

SHADOW EXECUTIVE

30 SEPTEMBER 2008

SUBJECT	APPOINTMENTS TO THE BEDFORDSHIRE POLICE AUTHORITY AND THE BEDFORDSHIRE FIRE AUTHORITY (To consider the appointment of representatives of Central Bedfordshire to serve upon the Bedfordshire Police Authority and the Bedfordshire Fire Authority)
REPORT OF	Interim Monitoring Officer
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IMPLICATIONS

SUSTAINABILITY	None
FINANCIAL	Travelling and subsistence costs of the Central Bedfordshire observers during the transitional period will need to be met by Central Bedfordshire Shadow Authority. These costs can be accommodated within the provision made for Members' travelling in the Scheme of Members' Allowances for the Shadow Authority. Once full membership of the Police and Fire Authorities is assumed on 1 April 2009, allowances for the Council's representatives will be paid by the police and fire authorities respectively.
LEGAL	The requirements in relation to the appointment of Members to the Police and Fire Authorities are set out in Police Act 1996, the Police Authority Regulations 2008, the Bedfordshire Fire Services (Combination Scheme) Order 1996 and the Draft Local Government (Structural Changes) (Areas and Membership of Public Bodies in Bedfordshire, Cheshire and Wiltshire) Order 2008.
PERSONNEL/EQUAL OPPORTUNITIES	None
COMMUNITY DEV/SAFETY	None
TRADE UNIONS	None
HUMAN RIGHTS	None
KEY ISSUE	No
BUDGET/POLICY FRAMEWORK	No

OTHER DOCUMENTS RELEVANT TO REPORT

None

RECOMMENDATIONS:

1. That the arrangements for local authority representation on the Bedfordshire Police Authority and Bedfordshire Fire Authority be noted.
2. That the Shadow Executive support the principle of allocating the 9 local authority seats upon the Police Authority in proportion to the respective populations of Bedford Borough Council, Central Bedfordshire Council and Luton Borough Councils.
3. That, given the convention for the Joint Selection Committee to comprise the Members nominated by each Council for appointment to the Police Authority, the Shadow Executive therefore support the establishment of a Police Authority Appointments Joint Selection Committee comprising:-
 - 2 representatives of Bedford Borough Council
 - 4 representatives of Central Bedfordshire Council
 - 3 representatives of Luton Borough Council.
4. That the Shadow Executive notes that, in the event of the authorities failing to reach agreement with regard to the composition of the Joint Selection Committee, the Secretary of State will be required to determine the membership thereof.
5. That the proposed constitution and terms of reference of the Joint Committee, as set out in Appendix A, be approved, subject to the proviso that, in the absence of agreement between the authorities, the number of seats to be allocated per authority, shall be determined by the Secretary of State.
6. (a) That the Shadow Executive appoint members to serve on the Joint Selection Committee and for nomination to represent Central Bedfordshire, upon the coming into force of The Local Government (Structural Changes) (Membership of Public Bodies in Bedfordshire, Cheshire and Wiltshire) Order 2008, on the Bedfordshire Police Authority until the local authority elections in 2009, pending any final confirmation as may be needed by the Secretary of State regarding the number of seats to be allocated to each authority; and

(b) That, in making its nominations, the Shadow Executive have regard to the requirement for Central Bedfordshire and Bedford Borough Councils between them to nominate 5 Conservative and 1 Liberal Democrat member.

- 7. That the Shadow Executive appoint 5 members, who, upon the coming into force of The Local Government (Structural Changes) (Membership of Public Bodies in Bedfordshire, Cheshire and Wiltshire) Order 2008 will represent Central Bedfordshire on the Bedfordshire Fire Authority (4 Conservative and 1 Liberal Democrat) until the local authority elections in 2009.**

Reason for Recommendation: In order to comply with the provisions of The Local Government (Structural Changes) (Membership of Public Bodies in Bedfordshire, Cheshire and Wiltshire) Order 2008 when enacted, to invite the Shadow Executive to consider arrangements for establishing a Joint Committee with Bedford and Luton Borough Councils to select Members to serve upon the Police Authority and to appoint Members to represent Central Bedfordshire upon the Fire Authority.

Introduction

1. This report arises from the need to make arrangements to secure the representation of the Bedford Borough and Central Bedfordshire Unitary Councils on the Bedfordshire Police Authority and Bedfordshire Fire Authority with effect from 1 April 2009. This report has been prepared on the basis of a draft order to be laid before Parliament shortly.

