

## Heart of the South West (HotSW) Local Enterprise Partnership (LEP) Joint Scrutiny Committee

### Report of the County Solicitor

Please note that the following recommendation is subject to confirmation by Committee before taking effect.

#### Recommendations:

That the Committee agrees to the following:

- (a) to approve the implementation of a Joint Scrutiny function (Committee) for the South West Local Enterprise Partnership (LEP) and the Terms of Reference and Operating Procedures, as outlined in appendix 1, be endorsed, together with the required amendments to the Constitution, reflecting the new joint arrangements and Delegation of the Overview and Strategic Scrutiny of the LEP functions (as outlined in the roles, duties and responsibilities of appendix 1);
- (b) that it be agreed that Devon County Council becomes the host Authority to support the new Heart of the South West Local Enterprise Partnership (LEP) Joint Scrutiny Committee, which will operate under the Standing Orders of Devon County Council.

#### 1. Background

- 1.1 The Mary Ney report, [Review of Local Enterprise Partnership Governance & Transparency](#), was commissioned by the Government and published in October 2017.
- 1.2 Of particular note was the advice within that Report that Scrutiny arrangements should be in place to monitor decision-making and achievements of the Local Enterprise Partnership (LEP).
- 1.3 Whilst there is no current legislative framework, statutory guidance is anticipated in the next few months, but the final LEP review documentation is expected to better recognise the role of local authorities in scrutinising LEPs.

#### 2. Introduction

- 2.1 According to the Mary Ney Report, a number of LEPs, but not all, refer to the role of Scrutiny in overseeing their performance and effectiveness. Some LEPs are scrutinised from time to time by their accountable body Overview and Scrutiny function. The Mary Ney Report highlighted this issue as an area for further development in order to give an increased independent assurance and asked that LEPs reported on it as part of their annual assurance statement during the Annual Conversation process.

### **3. National Context**

3.1 There is work continuing at a national level, for example County Council's Network (CCN) meeting with officials at MHCLG to discuss the ongoing LEP review.

3.2 Officials confirmed that the recommendations of interest to Counties will include:

- Guidance on the role and remit of LEPs – defining the roles of LEPs and distinguishing them councils;
- Revise LEP geographies – an invitation for areas to apply to propose a revised geography to remove overlaps with the intention to provide guidance to inform local discussions between partners;
- Expectations for resourcing LEPs – both financially and in terms of expertise; and
- Guidance on strengthening accountability – implementation of the recommendations arising from the Ney review.

3.3 Officials also clarified the intention for LEPs to be incorporated as limited companies, in order give them a common legal framework.

3.5 The CCN also made the case that Counties are integral to their success and put forward further supportive material that demonstrated this.

### **4. Local Context**

4.1 Currently there is no collective local authority scrutiny arrangement in place for the HotSW LEP and therefore LEP activity falls to individual councils to scrutinise through their local scrutiny arrangements. This at best a 'piecemeal' approach and there is also currently no legislative requirement on local authorities to scrutinise LEPs.

4.2 However, the Annual Conversation process for the HotSW LEP with Government identified them as not being compliant in relation to Scrutiny. Of particular note was future LEP funding from Government depended on the LEP having compliant local arrangements in place in conjunction with local authorities and Scrutiny was identified as a key area for improvement. This led to the HotSW LEP's governance arrangements as 'Requiring Improvement'. This is therefore a key 'driver' in the absence of any specific legal requirement although it should be noted that there is little formal detail published in guidance as to what 'compliant' looks like.

4.3 The Government has said that the HotSW LEP could be considered compliant if the local authorities have a plan agreed for the implementation of joint scrutiny arrangements, even if the mechanism is not operational just yet.

4.4 Chris Garcia, Chief Executive of the HotSW LEP approached Somerset County Council as the administrative authority for the LEP, with a formal request that the local authorities within the HotSW area urgently address the lack of compliant scrutiny arrangements to ensure the continuation of LEP funding under the LEPs annual conversation process. Officers started work on receipt of this request and Somerset County Council gave assurance under the Annual Assurance process that adequate scrutiny arrangements would be established by autumn 2018. The matter is still, therefore, urgent.

4.5 At paragraph 3.1 above there is mention of the Government's on-going review of LEPs. The outcome of this review should be known at some point this year but the urgency of the local compliance issue explained above means that we cannot await the outcome of that review before putting in place a joint local scrutiny arrangement. The approach recommended is therefore designed to be a flexible solution which should be capable of being 'flexed' to meet any requirements coming out of the LEP review. It is therefore possible that further decisions may be required of the local authorities on this matter once the LEP review outcomes are known.

