

Heart of the South West LEP Board

April 21st, 2023 - Chief Executive's Update

Agenda item 7

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1. Summary

This report provides updates on:

- The Chancellor's Spring Budget and specific reference to future LEP funding and its implications on the 23/24 business plan
- (Verbal) Update from Devon, Plymouth and Torbay on the invitation to progress a Level 2 Devolution
- Other key announcements/events
- Transport Update
- Great South West Update

This meeting is being held during purdah with elections and representation from Local Authority Directors is likely to be mixed. Elsewhere on the agenda, we have a progress update on the Governance review - annex A (including holding a Members meeting to update our Articles with relation to private sector representation immediately after the conclusion of this meeting – annex B) – separate notice, agenda and papers circulated.

We have an update on how the likely priorities/recommendations of the Local Skills Improvement Plan are currently being progressed through the leadership of the Employer Representative Body – the Chamber of Commerce.

2. Recommendations – it is recommended that the Board:-

- i) Agree on the next steps regarding the Chancellor's statement.**
- ii) To hold a member's meeting to agree on amendments to the Articles for extending private sector representation immediately after this meeting – if Directors can't attend it is important that their vote is made (through a proxy)**
- iii) Note the need for an ongoing exemption in our diversity requirements not least in light of Lisa Roberts handing over to Stuart B and the resignation of Mel Squires**
- iv) Note the update for possible devolution and the need to bring forward initial transition options to the next Board meeting (in July)**

3. Spring Budget Statement

A separate note was circulated to all Board Members setting out the overall key points but specifically regarding LEPs, the Chancellor announced that;

- a) he was minded to cease Government support for LEPs from April 2024 and;*
- b) to undertake a consultation to transfer the role and functions of LEPs to Local Authorities*

Specifically, the precise text in the red book relating to the transfer of LEP functions to local government reads:

'The government is committed to empowering democratically elected local leaders at every opportunity. To this end, the government intends for the functions of Local Enterprise Partnerships (LEPs) to be delivered by local government in the future. Therefore, the government is minded to withdraw central government support for LEPs from April 2024. DLUHC and the Department for Business and Trade will now consult on these proposals, before confirming a decision. The government will publish an updated policy position to confirm the next steps by the summer.'

Shortly after the Levelling-Up Minister also confirmed that Councils in Devon can submit a bid for a level two devolution deal - which would not involve an elected mayor. The Deal would apply to Devon CC, unitaries Plymouth City Council and Torbay BC and to Devon's eight districts.

Whilst giving outline approval for the deal, the range of services and money to be devolved is still to be settled but would include the transition of LEP functions. A final business case will now be prepared and submitted to the Department for Levelling Up, Housing & Communities in the expectation that a deal can be agreed upon later this year.

Inevitably, there has been much reflection and commentary both locally and nationally - [The LEP is dead, long live the Business Board | TheBusinessDesk.com](#) and [Gloucestershire business leaders slam government over LEP plans - Business Live \(business-live.co.uk\)](#).

Much of this is a bit premature – no actual decisions have been made yet.

Following the Chancellor's statement, a letter was issued setting out the Government's initial phase of gathering information from LEPs and other partners through a questionnaire (draft response attached – annex C) and further Government guidance is, as stated, expected in the summer.

We have also been working closely with Government and the national LEP Network on the implications under 5 specific themes:

- a) skills
- b) assets and liabilities
- c) Governance and Directors' Responsibilities
- d) Growth Hubs
- e) Other functions eg Careers Hubs etc

This has concluded 3 broad themes:

- a) *LEPs are all very different and Devolution/transition arrangements in places are also very different. With some – existing MCAs well on the way; some in train and some areas not even thinking about it yet. HOTSW falls within the complicated group not least because devolution only currently covers part of our area and as an incorporated CIC the asset lock adds complexity about any possible future transfer of assets particularly if the CIC were to close.*
- b) *Due to this complexity, it is difficult for the Government to provide advice that is consistent/relevant to all areas so they are unlikely to provide direct solutions but more likely to provide a broad framework expecting local areas 'to sort it out'*
- c) *To complete the transition in an orderly way we need to understand both the starting point – specifically which staff are likely to be affected, which functions are applicable and which assets are in scope and consequently their subsequent treatment through transition. Secondly we need to understand the destination – ie once the LEP functions have transferred, should the CIC remain as the vehicle to retain assets and if so what else should it/could it do; and finally develop a transition plan and timetable to get from the agreed starting point ie what's in scope to the destination to secure an orderly transition and value to the public purse.*

We understand that Government is likely to confirm that local assets are indeed held locally and therefore subject to local agreement and context between the LEP and the Accountable Body as to how they should be treated – they are different in different places but HOTSW LEP assets are not held on the Accountable Body's balance sheet which indicates that they 'belong to the LEP' but this still has to be finally agreed. Similarly, we think that the Government grant has now 'washed through' meaning that future restrictions on capital/revenue splits, etc may not apply.