Bedfordshire Police Authority - Background

2. As Members will be aware, local authority representation on the Bedfordshire Police Authority is currently drawn from Bedfordshire County Council and Luton Borough Council (these currently being the “relevant Councils” for the purposes of appointing Members to the Police Authority), who between them appoint nine Police Authority Members. Of these nine Members, six are from Bedfordshire County Council and three are from Luton Borough Council. These appointments are made by a joint committee of the two Councils, as required under the Police Act 1996. Four of the existing County Councillors represent Divisions in Central Bedfordshire (Cllrs P Hollick, V Lee, B Spurr and R Younger.)
3. With effect from 1 April 2009, the Bedford Borough and Central Bedfordshire Unitary Councils will replace the County Council as “relevant councils” for this purpose, and the DCLG is expected shortly to lay regulations which will require, within 14 days of the Order coming into force, Bedford Borough, Central Bedfordshire and Luton Borough Councils to form a “shadow” joint selection committee to appoint members of the new unitary councils to the Police Authority. The Regulations will also entitle those Members who are so appointed, to attend meetings of the Bedfordshire Police Authority in an observer capacity prior to 1 April 2009. As observers they will not be able to vote, but the Police Authority will be required to seek their views on its precept, budget calculation and policing plan for 2009/10.

- The draft Order provides that a member who is appointed as an observer representative of the new unitary authority but is also an existing member of the Police Authority, can continue to vote in their capacity as a member of the Police Authority (ie: existing police authority members are not precluded from acting in a dual capacity and also representing Central Bedfordshire as an observer during the transitional period.)

Political proportionality rules and impact on appointments to be made

- The Police Authority Regulations 2008 require the joint committee to ensure, so far as practicable, that the appointments they make reflect the overall political balance of the Councils taken as a whole.
- Based on the current membership of the relevant Councils, the political balance calculations are as follows:-

Authority	Conservative	Labour	Liberal Democrat	Independent	No Party	Totals
Bedford	20	11	16	7		54
Central Beds	89	5	25	4	1	124
Luton	5	26	17	0		48
Totals	114	42	58	11	1	226
Stage 1 calculation <i>(proportion of seats)</i>	50.44%	18.58%	25.66%	4.87%	0.44%	99.99%
Stage 2 calculation <i>(number of seats)</i>	4.54(5)	1.67(2)	2.31(2)	0.44(0)		9

- Luton Borough Council's current representatives (2 Labour and 1 Liberal Democrat) on the Police Authority have been appointed until 2009. In order to achieve the overall political balance required, Bedford Borough and Central Bedfordshire between them need to nominate six Members for appointment – 5 Conservative and 1 Liberal Democrat.
- Members should note that it will be necessary to review the political balance and its impact on the allocation of places between the political parties after the 2009 elections and, if necessary, to adjust the relative levels of political representation accordingly for the period to 2011.

Establishment of the Shadow Joint Committee

- The immediate task for the three Councils is to take steps to establish the shadow joint committee which will make the formal appointments to the Police Authority. The Police Authority Regulations 2008 provide that the number of members of the joint committee and the number of those members to be appointed by each relevant council shall be such as the councils may agree or in the absence of agreement as may be determined

by the Secretary of State. There are no criteria (eg: such as allocation in proportion to population or electorate) to specify the number of appointments per authority.

10. The draft Order provides that the joint committee shall appoint the representatives who from 1 April 2009 will be the first members of Bedford Borough Council and Central Bedfordshire Council and will act as observers in the transitional period. As indicated above, the Luton Borough Council representatives have been appointed until 2009. However Luton is required to appoint members to serve upon the shadow joint selection committee which will be responsible for appointing Members from Bedford Borough Council and Central Bedfordshire Council to the Police Authority.
11. It is understood that the Bedfordshire/Luton Joint Committee has, by custom and practice, comprised the members nominated by those two Councils for appointment to the Police Authority.
12. Whilst there are no specified criteria for determining how many members should be appointed per authority (unlike the Fire Authority on which local authority places are allocated proportionate to electorate – see paragraph 20 below) if seats were to be allocated according to population, the position would be as shown below:-

Authority	Local Government Population 2007 mid year estimates	Percentage of population of Luton and Bedfordshire total	Proportionate Representation based upon a 9 Member Police Authority
Mid Beds	133,900		
South Beds	118,200		
Central Beds	252,100	42.3	3.8 (4)
Bedford Borough	154,900	26.0	2.3 (2)
Luton Borough	188,800	31.7	2.9 (3)
Total	595,800		9

13. Assuming membership of the Police Authority is to represent the interests of all those who live in, work in, or visit the police authority area and to ensure that the views of local people are reflected in the nature and style of local policing then it would seem reasonable for representation to be based upon population.
14. At its meeting held on 9 September 2009 Luton Borough Council resolved that local authority representation on the Police Authority should be based upon population and that therefore composition should be:-

Bedford Borough Council	2 seats
Central Bedfordshire Council	4 seats

Luton Borough Council

3 seats

On that basis Luton Borough Council appointed its current police authority Members (Councillors Farooq, Pantling and Saleem) to the shadow Joint Selection Committee.

