

IMPLEMENTATION EXECUTIVE

Wednesday 9 June 2010

Present:-

Exeter City Council

Councillors Edwards, D Baldwin, M A Baldwin, Coates, Cole, Mrs Henson, Hobden, D J Morrish, Shepherd and P A Smith

Devon County Council

County Councillors Leadbetter, Newcombe, Spence and Westlake

Also Present

Exeter City Council

Chief Executive, Director Corporate Services, Assistant Chief Executive and Member Services Manager

11

CHAIR OF MEETING

Councillor Edwards, the Deputy Chair, chaired the meeting in the absence of Councillor Fullam, the Chair of the Committee.

12

MINUTES

The minutes of the meeting of 4 May 2010 were taken as read and signed by the Deputy Chair.

13

DECLARATIONS OF INTEREST

No declarations of interest were made.

14

UPDATE ON UNITARY POSITION

The Chief Executive (Exeter City Council) updated members on the latest position regarding the Government's intention to reverse Parliament's approval to the granting of unitary status for Exeter.

He informed members that a Local Government Bill seeking to stop the restructuring of councils in Norfolk, Suffolk and Devon had been introduced in the House of Lords on 26 May. The Second Reading in the House of Lords had been scheduled to take place on Tuesday 8 June but, following approval of a motion tabled by Lord Howarth, the Bill had been referred to the parliamentary Examiners to consider whether it was a Hybrid Bill (a bill with characteristics of both a public and a private bill) which involved a different parliamentary process.

The Chief Executive referred to a letter from Bob Neill MP, Parliamentary Under Secretary of State, which had been emailed to the Leader of the Council the previous day and had only just come into the Chief Executive's possession via the local media, as the Leader was away. The letter re-iterated that, pending the Bill's enactment the Government would not expect Councils to take any further steps or incur expenditure on taking forward plans to implement unitary structures. Furthermore the letter stated that it would not be proper to use Council resources to seek to influence the parliamentary passage of the current bill.

Members accepted that the practical effect of the Government's statement was to preclude further work by the City Council on preparation for a unitary structure since this would require the deployment of resources and the co-operation of Devon County Council and Communities and Local Government and both these parties had already indicated that they were not progressing work on the transition. Members were, however, extremely concerned about their legal position in the light of the Government's statement since, whilst the original implementation order remained in place, their role and legal duty, as members of the Implementation Executive, was to discharge the transitional functions set out in that order. They urged that clarification of the legal position be sought as a matter of urgency.

Members raised serious concerns about the latest letter from the Under Secretary of State and considered that he was in danger of exceeding his powers in trying to prevent the Council seeking to influence the passage of the current Bill through its parliamentary process. The Council had a right to protect its interests and engage in any democratic and legitimate process and it was wrong for the Under Secretary of State to seek to prevent it doing so. It was suggested that he should be asked to explain which powers he was relying on in order to issue such a statement.

They recognised that the current circumstances placed the Council in an extremely difficult position, particularly since the enactment may not take place until the autumn, rather than prior to the summer recess as had originally been anticipated. This raised serious concerns regarding the extremely short time period this would leave for the establishment of the unitary authority in April 2011, should the passage of the Bill be unsuccessful. It was suggested that the establishment of a shadow authority might be a more feasible alternative.

In response to questions regarding the Judicial Review undertaken in April, the Chief Executive advised that the decision of Mr Justice Ouseley was still awaited and that it was not known when it would be made.

Council Leadbetter, seconded by Councillor Coates, moved an amendment to the second recommendation to replace "government" with "CLG". This amendment was put to the vote and lost.

RESOLVED that:-

- (1) members note the report and acknowledge that, in light of the statements by CLG, it is impractical to continue any significant further implementation planning for the creation of a unitary council on 1 April 2011;
- (2) the failure of the government to acknowledge the risks its action raises and to advise what contingency measures should be considered be deplored;
- (3) the Secretary of State for Communities and Local Government be pressed to clarify the powers he is relying on in order to instruct the suspension of all planning for the implementation of a unitary structure for Exeter as this would be a significant issue should the risks identified in the report be realised;
- (4) appropriate legal advice be obtained as to the government's approach to this matter and the position in which this places the council and its members.

In accordance with Standing Order 43 County Councillor Leadbetter requested that his name be recorded as having abstained from voting on resolutions (2) and (4) above.

(Report circulated)

DATE OF NEXT MEETING

The next meeting of the Implementation Executive is scheduled to take place on **Monday 5 July at 5.30pm**. Confirmation would be sent to members nearer that date.

(The meeting commenced at 5.30 pm and closed at 6.20 pm)

Chair