

Heart of SW LEP Board meeting

Paper 5.1 Nov 2017

Report title: LEP Governance and Transparency

Report theme: Board

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Purpose of the report

In previous board meetings we have flagged the need to review some of our governance arrangements (eg District representation). DCLG have now published their review of (all) LEP Governance and Transparency (the Ney Review).

Alongside this the broader Review of LEPs is now underway.

This paper provides an update on the governance and transparency review recommendations and actions proposed (including in our 'Annual Conversation with Govt'), related proposals for addressing District representation on the LEP Board and two issues (the role of 'Special Interest Groups' and revised dashboard reporting) which arose during discussions on above other issues.

Recommendations

1. To agree to take forward the LEP Governance and Transparency recommendations of the Ney Review in our LEP governance and prepare for our 'Annual Conversation'; necessary material being agreed by David Bird as Chair of SIP and Finance and Resources on behalf of the LEP.
2. To defer discussion of District representation on the LEP Board pending publication of the broader Review of LEPs (expected in Spring 2018) .
3. To confirm that the HotSW Special Interest Groups are not part of LEP Governance structures (and that therefore in future they should not use LEP branding) and that their specific activities are only supported on a case by case basis (subject to usual governance / business case consideration)
4. Agrees to delegate authority to sign off the quarterly reporting dashboard to the Strategic Investment Panel (SIP). Note that CLOG guidance for the dashboard also requires Section 151 Officer approval of the dashboard alongside Board approval

Background

Govt's LEP Reviews

There are two ongoing reviews underway:

1. A DCLG review (by one of their Non Executive Directors) of LEP Governance and Transparency across all LEPs – this has now been published (see <https://www.gov.uk/government/publications/review-of-local-enterprise-partnership-governance-and-transparency>)
2. A broad based Review of LEPs role being led by two ministers; Jake Berry and Margo James. It is believed this will report in the Spring 2018

In respect of LEP Governance and Transparency DCLG has run an information conference call and this report incorporates the latest feedback; this also highlighted the need to show our willingness to adopt the key agendas. This will be subject to review in our Annual Conversation – when Govt visit us to test our processes and progress. Annex 1 sets out a detailed analysis of the recommendations and actions we are proposing. Annex 2 sets out our approach to our 'Annual Conversation'.

Perhaps the most significant issue within the Review of Governance which we would like to highlight is the need for each of our non executive directors to recognise the importance of adopting a fully transparent approach to any conflicts of interest (CoI) and declaring these in the published CoI forms and at meetings where decisions are taken. The review makes it clear this also applies to the need for our public sector directors to declare relevant interests relating to their authorities activities as well as private and education sector directors to declare theirs. We have been advised that further guidance and proformas may be issued in due course by Govt.

Having undertaken an analysis of the proposals, the other areas where the review highlights issues for further consideration are in respect of:

- a. Relationship between the LEP and the Joint Committee when established – it has already been agreed that LEP and the Joint Committee will jointly sign off the Productivity Strategy once finalised. The review highlights the need to have a clear and transparent governance structure and that if this is not followed that there is a power of veto (for example by our accountable body). We will be expected to have a scheme of delegation as part of this that sets out what decisions are taken, by whom and when. Annex 3 sets out a draft scheme of delegation for discussion over coming weeks which proposes that the Joint Committee and the LEP sign off jointly (underpinned legally by the relevant frameworks):
 - Strategic Economic Plan / Productivity Strategy (or Local Industrial Strategy if this is a future requirement)
 - Investment framework to deliver the Strategic Economic Plan / Productivity Strategy
 - EU Strategic Investment Framework (or Joint Prosperity Fund Strategy if this is

a future requirement)

- b. Scrutiny of the LEP's activities will need to be clearly established in a manner that fits our local circumstances. This is also likely to be impacted by the manner in which the Joint Committee is established. For example some authorities have suggested to us that the Joint Committee will have to have its own scrutiny committee – and that this scrutiny committee would be best placed to undertake the scrutiny of the LEP . Other authorities don't believe this will need to be established in which case scrutiny could fall into two types:
- i. High level scrutiny of strategies and investments will be undertaken by the Joint Committee itself as part of the above decision matrix.
 - ii. Scrutiny of processes will be undertaken by meetings of the scrutiny committees of our two accountable bodies; possibly in a joint session (say) once a year

