

EXPLANATORY MEMORANDUM TO
THE BEDFORDSHIRE (STRUCTURAL CHANGES) ORDER 2008

2008 No. 907

1. 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**
 - 2.1 The draft Order provides for single tiers of local government in the county of Bedfordshire with effect from 1st April 2009 when Bedfordshire County Council, Mid Bedfordshire District Council and South Bedfordshire District Council are to be wound up and dissolved.
 - 2.2 A new non-metropolitan county, to be known as Bedford, is established for the same area as the existing borough of Bedford. There is to be no county council for that county. Bedford Borough Council will become the sole principal authority for Bedford on 1st April 2009 and will exercise all local government functions in that area.
 - 2.3 A new non-metropolitan county and a new non-metropolitan district, each to be known as Central Bedfordshire, are established for the area of the existing districts of Mid Bedfordshire and South Bedfordshire. A new non-metropolitan district council, to be known as the Central Bedfordshire Council, is to be established. Subject to Parliamentary approval of the draft Order, on and after 1st April 2009, the new council will be the sole principal authority for Central Bedfordshire and will exercise all local government functions in that area.
 - 2.4 The draft Order provides for the appointment on the day on which, if approved by Parliament, the Order comes into force, of a “shadow” authority for Central Bedfordshire. The members of the “shadow” authority will be the councillors of Mid Bedfordshire District Council and South Bedfordshire District Council and those county councillors who represent the county electoral divisions in Central Bedfordshire. The main function of the “shadow” authority will be to prepare for the transition on 1st April 2009 to single tier local government in Central Bedfordshire. Subject to Parliamentary approval of the draft Order, the members of the “shadow” authority will become the first members of the Central Bedfordshire Council on 1st April 2009.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The draft Order is, in most respects, an amalgamation of those laid on 8th January 2008 relating to Cornwall, County Durham, Northumberland, Shropshire and Wiltshire (“the county group”), which have now been made, and that laid on 31st January 2008 relating to Cheshire which has now also been made.
- 3.2 The arrangements for Bedford are comparable to those for the county group, though in this case it is a district council, Bedford Borough Council, that is the “continuing” authority.
- 3.3 The arrangements for Central Bedfordshire have more in common with those in the draft Order for Cheshire. In particular, there is to be a “shadow” authority. However, unlike Cheshire where the proposal is for an elected “shadow” authority, the proposal for Central Bedfordshire is for an appointed “shadow” authority, consisting of the members of Mid Bedfordshire District Council and South Bedfordshire District Council and those county councillors who represent the county electoral divisions in Central Bedfordshire. The “shadow” authority is to be responsible for preparing for the transition to single tier local government on 1st April 2009. (The equivalents in the county group are the Implementation Executives, which comprise county council and district council representatives.)
- 3.4 The draft Order is subject to the affirmative procedure; see section 240(6) of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”).
- 3.5 The draft Order, if made, will be classified as a “general” rather than “local” statutory instrument, notwithstanding that it affects only the area of an English county. This is accepted practice for orders of this nature.
- 3.6 The draft Order deals only with the essential elements of the new single tier local government structures; the abolition of the existing county and, with the exception of the borough of Bedford, the existing districts; the winding up and dissolution of the existing county and district councils, other than Bedford Borough Council; the creation of a new county, district and new council for Central Bedfordshire and the making of arrangements for preparation for transition to single tier local government. In particular, the draft Order contains no provisions about the transfer of the existing county or district councils’ functions, property, income, rights, liabilities and expenses. If the draft Order is approved, it will need to be supplemented by further orders under section 7 of the 2007 Act and/or regulations of general application under section 14 of that Act. The principal matters to be dealt with by such orders and regulations are:
- unless transfers to other bodies are considered appropriate, the transfer, on or before the 1st April 2009, to Bedford Borough Council of those of Bedfordshire County Council’s functions, property, income, rights, liabilities and expenses that relate to the borough or its inhabitants;
 - unless transfers to other bodies are considered appropriate, the transfer, on or before the 1st April 2009, to the Central Bedfordshire Council of those of Bedfordshire County Council’s functions, property, income, rights, liabilities and expenses that relate to Central Bedfordshire or its inhabitants (so far as not transferred to Bedford Borough Council); and
 - unless transfers to other bodies are considered appropriate, the transfer, on or before the 1st April 2009, to the Central Bedfordshire Council of the functions, property, income, rights, liabilities and expenses of the Mid and South Bedfordshire District Councils.

- 3.7 Following discussions with the affected local authorities concerned, transfer to bodies other than Bedford Borough Council or the Central Bedfordshire Council (for example, to Charter Trustees) may be appropriate in particular cases. It is also possible for agreements to be made by the affected local authorities under section 16 of the 2007 Act about the transfer of property, income, rights, liabilities and expenses.
- 3.8 Further orders and/or regulations may deal with—
- staffing arrangements, including the transfer and appointment of staff;
 - financial matters, including those relating to non-domestic rates and council tax, and reserves and assets;
 - the transfer of assets and liabilities, including property;
 - the establishment of implementation “milestones” for some activities;
 - ceremonial issues such as the creation of Charter Trustees and the transfer of ceremonial functions and regalia to Charter Trustees or parish councils.
- 3.9 A feature of the draft Order for Bedfordshire that is not present in any of the other draft Orders is that of the position of the Mayor of Bedford. Bedford Borough Council operates executive arrangements under the Local Government Act 2000 that take the form of a mayor and cabinet executive. The Mayor is elected on an electoral cycle that will provide for an election in 2011. This cycle is to be allowed to continue. (The Mayor is not treated as either a member or councillor of the Borough Council.)
- 3.10 The draft Order makes provision for the cancellation of elections due to be held on the ordinary day of election of councillors in 2008 (normally the first Thursday in May). Bedford Borough Council and South Bedfordshire District Council elect one third of their membership in three years out of four; a “one-third” election is due on the ordinary day of election of councillors in 2008. Mid Bedfordshire District Council holds “all out” elections every four years, the last election having been held in 2007.
- 3.11 The Department is aware of the Joint Committee’s concerns about the provisions relating to the cancellation of elections in the Orders (now made) for Cornwall and Shropshire. It concedes that there is no express power in the 2007 Act to cancel any local government election, but maintains that the power to cancel, in the case of South Bedfordshire, is consequential on the abolition of that district and the winding up and dissolution of the district council on 1st April 2009 and, in the case of Bedford, is consequential on the election in 2009 of members of the single tier authority. In response to the Joint Committee’s concerns, the Department advances the alternative argument that section 12(1)(e) of the 2007 Act refers to the election of councillors for any electoral area and is broad enough to support the provision in this draft Order for the non-election of one-third of the councillors of Bedford Borough Council and South Bedfordshire District Council.
- 3.12 Cancellation has been a feature of many earlier local government structural change orders made under powers not materially different from those conferred by sections 11 and 12 of the 2007 Act, for example, section 17 of the Local Government Act 1992 (c.19). An example of an article cancelling local government elections may be found in article 8 of the Humberside (Structural Change) Order 1995 (S.I. 1995/600). The Department accepts that the nature of the re-structuring under the Humberside Order was different from that proposed under the draft Order. That Order created new authorities whereas, in relation to Bedford, the draft Order provides for the continuation of Bedford Borough Council. In relation to Central Bedfordshire, the draft Order proposes an appointed “shadow” authority and an election to the new single tier authority in 2009. Cancellation of the

elections due to be held in 2008 of one-third of the members of Bedford Borough Council and one-third of the members of South Bedfordshire District Council is not needed to avoid two sets of elections being held on the same day but is needed to avoid the election of members for a term of office of only some 10 months.

