

CENTRAL BEDFORDSHIRE SHADOW COUNCIL
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10 APRIL 2008

SUBJECT	CENTRAL BEDFORDSHIRE COUNCIL – CREATION OF A LEADER AND CABINET EXECUTIVE (To create a Leader and Cabinet Executive as required by Article 16(1) of the Bedfordshire (Structural Changes) Order 2008 and to appoint Members to the Shadow Executive.)
REPORT OF	Proper Officer of Mid Bedfordshire District Council <i>Contact Officers: Rob Mills (Tel: 0845 8496274) Kathrin John (Tel: 01462 611033)</i>

IMPLICATIONS

SUSTAINABILITY	None
FINANCIAL	The Bedfordshire (Structural Changes) Order 2008 provides for expenditure incurred by the Shadow Authority to be divided among and paid by the constituent authorities in such proportion as may be agreed by them and Bedford Borough Council.
LEGAL	The Shadow Authority has been established by the Bedfordshire (Structural Changes) Order 2008.
PERSONNEL/EQUAL OPPORTUNITIES	None
COMMUNITY DEV/SAFETY	None
TRADE UNIONS	None
HUMAN RIGHTS	The draft Constitution provides in Article 13 that a principle of decision making shall be respect for human rights

OTHER DOCUMENTS RELEVANT TO REPORT

None

RECOMMENDATIONS:

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| <ol style="list-style-type: none"> that the Shadow Council creates a leader and cabinet model of governance in accordance with Part 2 of the Local Government Act 2000 and appoints members of the Shadow Executive, as set out in paragraph 4 of this report, in accordance with Article 16 of the Implementation Order. |
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| 2. that the executive arrangements provide for the Leader to determine the Shadow Executive portfolios and any delegation of powers to individual portfolio holders. |
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Background

Creation of a Shadow Executive

1. Article 16(1) of the Bedfordshire (Structural Changes) Order 2008 requires the Shadow Council at its first meeting to create a leader and cabinet executive within the meaning of Part 2 of the Local Government Act 2000, which will form the Shadow Executive of Central Bedfordshire Council. It is the duty of all three constituent authorities to co-operate in the establishment of the Shadow Executive.
2. The normal limitation of ten members does not apply and the Shadow Executive is to consist of:-
 - (a) the leaders of Mid Bedfordshire District Council (MBDC) and South Bedfordshire District Council (SBDC);
 - (b) six other persons, of whom each of the district councils are to nominate three from among their existing members; and
 - (c) four persons nominated by Bedfordshire County Council (BCC), each of whom is for the time being a member of the County Council for one of the electoral divisions within the Central Bedfordshire area.
3. There is no requirement for political proportionality but, in making their nominations, the district councils and BCC are, to the extent that it is practicable to do so, required to secure that at all times the Conservative Party, the Labour Party and the Liberal Democrats are all represented on the Shadow Executive by at least one member.
4. MBDC have nominated Councillors Mark Chapman, Maurice Jones, Ken Matthews and Tricia Turner to the Shadow Executive. SBDC have nominated Councillors Norman Costin, Philip Penman, Peter Rawcliffe and Peter Snelling. BCC have nominated Councillors Rita Drinkwater, Bob King, Duncan Ross and Richard Stay.
5. The Shadow Executive may not include the Chairman or Vice-Chairman of the Shadow Council.

Executive Functions

6. Article 21(1) of the Order requires that all functions conferred on the Shadow Council under the Order are to be delegated to, and discharged by, the Shadow Executive, with the exception of those functions which must be exercised by the Shadow Council itself - either by the Order, by any enactment or by regulations made under Section 13 of the Local Government Act 2000.
7. These regulations specify which functions are not to be the responsibility of the Shadow Executive; which functions may be the responsibility of the Shadow Executive ('local choice functions'); and which functions are to some extent the responsibility of the Shadow Executive. All other functions are to be the responsibility of the Shadow Executive and may not be discharged by the Shadow Council.
8. Responsibilities for the various functions are set out in Article 4 and Part 3 of the Shadow Council's draft constitution, which is reported elsewhere on this agenda.
9. Executive arrangements under Part 2 of the Local Government Act 2000 require the establishment of at least one scrutiny committee with powers to hold the Shadow Executive to account and make reports and recommendations. This is dealt with in a separate report on governance arrangements for the Shadow Council.

Discharge of Shadow Executive Functions

10. Under Section 15 of the Local Government Act 2000, the Shadow Council's executive arrangements may provide for executive functions to be allocated to and discharged by either:
 - (a) the whole Shadow Executive;
 - (b) any member of the Shadow Executive (e.g. portfolio holder);
 - (c) any committee of the Shadow Executive;
 - (d) any officers of the Shadow Council; and/or
 - (e) any officers of the two district councils or BCC.
11. The Leader may discharge, or arrange for the discharge of, any executive functions that are not allocated in this way. In particular, the Leader (or the Shadow Council) may delegate particular executive functions to named portfolio holders (cabinet members). The scheme of delegation must be included in the constitution under Section 37 of the 2000 Act.

12. The Shadow Executive may arrange for any of its functions to be discharged by an executive committee or an officer; and an executive committee or portfolio holder authorised to discharge any functions may delegate those functions to an officer.
13. In any case, the person or body delegating the function is not prevented from exercising those delegated functions himself or itself.
14. There is at present limited delegation to individual portfolio holders in BCC and MBDC, but none in SBDC. Provision has been included in the draft constitution for the Leader to determine the portfolios and any delegation of powers to individual portfolio holders.
15. It is not proposed at this stage to establish committees of the Shadow Executive.
16. Initially the only officers directly responsible to the Shadow Executive will be the Interim Head of Staff, the Interim Monitoring Officer and the Interim Chief Finance Officer. Within 21 days of the Implementation Order coming into force, the Shadow Executive must then form a joint implementation team (JIT) of district and county council officers to assist it in its work. The Implementation Order provides that the JIT will be led by an officer of one of the District Councils.
17. The draft constitution therefore proposes a general power of delegation to the Interim Head of Staff, including urgent decisions which might otherwise be taken by the Shadow Executive or a committee, in consultation with the Leader and/or relevant portfolio holder as appropriate. The Interim Head of Staff will also have power to sub-delegate, in writing, to any officer.
18. The Leader will have power to vary the scheme of delegation as necessary.

Background Papers:	The Bedfordshire (Structural Changes) Order 2008 Constitutions of Bedfordshire County Council, Mid Beds and South Beds District Councils
Location of Papers:	Committee Section, Mid Beds District Council, Priory House, Chicksands, Shefford, Beds.
File Reference:	N/A