Concerning the Asset Lock, our Articles state:

COMMUNITY AND INTEREST COMPANY AND ASSET LOCK

2. Community Interest Company

The Company is to be a community interest company.

3. Asset Lock

3.1 The Company shall not transfer any of its assets other than for full consideration.

3.2 Provided the conditions in Article 3.3 are satisfied, Article 3.1 shall not apply to:

- (i) the transfer of assets to any specified asset-locked body, or (with the consent of the Regulator) to any other asset-locked body; and
- (ii) the transfer of assets made for the benefit of the community other than by way of a transfer of assets into an asset-locked body.

3.3 The conditions are that the transfer of assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the Memorandum and Articles of the Company.

3.4 If:

- i. the Company is wound up under the Insolvency Act 1986; and
- ii. all its liabilities have been satisfied

any residual assets shall be given or transferred to an asset-locked body specified by the Directors.

4. Not for profit

The Company is not established or conducted for private gain: any surplus or assets are used principally for the benefit of the community.

As yet we have not specified an asset-locked body.

Given the increased risks and uncertainty and the need to protect both the Company and its Directors, the OIC sub-committee legal advice specifically on GPF loans has been commissioned as follows:

Scenarios

The Board could decide to make changes to GPF loans such as

- Waiving GPF loan interest due on a particular loan would reduce the level of income from this source
- Converting an existing GPF loan to a grant as a result of which future interest would not materialise.
- The LEP reschedules the agreed payment profile of interest due which will impact the timing of revenue/cash receipts

The decisions could be a result of requests by loan recipients and/or guarantors who may be struggling to meet their obligations on a GPF loan.

Any of these decisions, depending on other income available, could increase the risk of LEP income reducing to a point where it may have to cease operation - insolvency.

Advice

1. What are the implications for LEP Board members in the above situation? Note that the LEP board would not intentionally agree to a decision that would reduce the level of income below the level of expenditure and would cut costs accordingly
2. Any of the above on one particular GPF loan could also result in setting a precedent for others with requests to treat them similarly. If so would the LEP be open to other GPF customers, who were being treated differently being able to mount a legal challenge about their arrangement, given the LEP has been open to each customer that it is treating them in line with a Board agreed to policy?
3. We are not asking for advice where borrowers and/or guarantors are unable to repay the loan principal and/or interest. However, where borrowers and/or guarantors contend that repaying GPF interest (and in the longer term capital) may cause hardship to their business, communities, etc would the LEP's dormant CIC status change the legal duties of LEP Board directors? In such cases, where borrowers and/or guarantors are insolvent we have worked on the assumption that the LEP Board would require immediate repayment of all balances due, including accrued interest, and if necessary, enforce any security available.

In summary, I think the transition has four stages:

Stage 1 – current. Agreeing with partners the starting point – setting out what's in scope, what's not, what's relevant and a shared destination

Stage 2 – summer - setting out options/scenarios to get there

Stage 3 – Autumn - agreeing on the preferred options

Stage 4 – Winter/Spring 2024 - implementing the changes. Some of the transition arrangements eg future Careers hub disaggregated delivery may be better to have to happen sooner.

Currently, I would suggest there is as yet little shared agreement about the starting point – Government guidance is fairly partial and they and some Local Authorities seem as yet not to fully acknowledge the potential asset lock constraints of an incorporated CIC.

Therefore, whilst LEP functions will be transferred to Local Authorities, LEP assets are more restricted. Moreover, in line with our principles of devolution set out last year, I would hope to see stronger options appraisals about how the transition of functions will deliver better measurable outcomes to our businesses, communities and economy. For example, in thinking through the Somerset Unitary, I believe the new Council has stepped back and looked at their careers delivery and whether the Careers Hub is an integral and ongoing component. They have concluded that it is, have put in place a structure and some funding to support it and I, therefore, have no problem - subject to the final business case and funding confirmation - to progress an option that future delivery is transferred to Somerset Council with match funding from the LEP from this summer.