- 3.13 On practical grounds, it would be very wasteful of public resources to hold in 2008 an election to a district council (South Bedfordshire) that is to be wound up and dissolved some 10 months later. It is probable that a much reduced number of people would want to stand for election in May 2008 because the term of office would be short. It is also a consideration that where elections to the single tier councils are to be held in 2009, preparation for district council elections in 2008 would distract councillors and their officers from making progress with the transitional arrangements that must be in place if single tier local government is to be introduced on 1st April 2009. These arguments similarly apply to Bedford Borough where an all-out election is to be held to the new unitary district council in 2009.
- 3.14 Cancellation of parish elections for which provision is made in the draft Order is to avoid the waste of public resources of holding parish elections on days where, as a result of the draft Order's provisions, no other local government elections are to be held. Parish council elections are usually combined with other local government elections. In Bedford and South Bedfordshire those parish elections which were due to be held in 2008 are moved to coincide with the elections to the new unitary authorities in 2009, and the terms of office of parish councillors amended accordingly. To avoid unnecessary disruption to all other parishes (the vast majority) and to bring their election cycles into step with those to the new unitary authorities, parish elections will in future be held on the unitary council cycle, and the next elections will take place in 2011.
- 3.15 The Department acknowledges that specifying the composition of the "shadow" authority for Central Bedfordshire is a feature unique to this draft Order. The provision gives effect to the wishes of the authorities concerned, that all members of both district councils and those county councillors who represent county electoral divisions in Central Bedfordshire, should be involved in the making of decisions about the transition to single tier local government in Central Bedfordshire.

4. Legislative Background

- 4.1 Part 1 of the 2007 Act provides for the making of local government structural and boundary changes in England. So far as is relevant to the draft Order that is the subject of this Memorandum, it enables provision to be made by order under section 7 for restructuring an area in which there are two tiers of local government (a county council and district councils) into a single tier of local government. Section 1(2)(b) provides, for the purposes of Chapter 1 (structural and boundary change), that there is "a single tier of local government" for an area if "there is a district council and no county council for that area".
- 4.2 Assuming that Parliament approves the draft Order and supplementary instruments to be made under the 2007 Act, the new single tier authorities will have new governance arrangements and new functions that extend well beyond those of any existing authority in the county. However, it is also helpful if reliance is placed, where appropriate, on established local government legislation which is well understood by the authorities most directly affected by the restructuring proposals. The draft Order has been prepared on that basis.
- 4.3 Sections 7 and 11 of the 2007 Act provide for the implementation of a proposal for a single tier of local government. The draft Order makes provision for the abolition of the existing county area and, with the exception of the borough of Bedford, the district areas (section 11(3)(b)), the winding up and dissolution of the county council and Mid and

South Bedfordshire District Councils (section 11(3)(f)) and the constitution of new county areas (Bedford and Central Bedfordshire) and a new district area (Central Bedfordshire) (section 11(3)(a)). The draft Order is concerned only with the preparations for the transfer to single tier local government on 1st April 2009. The actual transfers of functions (not all of which may be for the single tier authorities, as there may be functions going to charter trustees, for example), property, rights and liabilities are to be dealt with later.

- 4.4 The power to give the “shadow” authority in Central Bedfordshire functions during the period beginning with the coming into force of the Order and ending on 1st April 2009 is conferred by section 13(1) of the 2007 Act. These transitional provisions rest on the fact that single tiers of local government are being established by the Order, and are not transitional on any transfer of functions (for which no provision is made at this stage). In particular, the Department does not seek to rely on 12(1)(k) of the 2007 Act.
- 4.5 The draft Order provides for the cancellation of district council elections that would otherwise have been held in 2008. The power to cancel district council elections is consequential on the abolition of the districts and the winding up and dissolution of the district councils on 1st April 2009. Alternatively, section 12(1)(e) of the 2007 Act refers to the election of councillors for any electoral area and is broad enough to support the provision in the draft Order for the non-election of one-third of the councillors of Bedford Borough Council and South Bedfordshire District Council.
- 4.6 For the reasons explained in paragraph 3.13, the draft Order also provides for parish elections that would otherwise have been held in 2008 to be held instead in 2009. The Department relies on the powers in section 13(1) of the 2007 Act to require the cancellation of elections due in 2008 and the holding of parish council elections in 2009.
- 4.7 The draft Order makes provision for other transitional functions to be conferred by further orders under section 7 of the 2007 Act, by orders under section 20 of that Act (which enable corrections to be made that cannot be made by the usual means; amendment in reliance on section 14 of the Interpretation Act 1978, as applied to statutory instruments by section 23(1) of that Act), or by regulations of general application under section 14 of the 2007 Act.

5. Territorial Extent and Application

- 5.1 The draft Order is relevant only to a single English county.

6. European Convention on Human Rights

- 6.1 The Secretary of State for Communities and Local Government, Hazel Blears, has made the following statement:

“In my view the provisions of the draft Bedfordshire (Structural Change) Order 2008 are compatible with the Convention rights.”

7. Policy background

The White Paper and the Invitation to Councils

7.1 The Local Government White Paper, *Strong and Prosperous Communities*, (“the White Paper”) published on 26th October 2006, explained the Government’s intention to give councils in local government areas where both county and district councils exercise local government functions (“two-tier areas”) an opportunity to make proposals for the establishment of unitary authorities. A unitary authority exercises all local government functions in its area. The

implementation of local government structural change has significant consequences for existing councils in the affected area, as well as being of importance to their staff, stakeholders and citizens.

7.2 The White Paper identified that councils in two-tier areas face additional challenges. In particular, it noted that “strong leadership and clear accountability is hard to achieve where for the same place there are two council leaders each with a legitimate democratic mandate and often having different, sometimes conflicting agendas” (paragraph 3.50 of the White Paper). It concluded that that councils in all two-tier areas would be expected to find new governance arrangements which overcome the risks of confusion, duplication and inefficiency between tiers, and can meet the particular challenges faced by small districts with small budgets or tightly constrained boundaries (paragraph 3.54 of the White Paper).

7.3 The White Paper explained that in some counties there was a widely held view that moving to unitary structures would be the best way of overcoming the risks and challenges of two-tier arrangements, and would improve accountability and leadership, increase efficiency, and improve outcomes for local people (paragraph 3.55). In accordance with this policy, the Government published alongside the White Paper the *Invitation to Councils in England* (“the Invitation”), which invited councils to submit proposals for unitary structures. The Invitation also invited proposals from partnerships of councils wishing to pioneer innovative forms of two-tier working. It was a matter for councils whether they chose to respond to either (or, by way of alternatives, both) parts of the Invitation.