15. It is understood that Bedford Borough Council will be considering appointments to the Police and Fire Authorities at the meeting of its Implementation Executive to be held on 7 October 2008. Whilst the Borough Council has indicated that it is not able to indicate its likely position in advance of that meeting, it is possible that the Borough Council may wish seek an allocation of 3 seats per authority.
16. Guidance has been sought from the Department for Communities and Local Government (DCLG) on the position should authorities fail to reach agreement as to the number of seats per authority. DCLG has confirmed that where there is failure to agree, the Secretary of State shall make the determination. Where such determinations have been made in the past, the Secretary of State has had regard to the relative population (not electorate) figures, plus other factors (not specified). However the Secretary of State's power to intervene is limited to failure to agree as to the number of members to be appointed by each authority to the joint committee. Once agreement to the establishment of the joint committee has been reached, then it is down to the joint committee itself to determine the number of seats to be allocated per authority on the Police Authority. DCLG has advised however that it would hope that agreement can be reached between the authorities and that it can take some considerable time for the Secretary of State to make a determination where required to intervene. Hence, if agreement cannot be reached between the authorities to allocate seats on the basis of population, then the Secretary of State will need to make a determination.

Bedfordshire Fire Authority

17. The Shadow Executive is also invited to make appointments to the Bedfordshire Fire Authority. There are presently 7 County Councillors representing Divisions in Central Bedfordshire upon the Fire Authority (Cllrs A Duggan, R Baker, A Carter, D Ross, J Saunders, I Shingler and J Street.)
18. As is the case for the Police Authority, the draft Order provides that Bedford Borough Council and Central Bedfordshire shall appoint representatives who will become members of the Bedfordshire Fire Authority on 1 April 2009. Those members may attend meetings of the Fire Authority as observers during the transitional period to 31 March 2009 but may not vote. The Fire Authority must have regard to the views of those members in calculating its budget.

19. Existing fire authority members who represent the County Council may act in a dual capacity and may also represent Central Bedfordshire as an observer during the transitional period.
20. There are 12 seats available to local authority members which (unlike the Police Authority appointments) are allocated to each authority in proportion to its **electorate** as follows:-

Authority	Local Government Electorate as at 1 December 2007	Percentage of electorate of Luton and Bedfordshire total	Proportionate Representation based upon a 12 Member combined Fire Authority
Mid Beds	100,509		
South Beds	90,496		
Central Beds	191,005	43.0	5
Bedford Borough	115,279	25.9	3
Luton Borough	138,409	31.1	4
Total	444,693		12

21. Unlike the Police Authority appointments which must reflect the proportion of members of the relevant councils taken as a whole, who are members of a particular party, the Fire Authority appointments must be made in proportion to the political representation of each individual Council. The position in respect of Central Bedfordshire is shown below:-

	Conservative	Labour	Liberal Democrat	Independent	No Party	Totals
Central Beds	89	5	25	4	1	124
Stage 1 calculation (<i>proportion of seats</i>)	71.77%	4.03%	20.16%	3.23.%	0.81%	100%
Stage 2 calculation (<i>number of seats</i>)	3.59 (4)	0.20 (0)	1.01 (1)	0.16 (0)		5

22. The Shadow Executive is therefore invited to appoint 5 Members (4 Conservative and 1 Liberal Democrat) to represent Central Bedfordshire on the Fire Authority with effect from 1 April 2009 and, following enactment of the relevant Order, to act as observers during the remainder of the transitional period to 31 March 2009.

Background Papers: Police Act 1996
Police Authority Regulations 2008
Bedfordshire Fire Services (Combination Scheme)
Order 1996

Draft Local Government (Structural Changes) (Areas and Membership of Public Bodies in Bedfordshire, Cheshire and Wiltshire) Order 2008

Location of Papers:

Committee Section, Priory House, Chicksands.

File Reference:

N/A

APPENDIX A

**Police Authority Appointments
Joint Committee
(Bedford Borough Council, Central Bedfordshire Council
and Luton Borough Council)**

Composition:	Bedford Borough Council:	2 members
	Central Bedfordshire Council:	4 members
	Luton Borough Council:	3 members
Quorum:	3 Members - provided that there must always be present at least one member of each constituent authority	
Terms of Reference:	To appoint members of the three constituent authorities to serve on the Bedfordshire Police Authority in accordance with the prevailing legal requirements.	