## **5. Options Considered**

5.1 The most obvious option would have been to ensure LEP attendance at relevant existing Somerset County Council and Devon County Council Scrutiny Committees, but this is not considered sufficient by the Government under the Annual Assurance process.

5.2 The possibility of using the HotSW Joint Committee to scrutinise the LEP has been reviewed but such a mechanism will not meet the Government's requirements for LEP scrutiny. The reason for this is that the LEP and the Joint Committee are working on similar agendas to improve productivity and therefore both will hold the other to account for delivery of their responsibilities. However, both are decision making bodies with the local authority membership focused on Council Leaders and Cabinet members. This model of 'holding to account' therefore falls outside of local authority scrutiny arrangements.

5.3 There are, of course other potential models of joint scrutiny that could be established, but the approach recommended is intended to be a pragmatic solution recognising that the key focus will be on strategic scrutiny and therefore the county and unitary authorities within the HotSW area. The membership of the Joint Committee and delegation of functions to it is therefore focused on the authorities with strategic responsibilities. However, the interests of the district councils as key local partners are recognised in the proposal through an appropriate level of representation within the membership.

## **6. Aim**

6.1 The aim has been to develop a proposal for a formal joint LEP Scrutiny arrangement with Elected Members involved in the Scrutiny function, but independent of existing Scrutiny Committees.

6.2 This means a sensible joint scrutiny arrangement with a focus on Strategic Scrutiny of the LEP and its strategies, therefore adding value.

6.3 It is also clear that local issues, for example, reviewing progress of local schemes (funded by LEP) to individual authorities must remain with local scrutiny committees, so there is no 'removal' of local scrutiny 'rights'.

## **7. Work to Date**

7.1 Officers from Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council met in April 2018 and proposed some potential terms of reference for how a joint Scrutiny Committee might work.

7.2 On 30<sup>th</sup> May 2018, Officers and Members from Devon County Council, Somerset County Council, Plymouth City Council, Torbay Council and West Somerset District Council held a meeting / review session at Devon County Council to consider and discuss the proposed terms of reference.

7.3 Following a number of small changes, the revised and proposed terms of reference and operating procedures as supported by the Members present at the review session are attached at Appendix 1.

## **8. Summary Conclusion**

8.1 There is an urgent requirement to have arrangements in place to support local authority Elected Member Scrutiny of the Heart of the South West Local Enterprise Partnership, notwithstanding existing arrangements will not comply with the Governments requirements at this stage and also noting that Statutory Guidance is expected later in the year.

8.2 The current proposals are light touch and appropriate in the absence of any such guidance, but of course may need to be revisited in light of that additional guidance.

8.3 Similar recommendations are being made to the other strategic authorities with direct representation on the proposed Joint Committee. If the recommendations are agreed by the four councils, invitations will then be sent to the District Councils in both County areas to invite the appoint of district representatives in accordance with Appendix 1.

JAN SHADBOLT

[Electoral Divisions: All]

### **Local Government Act 1972: List of Background Papers**

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<b><u>Background Paper</u></b>	<b><u>Date</u></b>	<b><u>File Reference</u></b>
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Nil

## Appendix 1

### Heart of the South West Local Enterprise Partnership Joint Scrutiny Committee Terms of Reference

#### 1. Purpose

The Joint Scrutiny Committee will provide strategic overview and Scrutiny of the activities of the Heart of the South West (HotSW) Local Enterprise Partnership (LEP) to complement the existing Council's Scrutiny arrangements.

#### 2. Roles, Duties and Responsibilities

In meeting its purpose, the Joint Scrutiny Committee will be specifically charged with:

- The review of strategic decisions made by the LEP Board;
- The review of progress of programmes under the management of the LEP to identify barriers to progress, good practice and possible improvements to the LEP's programme management function, notwithstanding the ability of Local Authorities to scrutinise individual programmes of delivery which impact on their communities;
- Scrutiny of the delivery of the Strategic Economic Plan and the Productivity Strategy; and
- To review LEP performance and consider any comparative data the Joint Committee deems necessary.

#### 3. Scrutiny Function

The Joint Scrutiny Committee will provide a new joint Scrutiny function and the Joint Committees constituent authorities will be asked to delegate the strategic overview of the LEP functions to the Joint Scrutiny Committee (this will not remove the right of local authorities to scrutinise matters relating to programme delivery that impact on the people within those communities).