District Council representation on LEP Board

It was agreed in LEP Board meeting earlier this year that the LEP should undertake some research through the LEP Network company to address the request from Devon District Councils in their letter of earlier this year. This requested “a review of the governance arrangements and changes made to reflect the need for greater District Council representation in recognition of the significant support, both financial and in kind, that the District Councils provide to the LEP.”

The LEP network company agreed to undertake this research and provided us with an independent report. Five other LEPs were included in the research – all five were LEPs that do not yet have a Combined Authority in place but had similar two tier local government in their areas. The LEP Network selected these as they were seen as similar to our LEP.

The report highlights there is some variety across the LEPs surveyed in respect of.

- Type of legal body – Some LEPs have been established as a company under the companies act; others are partnerships. In the former, the individual nominated serves as a director and isn't a 'representative' of their council. In the latter, the individual can represent their council or area depending on the terms of the partnership. Govt. has recently started a review into the future role of LEPs... “to explore ways of putting LEPs on a more consistent footing legally”. It would seem premature to draw any conclusions in this regard until the Govt's review is published.
- Numbers on Board - One LEP had only one District nominee on their Board; whereas the rest had four or more representatives. The conclusion is that HotSW LEP may be a little out of line with other LEPs and that 4 representatives might be more in line with practices elsewhere.
- Sub-group membership – All Districts appear to also provide representatives to sit on sub-groups. Although that is the case in HotSW there may be scope for further involvement.
- Other contributions beyond Board membership – Again there is some variety but HotSW Districts financial contributions to the LEP appears to be less than from Districts in three of the other LEPs surveyed. There is no correlation between numbers of Board members and contributions to the LEP.

Since undertaking this research DCLG has published the Review of Governance and Transparency and the broader based review of LEP by Govt is underway (referred to

above). The HotSW Joint Committee could also become live in the next few months and it seems likely that any discussion on LEP Board representation for Authorities might need to be referred to that group. Given these developments it seemed too difficult to determine a set of recommendations at this time.

However, as part of our discussions with Local Authorities about these issues we did determine some improvements which we could make to transparency. We have therefore undertaken to all Districts:

- Draft Board agenda – we will circulate proposed draft agendas so Districts can put forward any items they would like to see on the Board agenda .
- In order to make it easier for Districts to know when the Board agenda and papers are “live” before the meeting (usually a week before the meeting), we will let them know by email that the papers are in the public domain and where they are on our website (and most of them go into the public domain prior to the meeting). The dates of future meetings and papers are shown on our website at <http://heartofswlep.co.uk/about-the-lep/lep-board/the-board-minutes/>
- We have reminded Districts that Questions can also be put direct to the Board at Board meetings - the wording on our website (via the link above) is

..... apply via the LEP secretariat in advance of LEP Board meeting dates, to submit written representations, relating to board meeting agendas and investment programme and/or funding decisions. These will need to be submitted by email one working day in advance of the scheduled meeting date to info@heartofswlep.co.uk with the title in the subject box: LEP Board written representations.

Special Interest Groups

During discussions on the above governance agendas with Directors and Authorities, a number raised questions about the status and standing of the LEP’s Special Interest Groups (SIGs). At present there are a number of LEP SIGs:

- Low carbon
- Rural
- Transport
- Social Enterprise

Directors may recall that some years ago that the board agreed that SIGs would be recognised as a LEP group if a LEP director or officer chaired the group. But they wouldn’t be part of our formal governance structure. However, over time the anomaly of why certain groups in HotSW have direct reports going to the Board and can use the LEPs name, whilst others cant, has grown – particularly as our work around smart specialisation sectors has developed.

In addition the original founding director involved in some of these groups have retired and there is a perceived pressure to find an alternative given these groups are the LEP’s SIG.

