

Open Report on behalf of Tony McArdle, Chief Executive

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| Report to: | County Council |
| Date: | 24 February 2017 |
| Subject: | Consultation on the Future Governance arrangements for Local Government in Lincolnshire. |

Summary:

The last nationwide structural reform of English local government was delivered through the Local Government Act of 1972. For non-metropolitan areas, the universal solution was the creation of two tiers of Authorities.

Since then many of these two-tier areas have converted to operate under unitary authority arrangements. Many others are contemplating doing so.

This report invites this Council to consider taking steps to ascertain the views of the residents of Lincolnshire on these matters prior to considering its own position in this respect.

Recommendation(s):

That the Council authorises the Chief Executive in consultation with the Leader of the Council to make arrangements for seeking the views of the residents of the county on the principle of moving to a unitary system of local government in Lincolnshire.

1. Background

The last nationwide structural reform of English local government was delivered through the Local Government Act of 1972. For non-metropolitan areas, the universal solution was the creation of two tiers of Authorities. Large County Councils, modelled for the most part on the traditional county communities took control of Education, Social Services, Highways, Transport, Libraries, Strategic Planning and Waste Disposal. Each of these counties saw the establishment of a number of District Councils within their boundaries. These fully autonomous bodies ran Council Housing, Amenity and Leisure Services, Environmental Health, Local Planning and Waste Collection.

From the outset, this arrangement has proved challenging. There has been a regular need for operational 'interfaces' to be negotiated and agreed. Some services have been duplicated – economic development and tourism for example.

Political differences between the authorities has made common direction for some plans and programmes difficult and occasionally impossible. There has often been friction. There has always been frustration.

These tensions have led to near-universal acceptance that this division of responsibilities does not serve shire areas well. It is also confusing to the public and produces fragmentation with some constituent groups of councils working together but resulting in the creation of non-cohesive services across the county geography. A number of attempts have been made to address the issue in different parts of the country. Over time, Cornwall, Shropshire, Berkshire, Durham, Northumbria, Wiltshire, Cheshire and Bedfordshire have all seen the two-tier structure abandoned in favour of unitary Councils. Most of these areas have expressed a high degree of satisfaction with the outcome, with one or two unitaries in each case. Berkshire's six unitaries have proved more problematic.

Unitary proposals for Buckinghamshire, Dorset and Oxfordshire presently sit on the Secretary of State's desk. Proposals for Northamptonshire are forthcoming.

It is not hard to understand why the drivers for change are causing this new raft of proposals to be brought forward at this point. Common arguments include;-

- Rationalisation and integration of services will lead to better quality outcomes for service users. Whatever sense it may have made in 1972 to split waste collection and disposal, it is difficult to see the sense in it now. The same is true in respect of having the responsibilities for traffic management and for car parks sitting in different authorities. The boundary between public health and environmental health is equally unhelpful.
- The drive for economic growth requires a scale of coherent local government operation that allows for strategic decision-making across the 'functional economic geographies' that the Government – and business - recognises.
- The increasing complexity in commissioning public services requires that NHS, Police and local government work much more seamlessly to produce a joined-up 'offer' for an area, and for that to be a common area.
- The financial pressures that local government (and indeed the other public services) increasingly have to manage make the tolerance of diseconomies of scale and for 'penny-packeting' of services no longer justifiable. There are significant savings to be made from rationalising local authority operations and for integrating these with the other public services, in consequence allowing for more effective local government and accountability whilst releasing funds for front-line services.

All of these arguments hold good for Lincolnshire, where there are seven District Councils within the County Council area.

- The Secretary of State for Local Government, Rt. Hon Sajid Javid MP recently indicated that he saw any case for unitary authorities needing to reflect a population base of between 300,000 and 800,000. With a population of 736,000, Lincolnshire meets this criterion in respect of either one or two unitaries.
- The co-terminosity of the County Council's operational area with that of the Lincolnshire Police and of the NHS's recently-announced forward planning (STP) area mean that should the present local authority structures be superseded by a unitary model, that authority (or authorities) would be well placed to lead the integration of commissioning and delivering services across the public sector.
- The Greater Lincolnshire LEP covers the same area, as well as sharing responsibility with the Humberside LEP for the area covered by the two small unitary authorities to our north. We have found this arrangement to operate well, with considerable success in attracting support and investment, and any new authority(ies) would have this strong base to build on in furthering the economic prospects of the area.
- The bringing together of County and District services would allow for considerable enhancements to be made to service delivery, in all of the areas identified above, and in others as well - particularly in respect of combining operations for the collection of revenues and disbursement of benefits. The opportunity could also be taken to devolve to communities, through town and parish councils, some functions that are likely to be capable of more effective and efficient operation, such as the management of parks and gardens and street scene facilities.
- The financial benefits could be considerable. The rationalisation of service operations and the scaling down of the considerable management overhead that the present structure requires play a major part in that. It is estimated that between £24-33m pa savings would result from operating as a single unitary council in Lincolnshire and between £9-19m pa from operating two such unitaries. Further savings will result in time from closer integration with the NHS and Police commissioning arrangements as a fully strategic platform for public sector transformation will have been created by such a reorganisation.

More work will need to be carried out to examine the best disposition for unitary local government for Lincolnshire, although given the experience elsewhere and the initial examination of costings, it seems likely that this will be around one or two such unitary Councils. Value for Money Scrutiny Committee have recently asked for an initial analysis of the options.