I am therefore hopeful that this update from the Chancellor enables a better more Partnership based model of transition more in line with our (previously) stated principles than has so far been experienced and consequently we remain supportive providing it is focused on making things better and engaging the business community in a real and meaningful partnership going forward including recognising the opportunity of the now confirmed Great South West for some of this work.

The specific implications of the business plan are a greater emphasis (particularly on management time) on delivering transition. Moreover, Local Authority partners have highlighted possibly pulling back from drafted SLAs this year meaning possibly greater input from the LEP core team and we have looked again at key outputs for the year and what's possible and what's not – which are covered in the Build Back Better update.

4. Key Events – since the last Board meeting

Chancellor's Statement – there was little specificity other than the devolution arrangements eg nothing yet on RIS 3;

Green Day – although a bit of a damp squib support was confirmed for a business case for the Electrolyser at Langage and for Great British Nuclear. Furthermore, information on Grid upgrades to supporting floating offshore wind is starting to emerge although the report from the Government's offshore wind champion earlier this month - <https://www.gov.uk/government/publications/accelerating-deployment-of-offshore-wind-farms-uk-offshore-wind-champion-recommendations>

However, no reference was made at all to the south west highlighting only Wales in the opportunity of the Celtic Sea.

DfE confirmed that core funding for SAPs is not to continue - LSIP due in mid-May.

The SW Social Mobility Commission held its 2nd meeting – an event supported by SWBC scheduled for July.

5. Governance Update

Mel Squires (after nearly 6 years) has stood down from the LEP Board triggered largely by a restructuring within the NFU and her successful promotion as Head of the South region. As the rural lead, and Champion of the Place group she has made an enormous contribution to the LEP and the Southwest generally.

Lisa Roberts has also stood down as LEP rep from the University transferring to Stuart Brocklehurst in his new DVP role.

We are still waiting for confirmation from Somerset Council about future representation. Local elections next month may result in some further changes – some will know that Richard Bingley has resigned as Leader of Plymouth City Council replaced by Councillor Mark Shayer.

An updated Governance report is attached in the Appendices (Appendix A) and the Board is asked to agree to hold a Members meeting and agree to amendments to the Articles (Appendix B) as previously discussed that would enable 2 Board Members to continue beyond their initial 6-year term.

6. Great South West – Update

The next GSW Partnership Board meeting is to be held on 25th April 2023.

Following an open recruitment process, Karl Tucker has been confirmed as the permanent chair (for a term of 2 years). He has three immediate priorities

- a) Working with Government officials to secure sign-off for the Year 2 (23/24) business plan
- b) Agree to a small number of key priorities for the Partnership in line with the 'green and blue' framework
- c) Agree and put in place an Executive to support the implementation of these priorities

To assist the emerging priorities there are currently 5 pieces of work to be reviewed (at a Board workshop in June) and being progressed as follows:

- a) Following the GSW energy summit in the Autumn, Regen is drafting an energy priorities paper
- b) An internationalisation plan for discussion with DBT is being commissioned.
- c) Priorities for rural, food, farming and fishing are being convened through a programme board
- d) Priorities for high-value manufacturing informed by 3 round tables with the HVM catapult
- e) Marine priorities developed through a round table in early May facilitated by the Maritime UK Southwest group.

In addition, we hope that the Innovation Group may look at their opportunities across the GSW area; we hope to have a meeting with LA Leaders immediately after the local elections to discuss match funding, etc and FE Principals have also asked to meet.

Finally, the first local update even was held in Somerset last month. Further events will be held in Devon, Cornwall and Dorset.

7. Update on Transport Issues

National Highways - A303/ A358 improvements

Construction of the A303 Sparkford to Ilchester dualling is progressing well and completion of the scheme is envisaged in Spring 2024.

Following the 2021 quashing of the Secretary of State's approval of the Development Consent Orders for the A303 Stonehenge Tunnel, the Secretary of State is to re-determine the application. National Highways have made a further submission in response to issues raised at the judicial review, and the Secretary of State's decision is now awaited. The LEP has taken the opportunity to confirm its continuing support for the Stonehenge scheme. If the Development Consent Order is approved the current opening date for the Stonehenge scheme is late 2028.