7.4 Following the publication of the White Paper and Invitation, on 12th December 2006 the Local Government and Public Involvement in Health Bill was introduced into Parliament. It received Royal Assent on 30th October 2007. Part 1 of the 2007 Act makes provision for the implementation of local government structural and boundary change. The changes made by this draft Order could not have been made by non-legislative means.

Timing

7.5 The first Invitation was issued prior to the introduction of the Bill into Parliament, so that councils could work on their proposals, and the Secretary of State could begin the process of considering, consulting on and filtering proposals. Section 21 of the 2007 Act provides that where an invitation was made, guidance was given, a proposal was made or a consultation carried out, it is immaterial that it was done before the commencement of provisions of the 2007 Act dealing with structural and boundary change. The Government’s policy since the issue of the Invitation has been to keep to a minimum the period of uncertainty for councils, their staff, stakeholders and citizens which is inevitably generated by proposals for structural change. The then Secretary of State for Communities and Local Government, Ruth Kelly, explained at second reading of the Bill on 22nd January 2007:

“It was clear when we set up this process that local councils wanted us to provide a short window of opportunity for them to put forward proposals so that, after decisions have been made, they can get on with the business of delivering local government.”

The Invitation process

7.6 The first Invitation set out guidance to councils as to the criteria which proposals had to meet. The five criteria set out in the Invitation were that if change is made and new unitary structures implemented: the change to future unitary structures must be affordable; be supported by a broad cross section of partners and stakeholders; future structures must provide strong, effective and accountable strategic leadership; deliver genuine opportunities for neighbourhood flexibility and empowerment; and deliver value for money and equity on public services.

7.7 The first Invitation also outlined the process for handling councils' proposals. Firstly, proposals received by the 25th January deadline underwent a preliminary assessment against the criteria. 26 proposals were received by the deadline. After seeking further information from councils and assessing the proposals against the criteria, the Government announced on 27th March that it considered there was at least a reasonable likelihood that 16 of those 26 proposals would, if implemented, meet the criteria. The 16 proposals therefore progressed to stage two of the process, stakeholder consultation, *Proposals for Future Unitary Structures: Stakeholder Consultation*, launched on 27th March. Table 1 of Annex A lists the proposals which progressed to stakeholder consultation, and Table 2 lists those which did not. The consultation ran for twelve weeks until 22nd June.

7.8 The Department sent the consultation document to key partners and stakeholders identified as having an interest in, or responsibility for, various aspects of service delivery in the areas affected by the proposals. A list of these key consultees was posted on the Communities and Local Government website and can be found at p33 and 34 of the Summary of Responses, copies of which have been supplied to the Committees. Affected local authorities were also asked to bring this consultation to the attention of local stakeholders, and the consultation was available on the Department's website where it was open to anyone to respond to the consultation, commenting either on the proposal affecting their area or more generally (paragraphs 6 and 7 of the Stakeholder Consultation). All representations, and all other relevant material, were considered by the Secretary of State during the process of assessing the proposals.

7.9 Stakeholders were asked to consider the extent to which, in their view, proposals relevant to their geographic or functional area met the criteria as set out by the Government; to provide evidence-based facts in support of their assertions and, if relevant, to express a preference where competing proposals were being considered for an area. In particular, views were welcomed on the long-term outcomes specified by the strong leadership; neighbourhood empowerment; and value for money and equity on public services criteria. In areas, including Bedfordshire, where there was more than one proposal being consulted upon, the Government sought views on which of the alternative proposals would better achieve the long-term outcomes specified in the Invitation.

7.10 The Government received over 55,000 responses to this consultation, with 1,700 being submitted by organisations and 4,900 individual representations from members of the public. A further 49,000 responses were 'campaign responses', where the respondent had filled in a pro-forma distributed to them as part of an organised campaign, though there was considerable variation in the number of campaign responses received in relation to different areas.

7.11 The Department has published a summary of the consultation responses, and a copy of the summary has been supplied to the Committees¹. In all areas, a wide range of views was expressed. The Department does not in this Memorandum seek to summarise further and thus risk omitting or misrepresenting the views of some consultees. Members of the Committee may therefore find it most helpful to read the introduction and relevant area sections of the published summary, as follows: paragraphs 9-23 of the Introduction, and pages 6 and 7 (Bedfordshire).

7.12 Following the stakeholder consultation, the third stage of the Invitation process set out in the First Invitation was to further assess proposals against the criteria. The Government had regard to all representations which had been made to it, including the consultation responses, as well as to all further information available, for example, submissions from local authorities developing the detail of their proposals. Where consultees had provided comments or views on the content of a proposal, those responses were taken into account in the assessment of the proposals against the relevant criteria. All the consultation responses contributed to the assessment against the broad cross section of support criterion.

¹ The document is also available on the Department's website at:
<http://www.communities.gov.uk/publications/localgovernment/unitarystructureresponses>.

7.13 Following the reassessment of proposals, the Government announced on 25th July 2007 to Parliament that it was minded to implement nine unitary proposals. At that stage of the process, the Secretary of State considered that these nine proposals, including one of the proposals which is the subject of the draft Order, had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation. As regards Bedfordshire, the Secretary of State took the view that both alternative proposals that had proceeded to stakeholder consultation – a proposal from the county council for a single unitary county council and a proposal from Bedford Borough Council for a unitary Bedford – had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation but that she was minded to implement the Bedford Borough proposal as she considered that proposal more likely to deliver to a greater extent the long-term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services. However, she also recognised that there were risks to the Bedford Borough proposal achieving the outcomes specified by the affordability criterion and accordingly the Borough Council was invited to undertake further work and submit additional information on the financial viability of its proposal. They were advised that the Secretary of State would have regard to any additional information provided before taking a final decision.

7.14 In reaching her “minded to” decision on Bedford Borough’s proposal the Secretary of State also recognised that implementing Bedford Borough’s proposal meant that consideration must be given to the future local government structures for the remaining county area. She was satisfied that this area needed unitary local government, and she announced that she intended to formally invite all the other councils in Bedfordshire to propose a unitary solution that would meet the five criteria for that remaining area.

7.15 The Government therefore announced on 19 November 2007 that the Secretary of State was inviting Bedfordshire County Council, Mid-Bedfordshire District Council, and South Bedfordshire District Council to make a proposal – which needed to be submitted by 17 December 2007 – for future unitary local government structures for the remaining area of Bedfordshire. The Government also issued guidance, to which the councils were required by the Act to have regard when responding to the invitation. The guidance set out the outcomes any proposal should seek to achieve and matters which the councils should take into account in formulating any proposal. These matters included Bedford Borough Council’s unitary proposal. At the same time the Government confirmed that, following assessment of the further financial information from Bedford Borough Council, the Secretary of State was still minded to implement Bedford Borough’s proposal.