#### 4. Membership / Substitute Members

The membership of the Joint Scrutiny Committee will be:

Devon County Council	(4 Members)
Plymouth City Council	(2 Members)
Torbay Council	(2 Members)
Somerset County Council	(4 Members)
Devon Districts	(3 Members)
Somerset Districts	(2 Members)

In line with the requirements of the Local Government and Housing Act 1979, political proportionality has been considered and is not considered appropriate to apply to the collective membership of the Joint Scrutiny Committee. However, where a Council is appointing three or more Members, political proportionality will apply to those appointments in line with the legislation. For less than three, each constituent authority

will be free to consider their own political proportionality in making their appointments to the Joint Committee on an annual basis.

The level of representation proposed for the County authorities is considered appropriate because of their administrative authority duties in respect of the LEP.

Members of the Executive / Cabinet from constituent authorities are precluded from sitting as members of the Joint Scrutiny Committee.

District Council representatives should be appointed from authorities not already represented on the HotSW Local Enterprise Partnership Board and also should not be County Councillors.

Constituent authorities may make substitutions in accordance with their own procedures where one of their Members is unable to attend any meeting of the Joint Scrutiny Committee. Substitutes do not need to be named, but as a courtesy the administering secretariat should be advised of the name of the substitute at least 24 hours in advance of the meeting.

Reflecting the approach to engage with stakeholders across the LEP Area, the Scrutiny Committee will be able to invite to meetings witnesses which it considers will contribute to the delivery of an effective Scrutiny function.

## **5. Work Programme**

The Joint Scrutiny Committee will maintain a work programme of activities.

Constituent Authority Scrutiny Committees may ask the Joint Scrutiny Committee to consider matters for inclusion in the work programme. The final decision will be a matter for the Joint Scrutiny Committee. District Council Scrutiny Committees not directly represented on the Joint Scrutiny Committee should do this through the District Councils Members appointed to the Committee.

## **6. Reporting Arrangements**

The work and recommendations of the Joint Scrutiny Committee will be regularly reported to the Heart of the South West LEP Board.

Members may make reports to their "home" constituent authority in accordance with their own governance procedures.

## **7. Agendas, reports and minutes**

The agenda and supporting papers will be published and circulated at least five clear working days in advance of meetings.

The minutes of any meetings will be published on the administering secretariat's website and circulated to partner organisations as soon as practicable.

The Committee will operate under the Standing Orders of the administering authority.

The HotSW LEP will provide a link to the agendas and minutes of the Joint Scrutiny Committee on its website.

## **8. Frequency of meetings**

The date, time and venue of meetings will be fixed in advance by the Joint Scrutiny Committee and an annual schedule of meetings agreed.

The Joint Scrutiny Committee will meet three times per year (March, July and November). Dates will be published on the website of the administering authority.

Additional meetings may be convened at the request of the Chair.

## **9. Election of Chair**

The Chair will be elected on an annual basis by Members of the Joint Scrutiny Committee.

## **10. Quorum**

The quorum of the Committee shall be one quarter of Members, equating to a quorum of 5.

## **11. Declarations of interest**

Declarations of Interest will be made in accordance with the Government Guidance.

Joint Scrutiny Committee Members are subject to the Code of Conduct for Elected Members adopted by the Constituent Authority that nominated them including the requirement to declare relevant interests at formal meetings of the Joint Scrutiny Committee.

## **12. Voting**

In principle recommendations will be reached by consensus, but if a vote is required it will be by a simple majority of all members present.

Where there are equal votes the Chair of the meeting will have the casting vote.

## **13. Duty to attend, cooperate and respond**

The Joint Scrutiny Committee may require by invitation the Chair of the LEP Board and the Chief Executive of the LEP to appear before it to explain (in relation to all aspects of the Committee's work) the performance of the LEP and / or any particular decision or series of decisions. The Chair and Chief Executive have agreed to attend if so required, unless they have a legitimate reason for not doing so.

Following each meeting of the Joint Scrutiny Committee, the Committee's recommendations will be submitted to the LEP Board for consideration. The LEP

Board will be required to consider those recommendations at its next meeting, and respond to the Joint Scrutiny Committee indicating what (if any) action the LEP Board proposes to take. The response should be made within 28 days of the LEP Board meeting and will be published.

#### **14. Code of conduct**

Members of the Joint Scrutiny Committee are expected to observe the “Seven Principles of Public Life” (the ‘Nolan’ principles) and shall be bound by their own authority’s Code of Conduct in their work on the Joint Scrutiny Committee.

Members are expected to act in the interests of the Joint Scrutiny Committee, except where this would result in a breach of a statutory or other duty to their Constituent Authority or would be in breach of their Constituent Authority’s Code of Conduct.

#### **15. Access to information**

Joint Scrutiny Committee meetings are regarded as a Council Committee for the purposes of Access to Information Act.

Meetings will be open to the press and public and the Freedom of Information Act provisions shall apply to all business.