

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:

- (a) that the Committee agrees to note the progress to date regarding 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;
- (b) that the Committee consider the recently issued Government Guidance 'Strengthened Local Enterprise Partnerships' and satisfies itself that current processes are still fit for purpose; and
- (c) that the Committee agree to review and evaluate its operation in twelve months time to assess effectiveness and added value and consider whether any changes are necessary and / or appropriate. Any changes proposed would be subject to the approval of the Constituent Authorities and may require wider consideration across the Heart of the South West Councils.

1. Introduction and Background

- 1.1 The Mary Ney report, [Review of Local Enterprise Partnership Governance & Transparency](#), was commissioned by the Government and published in October 2017. Within that Report was the advice that Scrutiny arrangements should be in place to monitor both the decision-making and achievements of the Local Enterprise Partnership (LEP).
- 1.2 At the time of starting to develop proposals to address this reported lack of Scrutiny arrangements for the LEP's, there was no legislative framework in place, although statutory guidance was anticipated prior to the summer recess.
- 1.3 The new guidance '[Strengthened Local Enterprise Partnerships](#)' was received in August 2018. Whilst there was not a great deal of detail about how any local arrangements should operate, the review documentation did recognise the role of local authorities in scrutinising LEPs and also the recommendations of the Mary Ney Report. The Government remains committed to implementing the recommendations of this Report in full so there will continue to be a focus on having effecting local arrangements in place to scrutinise the LEP.
- 1.4 The aim of Officers (from the outset) was 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, with a focus on Strategic Scrutiny of the LEP and its strategies, therefore adding value and meeting the Government's requirements for LEP scrutiny.

1.5 It was also important that local issues, for example, reviewing progress of local schemes (funded by LEP) to individual authorities remained with local Scrutiny committees, so no 'removal' of local Scrutiny 'rights'.

1.6 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 issue was highlighted as an area for further development to give an increased independent assurance and the report asked that LEPs reported on it as part of their annual assurance statement during the Annual Conversation process.

2. National Context / Guidance

2.1 At the time of developing the proposal for a Joint Committee, there was work at a national level, for example County Council's Network (CCN) meeting with officials at the Ministry of Housing, Communities and Local Government (MHCLG) to discuss the LEP review.

2.2 The recently received guidance highlighted that Government had reviewed their policy towards LEPs to ensure they continued to support Government in meeting the ambition of ensuring prosperous communities throughout the country. For the Industrial Strategy, Government has said that it is committed to work with LEP's to bring forward reforms to leadership, governance, accountability, financial reporting and geographical boundaries.

2.3 The key features of the guidance 'Strengthened Local Enterprise Partnerships' is outlined below.

2.4 **Roles and Responsibility** - whilst LEP's have played a key role in convening local economic stakeholders to develop evidence-based economic strategies, it was reported that Government would publish a statement on the role and responsibilities of LEP's, focusing on enhancing productivity through the development and delivery of their Local Industrial Strategy. Since the publication of the guidance, the HotSW area has been prioritised by the Government in Wave 2 of the development of Local Industrial Strategies. A further statement on Local Industrial Strategies will be published to guide this work but discussions are already taking place with Government officials as to how this will be taken forward in the HotSW area. Other actions include commissioning an annual economic outlook to independently measure economic performance.

2.5 **Leadership and organisational capacity** – The Report outlined that successful LEP's were led by influential private and public sector leaders and needed robust governance arrangements that provided the framework to take tough decisions and hold local partners to account for delivery. Government would therefore increase regular dialogue with LEP's and actively work with them to advertise opportunities for private sector leaders. They would also offer an induction and training programme and provide up to £20 million between 2018-19 and 2019-20 in additional capacity funding to support LEP's to implement the review and to provide the strategic and analytical capability required to develop Local Industrial Strategies. Details of this funding and the wider 'offer' are still awaited.

2.6 **Accountability and performance** - Government has strengthened its approach to assurance processes for the Local Growth Fund and additional guidance has been provided to LEP's on transparency. The Report outlined that Government wanted this to be further strengthened and Government would maintain overall accountability for the system of LEP's and local growth funding. Other actions included implementing the recommendations of the Ney Review, assessing and publishing annual performance (within a revised National Assurance Framework) and developing with both the LEP's and the LEP Network a sector-led approach to assessing and improving performance through regular peer review.

2.7 **Geography** - overlapping geographies emerged when LEP's were first formed and Government considers that retaining overlaps dilutes accountability and responsibility. Government will therefore ask LEP Chairs and other stakeholders to come forward with considered proposals by the end of September on geographies which best reflect real functional economic areas. There have been discussions within the HotSW area about the current LEP boundaries and there is no collective support from within the local authority sector for changes to the current LEP boundary.

2.8 In terms of a **Scrutiny** function – the guidance outlined that LEP's need to operate on organisational structures that support local decision making and provide greater assurance over the management of public funding. These structures should enable clear lines of accountability for delivery with local partners, as well as democratic, public and business scrutiny of decision making.

2.9 Government has said it will support all LEP's to actively participate in relevant local authority Scrutiny panel enquiries to ensure effective and appropriate democratic Scrutiny of their investment decisions, including support in setting out how they will ensure external Scrutiny and expert oversight.

2.10 The guidance also demonstrates that there are numerous issues for the new Joint Committee to consider as part of its work programme, particularly with the availability of performance data, annual reports and also the development and implementation of the Local Industrial Strategy.

3. Local Context

3.1 At the beginning of the year, there was no collective local authority scrutiny arrangement in place for the HotSW LEP and therefore LEP activity fell to individual councils to scrutinise through their local Scrutiny arrangements. This was, at best, a 'piecemeal' approach.

3.2 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'.

3.3 Chris Garcia, the then 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 addressed 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.