7.16 In response to the Invitation to Councils in Bedfordshire issued on 19 November 2007, the Secretary of State received a proposal from Mid and South Bedfordshire District Councils for a new Central Bedfordshire unitary council. The County Council chose neither to submit a proposal of its own, nor to submit a joint proposal with the district councils. On 19 December the Secretary of State invited comments and views of partners and stakeholders in the areas affected by the proposal for Central Bedfordshire. Stakeholders were asked to consider the extent to which, in their view, the Central Bedfordshire proposals met the criteria as set out by the Government and which of the alternative proposals i.e. a single county unitary or a two-unitary Bedfordshire (comprising Bedford Borough and Central Bedfordshire) would better achieve the long-term outcomes specified in the Invitation. That consultation closed on 13 February.

7.17 The Government announced on 6 March 2008 that the Secretary of State, having considered all the information and representations made to her, including the material she received in response to the second consultation exercise, considered that there was a reasonable likelihood that either a single unitary council for the county, or two-unitary authorities based on Bedford Borough and Central Bedfordshire (the area of the Mid and South Bedfordshire districts) would, if implemented, meet the outcomes specified by each of the criteria set out in the invitation of 26 October 2006. In line with the process for selecting from alternative proposals set out in the consultation document “Means of Prioritising Proposals”, issued in June 2007, the Secretary of

State believes that, overall, the long-term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services, would be delivered to the greater extent by a two-unitary Bedfordshire. Accordingly, she announced her intention to implement the proposals made by Bedford Borough and jointly by Mid and South Bedfordshire District Councils, and those proposals are the subject of this Order.

7.18 The Government believes that the implementation of these proposals will establish new and innovative local governance in Bedfordshire, combining both strong, strategic councils and effective arrangements for empowering communities at the most local level. This takes further the concept of unitary local government developed in the 1990s. It provides for the creation of councils that will be able to lead the way in empowering citizens and communities, promoting prosperity and modernising local service delivery to achieve both greater efficiencies and better outcomes. It is expected to result in total estimated annual savings of over £18m per year. It is estimated that transitional costs will be approximately £36m in total. Overall, the number of councils in Bedfordshire will be reduced from 4 to 2.

Legal challenges

7.19 Bedfordshire County Council has applied for judicial review of the Secretary of State's decision of 25 July 2007 that she was minded to implement the Bedford Borough proposal. The council's challenge relates in particular to whether the Bedford Borough proposal is affordable, and whether process undertaken in Bedfordshire was fair. That application was heard by the High Court on 22 February 2008, and the Department awaits the Court's judgment. In the meantime, the Government considers it important that the process of restructuring continues in order to provide certainty for councils, their staff, citizens and stakeholders at the earliest opportunity. In the related case of *Shrewsbury and Atcham Borough Council v Secretary of State for Communities and Local Government*, where two district councils challenged the Secretary of State's power to embark on a process of inviting, filtering and consulting on proposals prior to the 2007 Act being commenced, the High Court dismissed the claim on all grounds on 10 October 2007. On 4 March 2008, the Court of Appeal dismissed the district councils' appeal against this judgment and refused an application for leave to appeal to the House of Lords.

Preparations for reorganisation

7.20 In March 2007, the Department convened a group of experts to consider the implementation issues associated with local government reorganisation. It comprised representatives from all the major local government trade unions, the Local Government Association (LGA), and Local Government Employers (a body established by the LGA to consider local government pay, pensions and employment contracts), and other professional bodies of local government. The Department continues to engage and consult with that group as decisions are taken on the content of the further secondary legislation which will be necessary to ensure a smooth transfer to a single tier of local government in the areas which are the subject of these or any future structural change orders.

7.21 Flowing from the work of that group, the Government published a discussion paper on 22nd August 2007, '*An approach to implementation*'. This set out, as a basis for dialogue with the potentially affected councils, the broad approach to implementation of structural change. Around 160 responses were received. In addition, the Department held meetings with local authorities in affected areas to discuss the implementation approach and the key issues to be included in these orders.

7.22 The key issues raised were:

- concerns about the degree to which the new unitary authorities would be genuinely new and not simply a continuation of the existing councils;

- the nature and composition of the authority with responsibility for preparing for reorganisation, including their electoral mandate;
- staffing matters (whether, and if so how, to differentiate between front and back office staff, key appointments, staff transfers (who and when, and the protections for their terms and conditions), redundancy and compensation).

New authorities

7.23 In Bedfordshire it is proposed that the County Council and Mid and South Bedfordshire District Councils will be abolished on 1st April 2009. It is the Government's intention that the Mayor and the members of Bedford Borough Council and the members appointed to the "shadow" authority for Central Bedfordshire will have a genuine opportunity to shape and design two unitary councils that can deliver better and more efficient services for local residents.

Elections and membership

7.24 The draft Order makes provision for the creation in Bedford Borough of an Implementation Executive comprising Bedford's elected mayor and members drawn from the Borough Council and the County Council. This is the body that will oversee the transitional process in Bedford until first elections are held. The draft Order also makes provision for the appointment of a body of councillors to the "shadow" authority for Central Bedfordshire comprising the current councillors for Mid and South Bedfordshire District Councils and county councillors who represent the electoral divisions in Central Bedfordshire. It also provides for the appointment from among those councillors of a shadow executive. This is the body that will oversee the transitional process in Central Bedfordshire until first elections are held.

7.25 The membership of the Implementation Executive and shadow executive reflects discussions and, where possible, agreements with the affected councils within Bedfordshire. The Department provided councils with the following guiding principles when considering the membership of these bodies:

- As the process is based on the implementation of a proposal, the proposing authorities must be in the driving seat. The chair and, where practicable, a working majority should therefore come from the proposing authority;
- All of the affected local authorities and main local political parties must be able to make an input into the joint committee and have full voting rights;
- There needs to be an efficient and effective decision-making body able to provide the corporate leadership necessary to drive the transitional change through, and the joint committee should therefore not be too large.

7.26 In relation to elections, councils' views were sought on whether elections should be held in 2008 or 2009. There was unanimity amongst the Bedfordshire councils for a 2009 election. The key advantage of 2009 elections was that it would enable transition to take place without the distraction of an election.

Staffing matters

7.27 The Government intends to deal with staffing matters in regulations under the 2007 Act to be laid before Parliament during 2008. The Government is engaged in consultation with councils and other stakeholders, including the Trade Unions, on this. It is worth noting that the draft Order empowers the "shadow" authority to appoint staff by virtue of giving them access to powers in section 112 of the Local Government Act 1972. The draft Order also requires the "shadow" authority to appoint a permanent monitoring officer, a chief finance officer and a head of paid service by 31st December 2008. In advance of these permanent appointments, the Order requires the "shadow" authority, at its first meeting, to designate officers of the existing councils to be its interim monitoring officer and interim chief finance officer.

Other matters

7.28 The Government's intention is to ensure that the "shadow" authority for Central Bedfordshire has the key powers and the staffing resources necessary to ensure that there is a smooth transition on 1st April 2009 to a new unitary authority which can begin work on the delivery of the long-term outcomes envisaged in the district councils' proposals. The "shadow" authority is therefore enabled to take all such practicable steps as are necessary or expedient to prepare for the assumption of full local government functions and powers on 1st April 2009 and to ensure continuity of public service delivery on and after this date. It is required to prepare an Implementation Plan, and in doing so to have regard to the information supplied by the councils whose proposals the draft Order implements, in particular in relation to strategic leadership, neighbourhood empowerment and value for money services. The "shadow" authority is required to keep this plan under review.