After extensive consultation, it was anticipated that National Highways would submit the Development Consent Order (DCO) application for dualling the A358 between Taunton and Southfields Roundabout (the end of the A303 Ilminster Bypass) by the end of 2022. However, in late December National Highways indicated that they were to review the proposed environmental mitigation before submitting the DCO. The LEP has indicated its continuing support for the scheme and has participated in a National Highways communications campaign on the business and community benefits of the project. No revised date has been given for the DCO submission.

National Highways has started the development of the project for the next section of the A303, the dualling of Ilminster Bypass. Both online and offline dualling options are being considered at the initial scoping stage. The LEP has taken the opportunity to stress the need to progress this project at pace.

In pre-budget transport announcements, the Secretary of State indicated that the timescales for several major transport projects would be delayed, but there was no specific mention of the A303 corridor schemes in that context. At the time of writing it was anticipated that the draft of Roads Investment Strategy 3, covering 2025 to 2030, would be published shortly.

National Highways have been developing route strategies for the various elements of their network, to identify the need for interventions to improve safety and optimise capacity. It is anticipated that these will be published in Spring 2023.

Rail Infrastructure and Services

The South West has continued to lead the way nationally in rebuilding rail patronage in the wake of the Covid 19 pandemic. Gateline figures at Exeter Central and Taunton are well above 2019 levels. One of the reasons that this re-growth has been faster than in other parts of the country is because of higher levels of education and leisure travel in the region;

another is the lower dependency on commuting. Patronage has subsequently been significantly impacted by industrial action.

Nationally the reductions in commuting to London and business travel leave the rail industry with an income deficit, as those journeys yield higher fare levels than leisure and local travel. As a consequence train operators have responded to Department for Transport instructions to reduce their operating costs. This will result in some service rationalisation and the withdrawal of some train fleets. Great Western Railway has agreed to phase out its former High-Speed Train units, and will also not renew the leases of some other fleets. This will mean that their train resources will be stretched, reducing their capacity for new initiatives or responding to patronage growth. Cross Country Trains will also be phasing out their High-Speed Trains; on a more positive note Cross Country will be restoring some of the services which had been deleted from their timetables since the start of the Covid-19 pandemic.

Restoring Your Railways

Construction of the Growth Deal-funded station at Marsh Barton, Exeter, is now almost complete and it is anticipated that the station will open in May 2023. Construction of a new station at Edginswell, Torbay, is due to start later in 2023.

The Levelling Up Fund round 2 announcements in January included funding for a new railway station and transport hub on the eastern edge of Okehampton, close to the A30 trunk road. The provision of such a station was included as the second stage of the business case for reopening of the Exeter to Okehampton railway, which has exceeded the patronage and income forecasts since the reopening in November 2021.

Work to develop the proposals for new stations at Cullompton and Wellington to the point where they are 'construction ready' is proceeding, following the allocation of £5m in the Autumn 2021 budget. The aim is to open the new stations in May 2025.

The Strategic Outline Business Cases (SOBC) for a potential new station to serve Somerton and Langport and for re-opening the rail line to Tavistock are with the Department for Transport awaiting decisions.

Development work is proceeding on the preparation of an SOBC for the provision of a scheduled passenger service between Taunton and Bishops Lydeard, to act as both a local access to the national network for residents of West Somerset and enhanced access to the heritage West Somerset Railway.

South West Rail Resilience Programme – Dawlish to Teignmouth

The second phase of the new sea wall at Dawlish is now complete. At Dawlish station, an accessible footbridge with lifts is to be constructed during 2023.

The third phase of resilience works, a rockfall shelter at the north portal of Parson's Tunnel, is under construction with the foundations now complete. Construction will begin in Spring 2023 on phase 4 – Dawlish to Holcombe Cliff Resilience – with ground investigations ongoing.

Revised proposals for the fifth and final phase (Parson's Tunnel to Teignmouth) were the subject of community consultation in Autumn 2022 and received a positive response. The proposal is now for extensive cliff management rather than moving the railway onto a new alignment.

Peninsula Transport Sub National Transport Body

Peninsula Transport continues to work on individual work packages which will provide the context for the preparation of a draft Transport Strategy for the Peninsula. The latest work considered at the March Board meeting was a Technology and Zero Emission Vehicle Strategy and a Rail Strategy.

Department for Transport has tasked all sub-national transport bodies to progress work on transport carbon baselining and the rollout of electric vehicle charging facilities during 2023.