As set out in our assurance statement and scheme of delegation (Annex 3) the LEP only has 5 formal committees in its structure below the board:

- Strategic Investment Panel
- Finance and resources
- People Leadership
- Business Leadership
- Place Leadership

The Local Transport Board (LTB) remains a Local Authority body; though one which we recognise and delegate to. Other task and finish groups can be established from time to time as needed.

It is now proposed that:

- We confirm that the HotSW Special Interest Groups are not part of LEP Governance structures
- Therefore in future they should not use LEP branding
- Reports on their meetings are only provided to the board, and specific activities are only supported, on a case by case basis (subject to usual governance / business case consideration)
- Board members do not need to be members unless specifically determined.

Growth Deal Monitoring & Reporting

The system for reporting LEP progress on Growth Deal back to Government has been changed with a new tool replacing the previous LOGASnet system. Part of the new tool includes a dashboard section, designed to provide a clear view of overall progress of the Growth Deal.

CLOG have requested that the dashboard be taken through the Board and is signed off by the Section 151 officer in advance of its submission each quarter. Dates for submission are

- 20th January
- 20th April
- 20th July

Timing of the dashboard submission does not match LEP Board meeting frequency and dates and therefore it is recommended that

- The Board delegates authority to sign off the dashboard to SIP. Note that CLOG guidance for the dashboard also requires Section 151 Officer approval alongside Board approval
- A copy of the latest dashboard is in future circulated to Board members as part of the standard Board pack. The tool was first used in October but several errors have been highlighted by the PMO team and therefore it has not been brought to the November Board. Providing the errors have been corrected, a copy will be provided to Board members in January and then with Board papers after that.

C Garcia
14/11/17

Annex 1 Review of LEP Governance and Transparency Actions

<u>Description of issue / recommendation</u>	<u>Current situation</u>	<u>Action needed / undertaken</u>
National Assurance Framework requires a brief formal assurance statement on an annual basis from the leadership of the LEP (i.e. the Chair and CEO), on the status of governance and transparency within their organisation and which can be explored in greater detail during the Annual Conversation process with government. This statement to be published on the website	New requirement	Being prepared as part of this year's Annual Conversation
National Assurance Framework requirement for LEPs to have a code of conduct, which all board members and staff sign up to, should explicitly require the Nolan Principles of public life to be adopted as the basis for this code	New requirement for Directors – staff already covered as part of their employment contracts	Draft code to be developed and implemented by end of November 2017
LEP decision-making structures accommodating the following separate components of good governance and and which form an essential part of assurance and ensuring probity:		
<ul style="list-style-type: none"> • A clear strategic vision and priorities set by the Board which has been subject to wide consultation against which all decisions must be judged;² 	SEP sets out our strategic vision and priority objectives; was subject to a wide consultation. Being updated through Productivity Strategy and this is currently out for consultation.	None
<ul style="list-style-type: none"> • A sub-committee or panel with the task of assessing bids/decisions 	Strategic investment Panel assesses bids / decisions in respect of capital / revenue investments and monitors performance. F & R leads on core costs and overheads.	None
<ul style="list-style-type: none"> • Open advertising of funding opportunities 	Last funding round was GD 3. Opportunities for this funding was advertised. The prioritisation list used for this, is still in use	None