7.29 In relation to Bedford Borough, the Government's intention is to ensure that the Implementation Executive has the key powers and the staffing resources necessary to ensure that there is a smooth transition on 1st April 2009 to the new unitary authority which can begin work on the delivery of the long-term outcomes envisaged in the proposal. The Implementation Executive is therefore given the function of preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils' functions, property, rights and liabilities. To this end, the Implementation Executive is required to prepare and keep under review an Implementation Plan, and in doing so to have regard to the information supplied by Bedford Borough Council whose proposal the draft Orders implement, in particular in relation to strategic leadership, neighbourhood empowerment and value for money services.

7.30 All affected local authorities are required to co-operate in achieving structural change and generally to exercise their functions in such a way as to further the economic, efficient, effective and timely transfer of functions to the new unitary authorities.

7.31 Detailed issues common to all affected areas will be dealt with in regulations during 2008. As well as the staffing issues referred to at paragraph 7.26, these regulations are likely to cover, for example, finance, asset transfers and the preservation of local ceremonial rights and privileges. The Secretary of State also intends to use her powers under section 24 of the 2007 Act to direct those councils which are being abolished to seek the consent of, as appropriate, Bedford Borough Council or the "shadow" authority before taking certain acts or entering into certain transactions, in order to prevent the new unitary authorities from becoming responsible for long-term liabilities that are not consistent with their plans for the future.

8. Impact

8.1 An Impact Assessment has been prepared for this draft Order, based on those provided for the White Paper and the Bill that became the 2007 Act.

8.2 The impact on the public sector will be limited to Bedfordshire. The Government expects that the implementation of single-tier local government will have a significant impact on improving the delivery of local services – achieving both efficiency gains and better outcomes – and on modernising the local governance arrangements. The one-off cost of transition to single-tier local government in Bedfordshire is to be funded by the authorities concerned, and is estimated by the proposing authorities to be in the order of £36m in total. Annual savings are estimated at over £18m.

9. Contact

Terry Willows at the Department for Communities and Local Government (tel: 020 7944 4067, or email: terry.willows@communities.gsi.gov.uk) can answer any queries regarding the draft Order.

Department for Communities and Local Government
6 March 2008

Table 1: Proposals that progressed to stakeholder consultation

Councils Submitting Proposals	Proposed unitary structure
Bedford Borough Council	A unitary authority for Bedford
Bedfordshire County Council	A unitary authority for Bedfordshire
Cheshire County Council	A unitary authority for Cheshire
Chester City Council	Two unitary authorities for Cheshire
Cornwall County Council	A unitary authority for Cornwall
Cumbria County Council	A unitary authority for Cumbria
Durham County Council	A unitary authority for County Durham
Exeter City Council	A unitary authority for Exeter
Ipswich Borough Council	A unitary authority for Ipswich
Northumberland County Council	A unitary authority for Northumberland
The Northumberland District Councils	Two unitary authorities for Northumberland
Norwich City Council	A unitary authority for Norwich
North Yorkshire County Council	A unitary authority for North Yorkshire
Shropshire County Council	A unitary authority for Shropshire
Somerset County Council	A unitary authority for Somerset
Wiltshire County Council	A unitary authority for Wiltshire

Table 2: Proposals that did not progress to stakeholder consultation

Councils Submitting Proposals	Proposed unitary structure
Mid & South Bedfordshire District Councils	A unitary authority covering mid and south Bedfordshire
The Cornwall District Councils	A unitary authority for Cornwall
The Durham District Councils	A unitary authority for Durham
Ellesmere Port & Neston Borough Council	Three unitary authorities for Bedfordshire
East Riding of Yorkshire District Council	A unitary authority covering East Riding and Selby
Lancaster City Council	A unitary authority for Lancaster
Oxford City Council	Three unitary authorities for Oxfordshire
Burnley Borough Council	A unitary authority for Burnley
Preston City Council	A unitary authority for Preston
South Somerset District Council	Two unitary authorities for Somerset

Summary: Intervention & Options

Department /Agency: Department of Communities and Local Government	Title: Impact Assessment of Order implementing a change from two tier to single tier local government in Bedfordshire	
Stage:	Version:	Date: 06 March 2008
Related Publications: Full Regulatory Impact Assessment for Strong and Prosperous Communities White Paper and the Local Government and Public Involvement in Health Bill 2007		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Mr Terry Willows

Telephone: 020 7944 4267

Weaknesses are found in many existing council structures based on county, district and parish tiers. These structures often add to public confusion, create fragmented and sometimes competing local leadership, and lead to duplication, inefficiency and co-ordination failures in service delivery. A way of removing these weaknesses is the introduction of unitary local government, ie, to change the statutory structure of local government so that the council structures are based on a single principal tier together with parish tiers. This necessarily requires Government intervention and the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides the mechanism for this.

The policy objectives are, on the basis of the proposal from Bedford Borough Council and the joint proposal from Mid Bedfordshire District Council and South Bedfordshire District Council, for a move to unitary local government in Bedfordshire, to overcome the weaknesses found in the existing council structures based on county, district and parish tiers, and to establish in Bedfordshire, new and innovative local governance that combines both strong strategic councils and effective arrangements for empowering communities at the most local level. Once the proposal is fully implemented, annual savings in total across both new local authorities of over £18m are expected (largely through rationalisation of corporate and staff related costs) giving the new councils opportunities for improved services or lower council tax.

. Having invited councils

to make proposals to move to unitary local government, and having received proposals for Bedfordshire, the policy options open to the Government under the provisions of the 2007 Act are to implement by order a proposal with or without amendment, or, to take no action on the proposals. Before deciding whether to implement a proposal or take no action on it, it is open to the Government to request the Boundary Committee of the Electoral Commission for advice on the proposals. In Bedfordshire, the Secretary of State initially received two proposals, one for a single unitary based on the County Council and a proposal for a unitary Bedford, subject to there being suitable unitary arrangements for the remainder of the County. The Secretary of State took the view that both proposals had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation, but that it was more likely that the proposal for a unitary Bedford would deliver to a greater extent the long-term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services.

Subsequently, a further invitation was issued to councils in Bedfordshire to submit proposals for the remaining area of Bedfordshire. The Secretary of State received a proposal for a Central Bedfordshire unitary that was complementary to the Bedford unitary. Again, the Secretary of State took the view that all proposals had a reasonable likelihood of achieving the outcomes specified by all the criteria set out in the Invitation but that it was more likely that the proposal for a unitary Bedford, in conjunction with the proposal for Central Bedfordshire would deliver to a greater extent the long-term outcomes around strategic leadership, neighbourhood empowerment and value for money and equity on public services and hence decided that these proposals are to be implemented.

The Department is commissioning a six year research project to evaluate the current round of local government reorganisation, and the outputs and outcomes that emerge, with evaluations from January 2010.