3.4 In the absence of any guidance at that time, the approach pursued was designed to be a flexible solution which would be capable of being 'flexed' to meet any requirements coming out of the LEP review.

3.5 With that outcome now known and with no additional requirements for LEP scrutiny specified, Officers feel the current proposal is still fit for purpose at this stage. It is important that the Committee agrees with this stance. Informal soundings of some district councils across the area has indicated support at this stage for the Committee to meet and become established and then in due course review and evaluate its operation to assess its effectiveness and added value and consider whether any changes are necessary and / or appropriate. Any changes proposed would be subject to the approval of the Constituent Authorities and may require wider consideration across the Heart of the South West councils. An appropriate timescale for this review would be 12 months after its establishment (therefore in the autumn of 2019) which will give time for the Committee to settle in to its role. By that time the LEP's role in the development and delivery of the Local Industrial Strategy and the impact of its change of focus on its operation and relationship with the HotSW Joint Committee will be clear. The recommendation at (c) for the Committee to consider reflects the approach set out in this paragraph.

4. Work to Date / Alternatives Considered

4.1 Officers from Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council met in April 2018 and proposed some initial terms of reference for how a Joint Scrutiny Committee might work and on 30th May 2018, Officers and Members from the same four Councils (and including a Member representative from West Somerset Council) held a meeting / review session at Devon County Council to consider and discuss the proposed terms of reference.

4.2 The agreed terms of reference and operating procedures as supported by the Members present at the review session are attached at Appendix 1 and were used as the final version for each Authority to take forward through their own Committee structures.

4.3 Agreement to the proposals has been reached through Devon County Council, Somerset County Council, Torbay Council and Plymouth City Council.

4.4 As part of the process there were a number of alternatives considered, the most obvious being to ensure LEP attendance at relevant existing Somerset County Council and Devon County Council Scrutiny Committees, but this was not considered sufficient by the Government under the Annual Assurance process.

4.5 There was also a possibility of using the HotSW Joint Committee to scrutinise the LEP but such a mechanism didn't meet the Government's requirements. The reason being that the LEP and the Joint Committee were working on similar agendas to improve productivity and therefore both would hold the other to account for delivery of their responsibilities. Both are decision making bodies with the local authority membership focused on Council Leaders and Cabinet Members, therefore this model of 'holding to account' fell outside of local authority Scrutiny arrangements.

4.6 There are other potential models of joint Scrutiny that could have been established, but the approach that was eventually agreed ensures that the key focus is on strategic Scrutiny within the HotSW area. The membership of the Joint Committee and delegation of functions is 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.

5. Reporting Mechanisms / Links with the Joint Committee

5.1 In light of the above, it is clear there will need to be some reporting links between the Heart of the South West Joint Scrutiny Committee (LEP), the LEP Board and also the Heart of the South West Joint Committee.

5.2 The Joint Committee has a direct reporting line to the LEP Board in relation to LEP business and this is the key line of accountability. The Committee will make regular reports to the Board and may make recommendations to the Board. The Board is not obliged to comply with Scrutiny recommendations but the assurance requirements on LEPs and the local commitment from the HotSW LEP to Scrutiny should ensure that the function is taken seriously and that appropriate responses are forthcoming. The Committee has responsibility for its own work programme but the LEP may also request that the Committee undertakes Scrutiny of its activities and performance.

5.3 A key function of the Joint Scrutiny Committee is to scrutinise delivery of the Productivity Strategy. The Strategy was jointly agreed by the LEP and the HotSW Joint Committee and will be jointly delivered. A secondary line of reporting for the Joint Scrutiny Committee will therefore be to the HotSW Joint Committee and specifically in relation to the delivery of the Productivity Strategy.

5.4 Initial conversations with the Chief Executive of the LEP have produced suggestions for annual reports and various mechanisms to keep relevant bodies informed.

6. Scrutiny Processes

6.1 At this stage the scrutiny function will need to learn from the good practice collected locally on the approaches to take to make it most effective. In summary the role of scrutiny is as follows:

- Policy review and development: Helping to shape the way services are delivered;
- Scrutinising decisions: Is the right action being taken? Are services/processes working effectively?
- Examining services that impact upon the local community.

6.2 As with Local Authority Scrutiny, the function will exist as a critical friend and will not make decisions, but use evidence to support policy and direction development for the region, whilst holding decision makers to account.

Currently this will be done through Committee meetings alone.

7. Summary / Conclusion / Next Steps

7.1 There was 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. The proposals are light touch and also appropriate especially in light of the additional guidance recently received.

7.2 There have been initial discussions with the newly appointed Chief Executive of the LEP, who is giving further thought to how the LEP might support the Local Authority Scrutiny function in terms of training and officer support. He has also agreed to funding to support the work of the Committee which demonstrates a commitment and buy in from the LEP to these proposed Scrutiny arrangements. He met with the Head of Democratic Services and the Head of Scrutiny from Devon County Council on 15th October 2018, which was a very positive meeting with some initial ideas for the work programme and a real commitment to the Committee adding value.

7.3 The new Joint Scrutiny Committee will be meeting 2/3 times per year. The proposed future dates are 14th February 2019, 20th June 2019, 17th October 2019 and 13th February 2020 all at 10.30am (timing to be confirmed), taking place at County Hall, Topsham Road, Exeter.

7.4 It will be important to review the operation and effectiveness of the Joint Scrutiny Committee and officers would recommend an evaluation takes place and that this be reported and debated at the Committee meeting on 17th October 2019, to assess the future operation and direction of travel to ensure the Committee is fit for purpose.

JAN SHADBOLT

[Electoral Divisions: All]

Local Government Act 1972: List of Background Papers

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<u>Background Paper</u>	<u>Date</u>	<u>File Reference</u>
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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.