

Heart of the South West Local Enterprise Partnership

Board Meeting – November 27th

Agenda item 6 – Appendix 3

Report theme: Draft Letter to CIC Regulator

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Summary

Provides a draft as discussed at October Board

Recommendations

That in the the light of any legal advice on the transfer of LEP asses the Board review the draft and agree a recommended version to go to the CIC Regulator

Background

Under transition planning, the October LEP Board meeting agreed to send a letter to the CIC regulator flagging up the proposed transfer of LEP. The letter was part of the LEP's approach to managing risks to Board members around transition and in ensuring the LEP met its CIC responsibilities and it was proposed to seek informal guidance ahead of any formal request and a draft for that informal approach is below for comment and feedback

Draft

Dear Regulator,

Heart of the SW LEP (HotSW) is a CIC, incorporated in 2014 and registered with company number 08880546. Throughout its existence the LEP has operated as a dormant company with Somerset Council (formerly Somerset County Council) providing the Accountable Body status required by Government.

In August 2023 Government confirmed that future funding and sponsorship of LEPs was to cease from April 2024 and defined LEP functions were to be transferred to upper-tier local authorities. Government require that transition is undertaken as quickly as possible, ensuring a smooth and orderly process, with decisions on transfer of assets agreed by March 2024, though recognising that the process of transfer may stretch beyond that date.

Across the country the process is being delivered in different ways but we are hoping to complete the transition of these functions by April 2024. HotSW's funding has been a mix of Government grant for both operations and investment, contributions from local partners and interest on funds held. Although a dormant company, our Board have set out that the LEP operates to the going concern principle and a reserve has been built up to meet that requirement.

Part of transition planning therefore includes working through HotSW both cash reserves built up in line with the going concern principle and remaining project funds. We are taking legal advice on their ownership and any other material arrangements including Directors liabilities etc, mindful as well that the upper-tier authorities are also Members of the HotSW CIC.

The salient points are:

- HotSW is a CIC with an asset lock in our Articles (although no named transferee)
- HotSW accounts report that we have zero assets as the company is dormant and Somerset Council holds the funds on our behalf. These are specifically reported in their accounts – please see further detail in the annex – and they expend these funds at the LEP’s direction, subject to the approval of Somerset’s Section 151 officer, who is a member of their staff

Under the principles of the CIC, we will therefore be looking to consult with the Regulator to confirm that our treatment of the assets is appropriate and I am therefore contacting you to advise that we will be shortly writing to you to ask for your formal agreement to our approach. Ahead of the formal letter:

- a) It would be helpful to have a pre-meeting, if necessary on a without prejudice basis, to talk through our approach and understand relevant points from a Regulator perspective
- b) With April 2024 as a target date it would also be helpful to understand how long it would take for you to consider a formal letter and provide your view.

Happy to answer any further queries if that helps.

Yours sincerely

David Ralph
Chief Executive HotSW LEP

Annex – extracts from Somerset Council accounts regarding funds held on behalf of HotSW LEP

1. In 2018 Government confirmed that it required all LEPs to have a separate legal personality, something HotSW already met as a CIC. Separate to this, since LEPs were established in 2011, Government also required LEPs to have an accountable body for the management of public monies; this applies to LEPs whether they are dormant or not. Somerset have acted as accountable body for HotSW LEP for operations (core) funding and project funds for Growth Deal, Getting Building Fund and Growing Places Fund awarded by Government.
2. In its 2022 audited accounts¹, Somerset County Council set out the treatment of monies held on behalf of the LEP, with extracts below

Pg.79 Statement of Accounting Policies

“30 Local Enterprise Partnership (LEP)

The Council is the single accountable body for the Heart of the Southwest Local Enterprise Partnership (HotSW LEP). During the Council’s group accounts review, it was concluded that the HotSW LEP entity did not fall under the Council’s control, so the Council has considered its relationship with the LEP to determine the accounting treatment for the different funding streams”

Pg.94. Relates to schools in the accounts but states

“Under the CIPFA Code of Practice for Local Authorities, only a resource ‘controlled’ by the Council meets the definition of an asset...”

Pg.94-5

“4 The Council is the single accountable body for the Heart of the Southwest Local Enterprise Partnership (HotSW LEP). During the Council’s group accounts review, it was concluded that the HotSW LEP entity did not fall under the Council’s control, so the Council has considered its relationship with the LEP to determine the accounting treatment for the following funding streams.

Growing Places Fund

This funding was transferred to the Council from Devon County Council, in August 2021, as part of strengthening the LEPs assurance framework and following directive from the Department for Business, Energy and Industrial Strategy (BEIS). This grant funding was awarded to Devon County Council in 2011 and was designed to create a sustainable revolving infrastructure fund for investment to unlock further economic development and leverage private investment. All decision making on the use of this fund is made by the LEP with the Council acting in an agency role. As agent for this fund, the Council does not report any of the fund transactions in its accounts, with the exception of cash collected or expenditure incurred by the Council on behalf of the principal (the LEP), in which case there is a creditor position, and the net cash position is included in financing activities in the Cash Flow Statement. As of 31 March 22, the authority held £6.243m of unspent Growing Places funding.

Growth Deal and Getting Building Fund

The Council received a total of £197m of Growth Deal funding during 2015 to 2021. During 2021/22 the Council received an additional £17.7m of Getting Building Fund, the total grant received for this fund since 2019 was £35.4m. The funds have conditions within the grant terms that state spend against the grant must be defrayed by 31/03/2021 and 31/03/2022 respectively. Both have been fully utilised to approved projects reported to central government and fully spent using the Freedoms and Flexibilities arrangements allowed for in the grant determinations.

¹ [SCC - Public - SCC Statement of Accounts 2021-22.pdf - All Documents \(sharepoint.com\)](#)

The grants were awarded to the HotSW LEP and payable to the Council as the accountable body. The Council has a more active role in decision making, retaining a veto right on the use of the funds, and maintains the liability of grant claw-back. Acting as principle for both the Growth Deal and Getting Building Fund, all transactions for these funds are therefore included within the Council accounts.”