

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 31st March 2015
Report of: Peter Bates, Chief Operating Officer
Subject/Title: Accountable Body for the Local Enterprise Partnership
Portfolio Holder: Councillor Peter Raynes, Finance

1.0 Report Summary

- 1.1 This report relates to the Council's role as Accountable Body for the Cheshire and Warrington Local Enterprise Partnership (the LEP) and seeks approval for Cheshire East acting as Accountable Body for all Government funding streams channelled through the LEP.
- 1.2 Cheshire and Warrington Enterprise Partnership is one of 39 public-private partnership bodies across England established by the Department for Business, Innovation and Skills to help determine local economic priorities and lead economic growth and job creation within the local area. The LEP is the strategic body through which the activities and objectives of the Cheshire and Warrington Economic Prosperity Board will be supported and co-ordinated.
- 1.3 At its meeting on 16 September 2013, the LEP Board agreed that Cheshire East would act as Accountable Body for the next three years. The decision was made in the light of the existing funding streams for which the Council was Accountable Body, reflecting the strength of Cheshire East's governance and stewardship and that those arrangements were working well.
- 1.4 Importantly, looking forward to the Local Growth Fund, the Government asked all LEPs (as part of their Growth Deal) to sign up to developing a "single assurance framework" covering all Government funding flowing through LEPs. In December 2014, Government published a guide, setting out what it expected LEPs to cover in their local assurance frameworks; this included sections on:
 - LEP governance and decision making
 - Local authority partnership working across the LEP
 - Transparent decision making
 - Accountable decision making (including role of the Accountable Body)
 - Ensuring value for money (prioritisation; appraisal; business case development; risk management)
- 1.5 As previously approved, the Council is already Accountable Body for the LEP's Core Funding grants, the Growing Places Fund and the Local Transport Body. In the light of the increasing number and value of grants being channelled through the LEP – and acknowledging the robustness of the LEP's

governance and decision making structures and its single Assurance Framework – it is recommended that Cheshire East act as Accountable Body for the LEP for all Government funding streams; this requires further approval and is the purpose of this report. Based on the Government's guide, the LEP are finalising their Growth Programme and Assurance Framework.

2.0 Recommendations

- 2.1 That, subject to 2.2 and 2.3, Cheshire East act as Accountable Body for all Government funding streams channelled through Cheshire and Warrington Local Enterprise Partnership, until such a time as the LEP or the Council determine otherwise
- 2.2 That the Chief Operating Officer, in consultation with the Portfolio Holder for Finance, be authorised to take all necessary actions to ensure robustness of the Local Assurance Framework and certify that the final Framework is agreed and will be implemented in accordance with the standards articulated in the national framework
- 2.3 That the Chief Operating Officer, in consultation with the Portfolio Holder for Finance, be authorised to take all necessary actions to ensure robustness of the Partnership Agreement, setting out the relationships, responsibilities and respective accountabilities of the LEP and Cheshire East as the Accountable Body
- 2.4 That delegated authority be given to the Chief Operating Officer to make arrangements for the delivery of the responsibilities of the Accountable Body, as described in the Local Assurance Framework and summarised in the report

3.0 Reasons for Recommendations

- 3.1 As described in the report, the Government is clearly expecting Local Enterprise Partnerships to prepare a "single assurance framework" covering all Government funding flowing through LEPs; and consequently to have a single lead local authority (Accountable Body) to pay any Section 31 grant determinations to and adopt the associated responsibilities.
- 3.2 The recommendations relate to accepting that role, subject to satisfactory arrangements being in place for governance and decision making (via the LEP's Local Assurance Framework) and clarity on responsibilities and accountabilities (via a Partnership Agreement).

4.0 Wards and Local Ward Members Affected

- 4.1 All

5.0 Policy Implications

- 5.1 There are no particular policy implications relating to the role of Accountable Body; but clearly this is an essential part of enabling and supporting strategic, sub-regional partnership arrangements.