The opportunity to expand the considerations of geography, most notable into the Greater Lincolnshire area have also not been addressed here, and we would need

to understand and respond to any aspirations there before taking up any such opportunity.

In the meantime, however, it is clear that there is a reasonable case for considering the principle of moving to unitary authorities at this point in time. Given that such a change would have an effect on all residents of the county it is considered that residents should be given an early opportunity to express a view on the matter.

An Advisory Poll

The most comprehensive way to canvas residents views would be to carry out a full ballot of all electors in the county. The County Council is due to be re-elected on 4th May 2017 and the arrangements that need to be put in place to conduct this election would seem to provide a ready platform for an 'advisory poll', as permitted in the Local Government Act 1972, to be conducted in a timely and cost-effective manner.

Under section 141 of the 1972 Act, the Council may 'conduct, or assist in the conducting of, investigations into, and the collection of information relating to, any matters concerning the county or any part of the county'. In this case, an advisory poll would be conducted for the purpose of investigating and collecting information relating to a matter concerning the county or part of the county, namely the attitudes of residents within the county to the idea of some form of unitary government.

The Council will be aware that the operational arrangements for conducting the County Council election are delegated to the seven District Councils (via the appointment of their Chief Executives as Deputy Returning Officers) given their responsibilities for electoral registration and the conduct of elections generally. All of the expertise, election materials and staff required for running such an exercise sit within the District Councils.

The Districts' Returning Officers (Chief Executives) have accordingly been approached with an outline proposal to conduct such an 'advisory poll'.

Their response has been to engage a QC and to challenge the proposal on a wide range of legal grounds. The County Council's own legal advice does not accord with that procured by the Districts in a number of significant respects, and holds that arrangements can be made whereby an advisory poll can be legally conducted. It is evident from discussions with the Districts that there is no wish on their part to seek a legal compromise on the matter, meaning that resolution of these conflicting positions could only be determined by a court, with all of the attendant expense to the public purse. It is considered that the County Council would not countenance incurring such expense, and that no such determination will therefore be sought.

Whilst the County Council would challenge some of the legal interpretation, what is not challengeable is the fact that the District Councils are not obliged to accede to the County Council's request to run an 'advisory poll'. From the informal

discussions that have taken place it appears that at least some Districts will not accede such a request from the County Council.

The County Council could of course conduct such a poll under its own auspices on a different date but the cost of this would be similar to that of the County Council election (i.e. in excess of £1m) and this cost is considered excessive in the light of alternative means of gathering residents views as are explored below.'

It is therefore reluctantly concluded that whilst an advisory poll represents the most comprehensive means of gathering the views of the people of Lincolnshire, the inability of the Council to guarantee the co-operation of the District Councils means that this option is effectively denied us.

Alternative means of seeking the views of residents.

There are statistically valid means of establishing public opinion other than by an 'advisory poll'. These would include a postal ballot, opinion polling and consultation via established means such as County News or the council's website.

Further work would need to be carried out in order to establish a preferred method and to calculate the costs involved (although by comparison these will be considerably less than the advisory poll operation as it is proposed by the District Councils). It would also be helpful to determine whether we might construct a process of public consultation or polling that could accommodate the District Councils interests in this matter. Clearly if this were possible it would reduce the scope for duplication or confusion in putting this important matter before the Lincolnshire public.

Any of these methods of seeking public opinion should be separated – in time - from the conduct of the County Council election and the period afterwards during which the new council establishes itself.

It is therefore suggested that this exercise take place in September or October 2017 and the Chief Executive be instructed to make the necessary arrangements for seeking the views of residents in consultation with the Leader of the Council.

The alternative would be not to proceed with seeking the views of the public. Whilst this would save on the costs of such an exercise it would mean that the public will not have been given an early opportunity to express their views about a matter which would have a significant effect on them and the services they receive.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

It is recognised that the way in which any poll is conducted can impact on the ability of people with a protected characteristic to make their voices heard. If the Council approves the recommendation in this Report an equality impact analysis will be undertaken to ensure that the design of any poll takes equality implications into account.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The proposal in this Report is not considered to have any direct impact on the matters set out in the JSNA and JHWS.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

The proposal in this Report is not considered to have any direct impact on crime and disorder matters.

3. Conclusion

Unitary local government has been successfully established in a number of former two-tier areas. It is currently under examination in other areas.

It is considered that it is appropriate to invite the views of the residents of Lincolnshire on the principle of dissolving the County Council and all seven District Councils and moving to a unitary system of local government in Lincolnshire

4. Legal Comments:

The Council has power to seek the views of residents about unitary government as set out in the Report.

The matter is within the remit of the full Council.

5. Resource Comments:

There are no immediately quantifiable financial implications arising from the acceptance of the recommendation in this report. Once the method for obtaining the views of the public and other stakeholders has been determined an estimate of the cost can be derived. Funding for this cost can be sought from the proposed 2017/18 revenue budget contingency budget of £3m.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

n/a

c) Scrutiny Comments

n/a

d) Have Risks and Impact Analysis been carried out??

See the body of the Report

e) Risks and Impact Analysis

See the body of the Report

7. Background Papers

No background papers were taken into account in the preparation of this Report.

This report was written by Tony McArdle, who can be contacted on 01522 552000 or tony.mcardle@lincshire.gov.uk .