny and review by Members.

4. Reasons for Recommendation

- 4.1 To enable the entering into of a Memorandum of Understanding which will allow the Councils to explore the opportunities for local government reorganisation in the future.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The proposals have developed from political discussions between the Council Leaders. The memorandum of understating commits the Council to looking at potential proposals rather than defining a structure at this point.
- 5.2 This report is scheduled for pre scrutiny on the 9 March at the Corporate Overview and Scrutiny Committee in advance of the meeting of Cabinet on the 10 March 2021.
- 5.3 This future work will necessitate engagement with Members, residents and partners to fully understand the implications of any proposals and to ensure that these are adequately consulted on.
- 5.4 Any future formal proposals for changes to the Councils governance and structure would require relevant formal statutory consultation.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The proposals are an opportunity to consider a potential for a structural change. In considering the opportunity the Council will have to assess the benefits of the proposals against the three core priorities of People, Place and Prosperity. Proposals will ideally seek to maximise the benefits to residents and local businesses.

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**

Corporate Director of Finance, Governance and Property

This report does not create direct financial obligations. The initial phase of work can be met within existing budgets. It should be recognised that there is currently no dedicated resource to undertake this work, therefore it will require the diversion of senior management time and effort to input into the detailed work and proposals, and this represents an opportunity cost.

Should there be future proposals for structural change the financial implications of this would need to be included in the wider appraisals of the proposals at that time. Full consideration will need to be given as to the robustness of any proposals particularly if they are not based on detailed information.

7.2 Legal

Implications verified by: **Ian Hunt**
**Assistant Director Law and Governance, and
Monitoring Officer**

Entering into a Memorandum of Understanding in this context is within the powers of the Council under both s111 of the Local Government Act 1972 and s1 Localism Act 2011.

The report addresses the legal implications of Local Government Reform.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
**Team Manager - Community Development and
Equalities**

The decision to work with Basildon Council on these proposals does not create a direct impact on Diversity or Equality. In developing proposals for any form of structural change the full impact of the diverse communities we serve and the equality impact for workforce and residents would need full consideration. In line with the Council's commitments to work with communities in developing proposals any structural change would need community engagement and involvement.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children)

Any formal change to the Council's governance and structure has the potential to have impacts in all the domains the Council operates within. This could include staff, given the area over which they would be operating could change. At this point in time there is no indication what impacts this could

have and the work envisaged under this memorandum of understanding would be key to understanding any potential impacts. If the work indicates that there is a need for changes this would in line with normal protocols involve full discussion with staff and trade union bodies.

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. Appendices to the report

- Appendix 1 – Memorandum of Understanding.

Report Author:

Ian Hunt

Assistant Director of Legal and Governance