<ul style="list-style-type: none"> Independent due diligence and assessment of the business case and value for money 	<p>Every business case is reviewed to Green Book principles by trained LA staff not connected to the proposal or by an independent assessor in the case of transport projects</p>	<p>None</p>
<ul style="list-style-type: none"> Specific arrangements for decisions to be signed off by a panel comprising board members from the local authority, in some cases including a power of veto 	<p>Public sector board members agreed in 2013 that separate panel not needed as they would consider items as part of board meetings. When new Joint Committee (JC) established governance arrangements will be modified for scheme of delegation (ie signing off of due process of investment decisions and agreement of strategic plans – such as Productivity Strategy). Accountable body already has power of veto over LEP decisions that do not comply with due process.</p>	<p>Updated governance arrangements to be in place once JC established. In meantime DCLG confirming that outcomes sought are to ensure good governance structures (ie our hierarchy of decisions) are in place and processes are followed</p>
<ul style="list-style-type: none"> Section 151 officer line of sight on all decisions and ability to provide financial advice 	<p>Accountable body representative attends F & R, SIP and Board meetings</p>	<p>None</p>
<ul style="list-style-type: none"> Use of scrutiny arrangements to monitor decision-making and the achievements of the LEP 	<p>Annual meetings held with each Local Authority. Adhoc meetings with accountable bodies (SCC and DCC scrutiny committees) at their request. Annual report provided to all authorities. LEP AGM is held on an open basis.</p>	<p>We need to await confirmation of JC scrutiny arrangements.</p>
<p>Local assurance frameworks should set out that ALL decisions must be subject to the normal business case, evaluation and scrutiny arrangements; there must be a written report with the opportunity for the Section 151 officer to provide comments, that the conflicts of interest policy will apply to decision makers regardless of whether there is a formal meeting, and that decisions should be recorded and published in the normal way, regardless of how they are taken</p>	<p>HotSW LEP assurance framework complies</p>	<p>None</p>

All board members taking personal responsibility for declaring their interests and avoiding perceptions of bias. This should be evidenced by producing and signing of their register of interests and publication on the website.	HotSW LEP Directors all comply	Check that all up to date and highlight at board so all directors understand
Categories of interest to include employment, directorships, significant shareholdings, land and property, related party transactions, membership of organisations, gifts and hospitality, sponsorships. Interests of household members to also be considered.	We currently do cover these but not all explicit (ie land isn't explicit)	Guidance note to be updated to explicit to cover these and all directors advised to update by end of November 2017
Use of a bespoke proforma for collection and publication of the information which ensures all categories of interest are systematically considered	Yes	No
Action in response to any declared interests applies to any involvement with the work of the LEP and is to be recorded.	Any declared interests recorded at meetings and actions taken. No directors contracted and paid personally to do work for the LEP.	none
Councillors will need to declare the interests they hold as council leaders/cabinet members for council land and resources, as well as for aspects of the council's commercial interests.	This is already referenced in our Col policy	Council Leaders to be reminded
LEPs to include in their local statements how scenarios of potential conflicts of interest of local councillors, private sector and board members will be managed whilst ensuring input from their areas of expertise in developing strategies and decision-making, without impacting on good governance.	This is set out in our Col policy	None
The publication of a whistleblowing policy and arrangements for confidential reporting of allegations of untoward concerns by third parties/ the public	Staff are employed by and through partners. Each partner has a whistle blowing policy. This isn't explicitly stated on our website	A statement explaining this has been added to our website

Govt provides clarity in the National Assurance Framework on the role of Section 151 officers	n/a	none
National Assurance Framework sets a requirement for the Section 151 to provide a report to the Annual Conversation on their work for the LEP and their opinion with a specific requirement to identify any issues of concern on governance and transparency	Not a current requirement	S Murphy to organise
Government give some thought to what flexibility might be available to smooth funding allocations to LEPs over a longer period	For Govt to action	
Publication of the approach to the appointment of board members and providing information on the time board members commit.	To be checked	Remedial action if needed
Publishing the policy on claiming of expenses by board members.	To be checked	Remedial action if needed
National Assurance Framework provides additional guidance on expectations on publication of agendas, meeting papers and decisions	We do currently publish agendas in advance and papers afterwards.	Await NAF and review practices in that light
Agreement between the LEP and the Section 151 officer on how best to provide financial data	Annual report financial information current provided by accountable body. Will be subject of ongoing discussion with 151 Officer	S Murphy to follow up
Maintains on LEP website a published rolling schedule of the projects funded giving a brief description, names of key recipients of funds/ contractors and amounts by year	To be checked	Remedial action if needed
LEPs report on scrutiny arrangement in their annual assurance statement (see above) during the Annual Conversation process	Not a current requirement.	Will be adopted

Annex 2 - Annual Conversation

Each year, the Cities & Local Growth Unit (CLOG) team hold an Annual Conversation with each LEP to examine performance and delivery on Growth Deal projects and test LEP governance. The Conversation is a key step in securing CLOG sign-off towards continued LEP core funding and release of 2018 Local Growth Fund monies – CLOG guidance describes the Conversation as “informative but not summative” in this decision. In more recent years, and especially in 2017, CLOG have indicated that the focus will especially be on governance.