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	<p>Description and scale of key monetised costs by 'main affected groups'. The proposal submitted in January by Bedford Borough Council, that submitted in December 2007 by Mid and South Beds District Councils and the additional material submitted between June 2007 and March 2008, identified one off transition costs of £27.9m with a payback period of between 2.7 and 3.4 years. These included staff related costs and appropriate planning, IT, and change management. The Department's modeling of the potential impact of risks on the proposals showed transitional costs could potentially increase to £35.9 (undiscounted) or £33.7m discounted - see note A below.</p>				
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">One-off (Transition)</td> <td style="text-align: center;">Yrs</td> </tr> <tr> <td style="background-color: #ffffcc;">£33.7m (PV)</td> <td style="text-align: center;">6</td> </tr> </table>		One-off (Transition)	Yrs	£33.7m (PV)	6
	One-off (Transition)		Yrs			
	£33.7m (PV)		6			
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Average Annual Cost (excluding one-off)</td> <td></td> </tr> <tr> <td style="background-color: #ffffcc;">£</td> <td></td> </tr> </table>	Average Annual Cost (excluding one-off)		£			
Average Annual Cost (excluding one-off)						
£						
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Total Cost (PV)</td> <td style="background-color: #e0ffe0; text-align: center;">£ 33.7m</td> </tr> </table>		Total Cost (PV)	£ 33.7m			
Total Cost (PV)	£ 33.7m					
<p>Other key non-monetised costs by 'main affected groups'</p>						

BENEFITS	ANNUAL BENEFITS	<p>Description and scale of key monetised benefits by 'main affected groups' The proposals and additional information identified potential savings within the new authorities largely through rationalisation of corporate and staff related costs, and support services. The councils' estimates of gross ongoing savings was £21.4m annually once implemented. The Department's modelling of the potential impact of risks on the proposals showed benefits could potentially reduce to £18.7m - see note A below.</p>				
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">One-off</td> <td style="text-align: center;">Yrs</td> </tr> <tr> <td style="background-color: #ffffcc;">£</td> <td></td> </tr> </table>		One-off	Yrs	£	
	One-off		Yrs			
	£					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Average Annual Benefit (excluding one-off)</td> <td></td> </tr> <tr> <td style="background-color: #ffffcc;">£ 11.01</td> <td style="text-align: center;">6</td> </tr> </table>	Average Annual Benefit (excluding one-off)		£ 11.01	6		
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£ 11.01	6					
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Total Benefit (PV)</td> <td style="background-color: #e0ffe0; text-align: center;">£ 66.1m</td> </tr> </table>		Total Benefit (PV)	£ 66.1m			
Total Benefit (PV)	£ 66.1m					
<p>Other key non-monetised benefits by 'main affected groups'</p> <ul style="list-style-type: none"> - The number of councils in affected area would reduce from 4 to 2. - The number of English councils, accounting for the other unitary proposals we have implemented would reduce from 44 to 7. 						
<p>There will be two principal councils for the whole of Bedfordshire which, through combining strategic leadership, effective neighbourhood empowerment and simplified and more efficient partnerships and service delivery will be able to lead the way on modernising service delivery to achieve greater efficiency & better outcomes.</p>						

The costs and savings are based on the business cases submitted which included sensitivity/risk analysis, additional information submitted following the Secretary of State's request for additional financial information in the announcement of 25 July, the proposal submitted in December 2007, and any additional information received on those proposals..

Note A: The workbooks submitted by the proposing councils detailed (one-off) transitional costs of £27.9m and ongoing savings of £21.4m annually. The evidence in the form of workbooks and additional information was submitted as part of the councils' proposals and is available on the proposals' websites at <http://www.bedford.gov.uk/Default.aspx/Web/UnitaryBid> and <http://www.midbeds.gov.uk/unitary/>. In considering her decisions the Secretary of State sought independent advice from finance experts. They considered the areas of risk in the proposals and modelled the potential impact of those risks on the business case. The effect of that modelling was to potentially reduce the level of ongoing savings from £21.4m to £18.7m (not discounted) and potentially increase the transitional costs from £27.9m to £35.9m (not discounted). The modelling also increased the potential payback period to between 3.2 and 4.1 years.

Price Base Year 06-07	Time Period Years 6	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ 32.4m(Cumulative over 6yrs)
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	1 area in England			
	1 April 2009			
	Not Applicable			
What is the total annual cost of enforcement for these organisations?	£ N/A			
	N/A			
	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
	N/A	N/A		

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

OBJECTIVE

To introduce secondary legislation that will implement the proposals for the creation of two unitary authorities in Bedfordshire to deliver strong, effective, and accountable strategic leadership, genuine opportunities for neighbourhood flexibility and empowerment, and value for money and equity on public services.

The full rationale for Government Intervention is set out in the Regulatory Impact Assessment prepared for the Local Government and Public Involvement in Health Bill (now Act) and is reproduced at Annex A.

The Order being tabled implements the decision on unitary restructuring in relation to Bedfordshire announced by the Government on 6 March 2008.

POLICY OPTIONS UNDERLYING UNITARY RESTRUCTURING

The Local Government White Paper, *Strong and Prosperous Communities*, ("the White Paper") was published on 26th October 2006. Amongst other things, it set out proposals for creating opportunities for improved local governance in two tier areas by giving councils an opportunity to seek unitary status and assist those continuing with two tier arrangements to adopt improved arrangements.

In parallel with the White Paper, the government published its "*Invitations to Councils in England*" in October 2006 to invite councils to make proposals for future unitary structures, and/or to pioneer, as pathfinders, new two-tier models. The invitation said the government had made these white paper commitments because:

- It has concluded that local government in two tier areas faces additional challenges that can make it harder to achieve that strong leadership and clear accountability which communities need. There are risks of confusion, duplication and inefficiency between tiers, and particular challenges of capacity for small districts.
- It recognises that many local authorities are already working to improve the quality of services in two tier areas, building strong and sustained partnerships between councils in a county area, but considers there is the potential to go further. In short, the Government believes that status quo is not an option in two tier areas if councils are to achieve the outcomes for place shaping and service delivery that communities expect, and deliver substantial efficiency improvements.
- It accepts that in a number of areas, and where there is a broad cross section of support for this, these reforms should now involve a move to unitary local government.
- It also recognises that in the majority of county areas reforms will now take the form of developing innovative new models of two tier working as described in the White Paper. This process is to be assisted by pathfinder partnerships of a county council and all the district councils in the county, committed to pioneering radical change.

The Local Government and Public Involvement in Health Act 2007 ('the Act') includes provisions for implementing these structural changes to local government, i.e. for moving from two-tier to unitary local government. These provisions allow new unitary structures to be created by Order subject to approval by both Houses of Parliament, following proposals by local authorities in response to an invitation (including an invitation issued prior to the commencement of the Act) from the Secretary of State. The Act repeals the previous statutory framework for restructuring in Part 2 of the Local Government Act 1992, under which restructuring was initiated by a request to the Electoral Commission by the Secretary of State.

CONSULTATION

Unitary proposals

The Invitation issued in October 2006 provided that all proposals should demonstrate how they met five essential criteria, namely:

- provide strong and accountable strategic leadership;
- deliver genuine opportunities for neighbourhood empowerment;
- deliver value for money public services;
- be supported by a broad cross-section of partners and stakeholders;
- be affordable: restructuring must represent value for money and be self-financing

In January 2007, 26 proposals were received from authorities wishing to obtain unitary status. These were assessed against the five criteria, and 16 were judged as likely to achieve the outcomes specified by the criteria, if they were to be implemented.