6.0 Financial Implications

- 6.1 In simple terms the Council will act as “the bank”, receiving Government grant monies, holding (and separately accounting for) funds on behalf of the LEP, and making payments to scheme deliverers.
- 6.2 Importantly, as summarised in the report (9.3, 9.4), the responsibilities on the Accountable Body for proper use of Government grant monies are significant, and as such it is important to ensure that governance and decision making arrangements (via the LEP’s Local Assurance Framework) are sound and that respective responsibilities and accountabilities of the LEP and the Council (via a Partnership Agreement) are clear and acceptable.
- 6.3 To give a sense of scale, the LEP’s operating budget for 2014/15 is some £800,000, financed by “Core Funding” grant from Government of £500,000, along with LA partner contributions and other resources. The existing Growing Places Fund was initiated by Government grants totalling some £13m. The Local Growth Deal could bring in excess of £140m of Government funding to the LEP over the next 7 years, starting with £20m in 2015/16.
- 6.4 As with the Growing Places Fund, it is expected that the fresh Partnership Agreement will include financial recognition of the resources required to fulfil the Accountable Body role (e.g. Section 151 Officer; Legal; Audit; Finance), and set out sums to be paid to Cheshire East in this regard, funded from monies allocated to the LEP. It is intended that the internal audit role will include audit of the LEP’s systems and processes, as well as fulfilling any responsibilities regarding confirmation of compliance with grant conditions, in relation to particular schemes.

7.0 Legal Implications

- 7.1 Local Economic Partnerships (LEPs) were set up in 2011 by the Department for Business Innovation and Skills (BIS) and are voluntary partnerships between Councils and businesses which help to determine local economic priorities and lead economic growth and job creation within local areas.
- 7.2 As described in the report, Government funding arrangements are such that a lead local authority (Accountable Body) needs to be nominated to receive and take responsibility for grant monies, on behalf of the LEP.
- 7.3 s.31(1) of the Local Government Act 2003 empowers a Minister of the Crown to pay a grant to a local authority towards expenditure incurred or to be incurred by the authority. The amount of such grants, the manner of payment and any conditions attaching to the payment can be such as the person paying it (i.e. the

Minister) may determine. As set out in this report, the terms of the grant offer letter may include that where an authority fails to comply with the conditions of the grant the Minister may reduce, suspend or withhold the grant or require repayment of the whole or part of the grant.

- 7.4 There is consequently a need for appropriate governance arrangements to be put in place in relation to the Council's role as accountable body together with an appropriate partnership arrangement which will set out the roles, responsibilities and accountabilities of both the LEP and the Council. Appropriate indemnities will need to be sought to safeguard the Council against any possible clawback of funding by central Government in respect of non compliant distribution of grant funding.

8.0 Risk Management

- 8.1 A draft grant letter, provided for information by DCLG, also sets out certain responsibilities of the Accountable Body and exemplifies risks associated with the role; this includes:
- the Chief Executive and Chief Internal Auditor being required to sign a declaration, to DCLG, confirming that grant conditions have been complied with
 - where an authority fails to comply with any of the conditions the Minister of State may (a) reduce, suspend or withhold grant; or (b) require the repayment of the whole or any part of the grant
- 8.2 There is clearly the potential for risks associated with growth-related capital development and investment projects. It is intended that the LEP's Local Assurance Framework, as relating to governance, project appraisal and decision making, will establish appropriate arrangements to manage and mitigate such risks. The Partnership Agreement will clarify responsibilities and accountabilities of the LEP, and as such provide a further means of protection for the Council.

9.0 Background and Options

- 9.1 A number of Government funding streams are paid to local authorities on the basis of being Section 31 Grant Determinations (of the Local Government Act 2003). In the case of grants channelled through Local Enterprise Partnerships, such Section 31 grants are paid to a lead local authority, being the Accountable Body responsible for ensuring that funds are used in accordance with the purposes, terms and conditions of the grants and that all applicable legal requirements (e.g. state aid; public procurement law) are met.
- 9.2 As noted above, the Government asked all LEPs to sign up to developing a "single assurance framework" covering all Government funding flowing through LEPs. The Government's published guide states that Local Growth Fund resources will be paid via a Section 31 grant determination to a lead local authority (Accountable Body) and that "*...the accountable local authority would also be responsible for ensuring that decisions are made in accordance with the local LGF assurance framework*".