The Ney Review and on-going LEP review referred to above are of note in preparing for the Conversation. It would seem logical to assume that a strong series of Annual Conversations would strengthen the potential for LEPs to contribute more to delivery.

Annual Conversation Guidance & Assurance Statements

CLOG have provided guidance on the information required for the review and the LEP team is completing this ahead of an informal review with CLOG on 17th November. The information will then be completed ahead of the Annual Conversation on 6th December.

Note that two Assurance Statements are required for 2017, which are additional requirements compared with previous years; both stem from the Ney review:

- i) A Statement from the Section 151 Officer on their work for the LEP over the last 12 months and a requirement to identify any issues of concern in governance or transparency
- ii) A Statement from the Chair and Chief Executive on the status of governance and transparency.

The Chair of Finance and Resources & SIP, David Bird, and Chris Garcia are overseeing preparation for the review, with Steve Hindley’s input as appropriate. The above two draft statements have been prepared and will be discussed at Finance and Resources later this month. Subject to these discussions, David Bird will sign off the final material for the Annual Conversation on behalf of the LEP.

Annex 3: Scheme of Delegation

Heart of the South West LEP Board

Draft Scheme of Delegation for discussion with Joint Committee

11/11/17

1. Board Authority

- 1.1. The Board is authorised to publish a scheme of delegation under the LEP Assurance Framework to enable its sub groups and other groups to support the Board to deliver the LEPs investment programme.
- 1.2. The scheme is in accordance with offer letters for funding received for the current investment programme – Growing Places Fund and the Growth Deal – and has been prepared with the intention of being fit for purpose for any and all current and future funding managed by the LEP.
- 1.3. The LEP Assurance Framework agreed by the LEP and Somerset County Council (the ‘accountable body’) sets out the governance for the investment programme and the roles of the Board and its sub groups in programme management **and the Heart of the SW Joint Committee**.
- 1.4. Board sub groups are:
 - the Strategic Investment Panel,
 - the People, Place, and Business Leadership Groups
 - the Finance and Resources Committee.
- 1.5. The Local Transport Board (LTB) delivers the transport component of the investment programme and its role has been formalised in a partnership agreement with the LEP (dated X) and in this scheme of delegation.
- 1.6. The Assurance Framework (dated X) and scheme of delegation has been approved by the LEP Board and Somerset County council the accountable body and is compliant with the LEPs national assurance framework.

2. Board Decisions

- 2.1. The Board will make the following key decisions relating to the Investment Programme:

Assurance and Accountability Framework (February 2017)

2.2. Approve and adopt the strategic framework and LEP's investment programme

2.3. The Strategic framework is defined as all plans and strategies the LEP adopts to govern its overall priorities and direction which will also be subject to dual sign off with the HotSW Joint Committee and as a minimum includes:

- Strategic Economic Plan / Productivity Strategy
- Business Plan
- Investment framework to deliver the Strategic Economic Plan / Productivity Strategy
- EU Strategic Investment Framework

2.4. Make all key decisions relating to the LEP's investment programme.

2.5. For the purposes of this scheme of delegation a key decision is defined as:

- Financially significant: decisions which result in a significant amendment to the agreed investment programme. The Board has agreed that a significant amendment to the investment programme is defined as a change to the programme of over £250,000. The change management policy forms part of this scheme of delegation and sets out further guidance on how changes to the investment programme are managed. See below.
- Significant Impact: decisions deemed significant in terms of their impact on communities or businesses in the Heart of the South West.
- Any other decisions deemed novel or contentious by Board Directors, and/or decisions referred to the Board by the Strategic Investment Panel, Leadership Teams and LTB.