The Government then issued a 12-week consultation, *Proposals for Future Unitary Structures: Stakeholder Consultation*, seeking views on the likely outcomes of the 16 proposals if they were to be implemented. Responses were requested by 22 June 2007. A list of the stakeholders consulted is attached at Annex B below. The Government received over 55,000 responses. It published a summary of these in November 2007 in its document "*Proposals for Future Unitary Structures: Stakeholder Consultation Summary of Responses*"

Following the stakeholder consultation, the Government reassessed the 16 proposals against the five criteria in the original invitation having regard to all the further material and representations received and all other information available at the time. On 25 July the Government announced that the Secretary of State was minded to accept 9 unitary proposals, refer one to the Boundary Committee of the Electoral Commission and that she was not minded to implement 6 of the proposals.

In making this announcement, the Secretary of State also recognised on the basis of the available information, that in four cases – the proposals from Bedford Borough Council, Chester City Council, Exeter City Council and Ipswich Borough Council – there were risks to their achieving the outcomes specified by the affordability criterion, and asked those councils to undertake further work and submit additional information on the financial viability of their proposals. The respective authorities were invited to submit this information by 1 October and at the same time make it available (on their web sites) to the other affected authorities and any stakeholders that would have an interest. In turn, they were invited to make representations on the material by 24 October. This information was reviewed by the Government and was considered along with all the other relevant material before final decisions were taken.

On 19 November 2007, the Secretary of State issued a further Invitation to councils in Bedfordshire to make unitary proposals for the remaining area of Bedfordshire by 17 December 2007.

On 5 December 2007, the Government announced that the Secretary of State had decided to implement without modification the 5 unitary proposals from Cornwall County Council, Durham County Council, Northumberland County Council, Shropshire County Council and Wiltshire County Council. On 18 December 2007 the Secretary of State confirmed her "minded to" decision of 25 July to implement without modification, the proposal for a two unitary Cheshire. On the same day, following receipt of the joint proposal made by Mid and South Bedfordshire in response to the Invitation issued on November 19, the Secretary of State initiated a stakeholder consultation on the proposals for Bedfordshire. This closed on 13 February 2008, and following assessment of all the information that was available, on 6 March 2008, the Government announced that the Secretary of State decided to confirm her minded to decision of 25 July, to implement without modification, the proposal for Bedford Borough Council and the subsequent proposal for a Central Bedfordshire unitary.

Implementation Orders

In March 2007, the Department convened a Group of Experts to consider the implementation issues associated with the creation of any new unitary authorities. It comprised representatives from all the major local government trade unions, the Local Government Association (LGA) the Local Government Employers and other professional bodies of local government

Flowing from the work of that Group, the Government published a discussion paper, "*Councils' Proposals for Unitary Local Government (An approach to implementation)*" on 22nd August 2007. This set out, as a basis for dialogue with the potentially affected councils, the broad approach to establishing unitary authorities. Around 160 responses were received.

Meetings with authorities

In September 2007, officials met with authorities in all the affected areas to discuss the framework and context for the Orders and enable initial draft orders to be prepared. In October,

draft orders were circulated, and a further round of meetings held to discuss the issues raised and in particular to open dialogue and seek consensus as far as possible on three topics:

- the date of the first elections to the new unitary authority;
- the composition of the Implementation Executive/Joint Committee (IE/JC); and
- the content of the draft Implementation Order.

The Government believes that the Implementation Order reflects the discussions and agreements reached with councils. It intends to take a similar cooperative approach to the preparation of the general regulations which will deal with detailed issues relating to restructuring such as the transfer of property and liabilities and staffing matters.

COSTS AND BENEFITS

The Implementation Order implements the proposals submitted to the Government which the Secretary of State has decided has a reasonable likelihood of achieving the criterion. Those proposals submitted in January and December 2007 respectively, together with additional information submitted as appropriate between June 2007 and March 2008, constitute the core evidence for the assessment. The link to the sites are below.

<http://www.bedford.gov.uk/Default.aspx/Web/UnitaryBid>

<http://www.midbeds.gov.uk/Unitary/default.aspx>

The proposals include sensitivity and risk analysis on the strength of the proposals and on the payback period. The proposals were also reviewed by the Government against the criterion set out in the Invitations and with the help of independent financial advisors.

Sectors and groups affected

The order will have a direct impact on local councils in Bedfordshire; in Bedford, the continuing council will take on County Council functions; in Central Bedfordshire, all of the existing principal councils for the area are to be abolished and will transfer their functions to the new council being created.

Those using local government services, public sector partners, business and voluntary bodies will benefit from clearer lines of responsibility and fewer local authorities to deal with. The outcome of restructuring will also have an impact on:

- public sector agencies that operate at a local level – in general the reduction in the number of tiers of local government should simplify their relationships;
- citizens and community groups - that will benefit from the revitalised and strengthened local leadership and the potential for a new and innovative approach to service delivery and community/neighbourhood arrangements;
- private and third sector bodies who provide services for councils

Through improved governance arrangements, strategic leadership, greater accountability and transparency, and more efficient and effective service delivery, the proposal should deliver improved outcomes economically, socially including health and community cohesion and environmentally.

Race equality assessment

The provisions of the Bill, now the Act, went through an initial Race Equality Impact assessment screening. It found that the White Paper proposals (now being implemented) did not introduce any unlawful discrimination.

Health Impact Assessment

There should be no adverse health impacts as a result of this restructuring.

COSTS

Economic

The proposals submitted by the councils were required to meet (amongst other things) an affordability criterion. That criterion set out in the “Invitations to councils” required authorities to demonstrate that any restructuring delivers value for money and be self financing so that:

- transitional costs overall must be more than offset over a period (“the payback period”) by savings;
- the “payback period” must be no more than 5 years;
- in each year, capital transitional costs incurred are to be financed through a combination of the following:-
 - in year revenue savings arising as a result of restructuring;
 - other in year specified revenue savings that are additional to annual efficiencies (eg Gershon savings) which local authorities are expected to make;
 - drawing in available revenue reserves, subject to ensuring that satisfactory amounts remain to meet unforeseen pressures or other potential calls on reserves. Use of revenue reserves should be the final option considered, both because of the need to preserve a contingency to meet future pressures and because use of reserves adversely affects the fiscal aggregates in a given year, increasing spending but not receipts and so placing further pressure on the Government’s fiscal rules;
- the use of capital resources to meet revenue costs will not be permitted;
- any council making a proposal should ensure that all costs incurred as a result of reorganisation are met locally without increasing council tax;
- central Government will accept no liability for any miscalculation or cost overrun in the final outturn. The Government would, in addition, not accept that any additional, unforeseen costs of restructuring should be recovered from council tax payers and that therefore any unforeseen costs will need to be financed from other sources

The proposals implemented by this order were assessed against this criterion at a number of stages in the process, taking account of all of the information available at that stage, including assistance procured by the Government from independent financial consultants.