9.3 The Government's guide includes the following, in its description of the role and responsibilities of the chosen Accountable Body and its S151 Officer:

We expect the (LEP's) local assurance framework to:

- *confirm accountable body arrangements for the LGF and other funding sources received from Government;*
- *confirm that use of resources are subject to the usual local authority checks and balances – including the financial duties and rules which require councils to act prudently in spending, which are overseen and checked by the Responsible Chief Finance Officer – the 151 Officer, and to ensure transparency that annual accounts are published;*
- *confirm the responsibilities of the accountable local authority:*
 - *ensuring decisions and activities of the LEP conform with legal requirements with regard to equalities, social value, environment, State Aid, procurement etc.;*
 - *ensuring that the funds are used appropriately;*
 - *ensuring that the local LEP assurance framework is adhered to;*
 - *maintaining the official record of LEP proceedings and holding copies of all relevant LEP documents relating to LGF funding;*
 - *responsibility for the decisions of the LEP in approving projects (for example if subjected to legal challenge);*
 - *ensuring that there are arrangements for local audit of funding allocated by LEPs at least equivalent to those in place for local authority spend*
- *confirm that the LEP and accountable body have agreed timescales and operating practices to support the effective implementation of decisions.*

9.4 On the latter point, the guide exemplifies: “... a means for monitoring delivery and to provide clarity about what information it would expect to receive from scheme promoters and delivery agents; ...there should be a clear written agreement between the accountable local authority and the delivery agent clearly setting out the split of responsibilities and include adequate provisions for the protection of public funds (e.g. arrangements to suspend or claw back funding in the event of non-delivery or mismanagement)”.

9.5 As noted in 1.4, the LEP are finalising their local “Growth Programme and Assurance Framework”, based on the Government's guide. Along with sections on Project Prioritisation and Programme Management and Investment Decision Making, it sets out the governance structure of the LEP, which includes:

- **LEP Board** - to set the corporate and strategic direction of the organisation, satisfying itself that the business plan is in accordance with the strategic direction and that the milestones are sufficiently ambitious
- **Strategy Committee** – to prepare, maintain and publish a Strategic Economic Plan for Cheshire and Warrington
- **Performance and Investment Committee** – to hold the LEP Executive to account for programme delivery and performance and to ensure that projects put forward for funding support the LEP's strategic priorities and offer value for money

- **Finance and Audit Committee** – to provide assurance to the Board that the financial, audit and budgetary systems utilised by the LEP are robust and effective
- 9.6 Cheshire East is represented in these arrangements by both Members and officers, including the Leader on the Board, and the S151 Officer at the Performance & Investment and Finance & Audit Committees.
- 9.7 Whilst the LEP Executive team is relatively small, it is supported by officers from the constituent local authorities directly responsible for those functional areas for which projects and schemes are being progressed. As with the existing Growing Places Fund, it is expected that consultants will be used to provide additional specialist and technical advice, as required and independent scrutiny of the emerging Business Cases that are presented to the Performance and Investment Committee for consideration.
- 9.8 At its meeting on 16 September 2013, the LEP Board agreed that Cheshire East would act as Accountable Body for the next three years. The decision was made in the light of the existing funding streams, for which the Council was Accountable Body, and reflected that those arrangements were working well. As such it is noted that the LEP may review the position in September 2016.
- 9.9 Nonetheless given the nature of Local Growth Fund and the potential for the number and value of other grants channelled through the LEP to increase in the future, it is recommended that approval be given to the Council acting as Accountable Body for all Government funding streams channelled through the LEP, until such a time as either Cheshire East or the LEP determine otherwise. This approval would be based on the robustness of the LEP's governance structures as set out in its new Growth Programme Assurance and Accountability Framework – and on the understanding that the governance structures and the framework itself are applied to all Government funding streams, as envisaged.
- 9.10 Informed by the existing document relating to the Growing Places Fund, an overarching Partnership Agreement is being prepared, between the LEP and the Council as Accountable Body, setting out the respective roles, duties and responsibilities. It will include how the costs of resources deployed by Cheshire East in fulfilling its role will be met by the LEP; and also how the LEP will indemnify the Council, e.g. in respect of legal claims, losses; reliance on appointed external advisors used by the LEP.

10.0 Access to Information

The following background papers relating to this report can be inspected by contacting the report writer:

LEP Assurance Framework, Department for Business Innovation & Skills, December 2014

Name: Peter Bates

Designation: Chief Operating Officer

Tel No: 01270 686013

Email: peter.bates@cheshireeast.gov.uk