2.6. The Board will also be responsible for the following decisions in relation to the investment programme, as a minimum:

- Approval of any prioritised pipeline of projects seeking investment to support delivery of the SEP
- Approval of any funding bids seeking investment in the LEP's approved pipeline. This includes bids to national Government or any other public or private sector funder.
- Approval of any re-prioritisation of the project pipeline and investment programme.

- Approval of the budget for the investment programme and the funding ‘envelopes’ for the People, Place (inc transport) and Business sub programmes.
- Approval of virement of funding between People, Place and Business sub-programmes.
- Reviewing and approving the scheme of delegation for the investment programme

2.7. Note that ‘Investment Programme’ refers to any and all current or future funding programmes and projects under the responsibility of the LEP. At the time of writing this refers to the:

- Local Growth Funding (Growth Deal)
- Growing Places Fund

3. Strategic Investment Panel (SIP)

3.1. The LEP Board delegates authority to the SIP to:

- *Recommend* to the Board a single prioritised pipeline of projects seeking funding from the investment programme.
- *Recommend* to the Board the funding envelopes for the investment programme.
- Manage the investment programme subject to this scheme of delegation and the change management policy (see below).
- *Recommend* to the Board a budget for investment programme administration costs.
- Approve final business cases for all (non-transport) projects. There is no financial limit to this responsibility provided projects are already approved for pipeline or investment programme entry and are within the agreed funding envelope.
- Take decisions, or refer to the Board decisions, any issues escalated by the Leadership Groups and Local Transport Board – in accordance with this Scheme of Delegation.
- Direct and advise the investment programme ‘team’, i.e. LEP Programme Management Office and LEP Management Team, in their programme management role

- Novel and contentious matters and decisions will be referred to the Board

4. People, Place & Business Leadership Groups

4.1. The LEP Board delegates authority to the People, Place and Business Leadership Groups to:

- Provide strategic advice and guidance on the delivery of the People, Place & Business themes set out in the Strategic Economic Plan (SEP).
- *Recommend* to the SIP a prioritised pipeline of projects for their respective sub programmes.
- Manage the investment sub programme subject to the scheme of delegation and the change management policy.
- Review and approve expressions of interest and outline business cases for their sub programme.
- Review and *recommend* final business cases to the SIP
- *Recommend* to the accountable body any required conditions for the Offer Letter and recommend for signature by the accountable body.
- Novel and contentious matters and decisions will be referred to the Board

5. Local Transport Board

5.1. The Board delegates authority to the LTB to:

- Recommend to the Place Leadership Group a prioritised pipeline of projects for the transport sub programme, within the Place delivery theme.
- Manage the investment sub programme subject to the scheme of delegation and the change management policy.
- Approve final business cases for all transport projects. There is no financial limit to this responsibility provided projects are already approved for pipeline or investment programme entry and are within the agreed funding envelope.
- *Recommend* to the accountable body any required conditions for the Offer Letter and recommend for signature by the accountable body.
- Novel and contentious matters and decisions will be referred to the Board

6. Finance and Resources Committee

6.1. The Board delegates authority to the F&R Committee to:

- Provide strategic advice and guidance to the Chief Executive and the Board on the effective and efficient financial management of the partnership.
- Maintain oversight of the LEP's governance and financial management. This will relate to all core activity not included in a People, Place or Business delivery theme, including:
 - Approval and recommendation to the Board on behalf of the LEP, the Service Level Agreements with the local authorities for core costs and programme management costs.
 - Recommendation to the Board of annual budget and accounts.
 - Advice and guidance to the Chief Executive on business planning and other 'corporate' matter.

7. LEP Chief Executive & Management Team

7.1. The Board delegate authority the Management Team to:

- Manage routine programme management functions and decisions.
- Make any other necessary decisions to ensure the efficient and effective management of the LEP and delivery of programmes required and not formally within the delegated responsibility and any of the above LEP sub groups.