The financial case in each of the proposals has been moderated by independent financial advisers and suggests overall potential transition costs of around £36m, and indicate these will be funded from savings and a call on general (unearmarked) reserves. They do not anticipate an adverse impact on council tax and will have a pay back period of up to three years.

Environmental and Social

There should be no significant new social or environmental costs arising from the measures in this order.

BENEFITS

Economic

As set out above, the criteria against which the proposals were assessed included the requirement that they be self financing through savings with a payback period of less than 5 years. In deciding to implement these proposals, the Secretary of State concluded that there was at least a reasonable likelihood that they would achieve the outcomes specified by the affordability criterion.

The Regulatory Impact Assessment for the Local Government and Public Involvement in Health Bill estimated annual savings in costs of in the region of £10m in each county area from year 3 onwards. On the basis of the councils' current estimates, and following moderation by independent financial advisers, the savings from this proposal will be over £18 million annually.

Environmental

There should be no significant environmental costs arising from restructuring. The proposal is clear that bringing together responsibility for the management of Environmental services will provide opportunities for improvement.

Social

There should be benefits, in particular to the users of council services, through improved engagement and service delivery arrangements.

Small Firms' Impact

Overall there should be no negative impact on small firms. Local government restructuring only directly affects the public sector. The proposal simplifies access to and types of local authority services and regulations which should have a beneficial effect on small firms.

Competition Assessment

There should be no adverse effect on competition.

ANNEX A

RATIONALE FOR GOVERNMENT INTERVENTION

(Extract from Regulatory Impact Assessment for the Local Government and Public Involvement in Health Bill)

There have been significant improvements in the performance of local government since 1997. For instance there was a 15.1% increase in a representative basket of best value performance indicator scores between 2000/01 and 2004/05,² and in the four years it has been in existence the Comprehensive Performance Assessment (CPA) has measured significant improvements with two thirds of councils now scoring 3 or 4 stars out of 4³.

However, issues still remain. Despite the improvements in their performance public satisfaction with local authorities remains low⁴. This is reinforced by the fact that 61% of citizens feel that they have no influence over decisions affecting their local areas⁵. This strongly suggests that local authorities and the services they and their partners provide are not sufficiently responsive to the needs and priorities of the communities they serve.

It is clear that the reforms to council's leadership structures introduced in 2000 have resulted in significant improvements in local strategic leadership, particularly in areas that have adopted directly elected mayors⁶. However, not all authorities have fully embraced the opportunities available to them to provide strong leadership in their area. The government is also aware that in some areas with a two-tier structure, in other words an area covered by both county and district councils, there is a growing consensus that the current structures are confusing and a bar to delivering services efficiently.

There is growing evidence that the performance framework for local government, despite its success in driving improvements in performance, must now change. For local government and its partners, the performance framework often appears:

- un-balanced – with 80% of the reporting effort focused on meeting top-down requirements rather than the needs of local management⁷; and,
- burdensome – with approximately 600 performance items requested by Government and inspectorates including: plans, inspections, performance indicators, data returns, and monitoring arrangements⁸.

The Government therefore wants to see a streamlining and rebalancing of the performance framework with a greater focus on the citizen experience and local partnership working, rather than central targets, as the main drivers for improvement.

The introduction of Local Area Agreements (LAAs) and Local Strategic Partnerships (LSPs) has resulted in a framework that many areas are using to deliver better partnership working and more joined up services. However, services are often still being delivered in isolation, partly as a result of differing national targets imposed on separate service providers. This makes it very difficult for local agencies to tackle big cross-cutting problems such as those relating to social exclusion, community cohesion and climate change. As a result, links between the vision set out in a Sustainable Community Strategy drawn up in partnership by an LSP and the mechanisms for delivering the services needed to secure this vision often remain weak.

Citizens' expectations of public services also continue to rise. People are now accustomed to greater choice and convenience in all walks of life, and do not accept that public services should be different⁹. They expect access to

² Local and Regional Government Research Unit, *Communities and Local Government 2006 analysis*.

³ CPA – *The Harder Test, Scores and Analysis of Performance in Single Tier and County Councils 2005* Audit Commission, 2005

⁴ Overall 55% of the public were satisfied with the performance of their local authority in the 2003/04 BVPI satisfaction surveys. This declined from 65% in the equivalent surveys in 2000/01.

⁵ 2005 Citizenship Survey: active communities topic report, *Communities and Local Government 2006*.

⁶ *Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government*, DCLG, 2005; *Councillors, Officers and Stakeholders in the New Council Constitutions: Findings from the 2005 ELG Sample Survey*, *Communities and Local Government 2006*.

⁷ *Mapping the Local Government Performance Landscape*, *Communities and Local Government, 2006*; *Meta-evaluation of the Local Government Modernisation Agenda: Progress Report on Service Improvement in Local Government*, *Communities and Local Government, 2005*.

⁸ *Ibid.*

⁹ *Perceptions of Local Government in England: key findings from qualitative research*, *Communities and Local Government, 2006*.

services in ways which fit round their daily activities, a range of methods of payment, and a wider choice of products. Such expectations can only be met by designing services around the needs of citizens, rather than around the traditional delivery channels of service providers. This in turn requires greater flexibility at the local level, to identify needs and to plan delivery.

Local government has been extremely successful in recent years in obtaining efficiency savings in how it does its business, exceeding the targets set for it in the last comprehensive spending review in 2004. However, many of the easy gains have now been identified, and in a tightening financial climate local authorities will have to continue to focus on using innovative new ways of working to obtain better value for money for the taxpayer.

ANNEX B

Proposals for Future Unitary Structures: Stakeholder Consultation List of Key Stakeholders

Arts Council England
Association of Chief Police Officers
Association of Council Secretaries and Solicitors
Association of County Chief Executives
Association of Electoral Administrators
Association of Larger Local Councils
Association of Local Authority Chief Executives
Association of Police Authorities
Audit Commission
Broads Authority
CBI and other significant business organisations in the area.
Chambers of Commerce
Chartered Institute of Public Finance and Accountancy
Chief Cultural and Leisure Officers Association
Chief Constables
Chief Fire Officers
County Associations of Local Councils
Electoral Commission
English Heritage
Environment Agency
Fire and Rescue Authorities
Health and Safety Executive
Highways Agency
Jobcentre Plus
Local Government Association
Local Probation Boards
Local Strategic Partnerships
Metropolitan Passenger Transport Authorities
Museums, Libraries and Archives Council
National Association of Local Councils
National Federation of Arm's-Length Management Organisations
National Park Authorities
Natural England
New Local Government Network
NHS Foundation Trusts
NHS Health Trusts
Police Authorities
Primary Care Trusts
Principal Local Authorities in affected areas
Public Sector People Managers Association
Public Sector Unions
Regional Assemblies
Regional Development Agencies
Society of County Treasurers
Society of District Council Treasurers
Society of Local Authority Chief Executives
Society of Local Council Clerks
Sport England

Strategic Health Authority
The Learning And Skills Council In England
Universities and Colleges
Voluntary Sector Organisations
Youth Justice Boards