

# Joint Scrutiny LEP Review

## October 2019

Once this report and recommendations have been discussed, any recommendations for change will need to go to the constituent authorities of the Heart of the South West LEP and if in agreement then they can be implemented.

### Recommendations:

1. That the HoTSW LEP Scrutiny Committee satisfies itself with the progress of the LEP to answer the challenge posed by government and whether it would wish to continue with the current arrangements.
2. That the Committee recommends to constituent authorities that it amend the terms of reference of the Committee as suggested in the body (part 4) of this report to include proactive Scrutiny of the Local Industrial Strategy.
3. To continue to increase transparency the Committee undertakes to webcast future meetings of the Scrutiny Committee.
4. The Committee considers the need to have public participation at LEP Scrutiny and determines whether it would wish to adopt the practice currently in place at Devon County Council for Scrutiny public participation.
5. Continue work to improve the effectiveness of the Scrutiny Committee

## 1. Background

- 1.1 The Mary Ney report, [Review of Local Enterprise Partnership Governance & Transparency](#), commissioned by the Government and published in October 2017 identified the need to strengthen local arrangements for Overview and Scrutiny pertaining to LEPs. The report recommended that this was an area for report in each LEP's Annual Conversation with Government.
- 1.2 As part of its Annual Conversation process with central government, the HotSW LEP was identified as needing to strengthen its arrangements for public scrutiny. This was an area for concern because future LEP funding from Government depends on the LEP having compliant local arrangements in place in conjunction with local authorities.
- 1.3 To date there have been limited examples or legislative attention given to the set up and operation of successful Scrutiny LEP arrangements. The guidance '[Strengthened Local Enterprise Partnerships](#)' was received in August 2018 which broadly identified the role of local authorities in scrutinising LEPs, with scant detail:

*'The Government remains committed to implementing the recommendations of this Report in full so there will continue to be a focus on having effective local arrangements in place to scrutinise the LEP.'*

The Statutory Scrutiny Guidance published in May 2019 was notably light on covering Scrutiny arrangements for LEPs.

- 1.4 The formulation of a Joint Scrutiny Committee across the HoTSW area to carry out effective Scrutiny was identified as the solution to the need for robust scrutiny. At this time there were two other options considered; continuing existing arrangements through Devon and Somerset County Council Scrutiny or to use the HotSW Joint Committee to scrutinise the LEP. Both options were rejected for not providing consistent or rigorous enough Scrutiny.
- 1.5 Appendix 1 of this report reproduces the terms of reference with which the Committee was established, including membership, focus and meeting frequency.
- 1.6 The Committee has now been in operation for one year. In preparing this report views were sought from the Membership of the group as well as canvassing National County and Unitary Councils to understand their Scrutiny arrangements for the LEP. The conclusions from both exercises can be found later in this report. Initial views appear to be that the current arrangements are having some impact, but have further to go, and that HoTSW LEP Scrutiny arrangements are more developed than in many authorities.
- 1.7 This report proposes some changes to arrangements to strengthen the transparency and quality of Scrutiny but suggests that the set up, membership and frequency of meetings is maintained. Any substantive changes agreed in principle by the HotSW LEP are of course subject to the approval of the constituent authorities and may require wider consideration across the Heart of the South West Councils.

## 2. Activity

2.1 To date the Committee has met in public three times, as follows:

[2 Nov 2018 2.15 pm](#)

[14 Feb 2019 2.15 pm](#)

[20 Jun 2019 2.15 pm](#)

During these meetings the Committee has scrutinised the following substantive topics:

- Performance of the LEP;
- Inclusive Growth;
- The Local Industrial Strategy;
- Acceleration of Housing Delivery in the HoTSW area.

2.2 The attendance at Committee was mentioned as an area for improvement, as follows:

- Friday 2 November: 11 present, 3 apols
- 14 Feb 2019: 10 present, 6 apols
- 20 June 2019: 5 present, 5 apols

2.3 On the 9<sup>th</sup> January 2019 representatives from HoTSW LEP met with government for the Annual Performance Review. For the first time the Scrutiny Chair and Head of Scrutiny were invited to this meeting. The Annual Performance Review is the process by which Government monitors LEP achievements, and is measured against three themes; Governance, Delivery and Strategy.

2.4 In considering any change to the current set up and arrangements the Head of Scrutiny invited officers from the national County and Unitary Scrutiny Network to share their LEP Scrutiny arrangements. These are summarised in the table below, and anonymised.

<p><i>How do you hold your LEP to account?</i></p> <ul style="list-style-type: none"> <li>- Dedicated joint Committee</li> <li>- Existing Committee</li> <li>- Task group (public/private)</li> </ul>	<p><i>Are there any examples where Scrutiny of the LEP has been particularly effective (influencing decision making, putting issues on the agenda, etc)</i></p>	<p><i>Would you say that your LEP Scrutiny arrangements are sufficient?</i></p>	<p><i>Do you have any plans to change them in the future?</i></p>
Existing Committee	No	No	Yes, we need to take another look at this and begin scrutinising the work of the LEP to a far greater degree
We do not have a standing Scrutiny of our LEP instead we focus on specific issues (at current Committee).	We are looking at including the LEP in a future Growth Agenda scrutiny. Representatives from the LEP are involved in our annual budget scrutiny	Our councillors are content with the current approach.	
No direct Scrutiny of LEP activity – this is largely down to the fact that the LEPs aren't coterminous with the County.			
the LEP is currently held to account through a joint private task group with the Borough Council (4 Cllrs from each).	It has been particularly effective at establishing a good conversation with the LEP. We have good buy in from the LEP Director and Board Chair, who value the transparency that OS can bring. They are good at bringing to their meetings particular strategies and questioning the LEP on their effectiveness.	there is perhaps a bit of a gap in effectiveness at looking at projects. Perhaps because they lack the expertise to critically assess them properly and/or there is still some confusion amongst members over how responsible the LEP is for a project	we have begun consulting on the potential to revise how we engage with the LEP. Currently working on report for the task group reviewing options. Particular concerns have also been raised by the LEP Director over the lack of holding them to account in public, which we may be considering in the future.
Scrutiny of the LEP falls with our Economic Growth and Development Committee	The Council has three Portfolio Holders who form part of the LEP Board. The Portfolio Holder for Economic Growth attends the Economic Growth & Development Overview and Scrutiny Meetings and provides service updates at these meetings.		The Committee is currently considering inviting the Chair of the LEP to be a participating observer.

### 3. How does HotSW Scrutiny arrangements compare and what needs to change?

#### Arrangements and Set up

- 3.1 From the authorities that responded, most of LEP Scrutiny is conducted through existing Scrutiny Committees, with other areas holding closed session task groups and one area not holding the LEP to account. It seems unusual to set up a Committee solely for scrutinising the LEP, as is done in the HotSW. With limited direction from MHCLG or government generally and with the existing Committee structure being deemed not robust enough for the HoTSW area it will be interesting to see if other areas follow suit. Since the HoTSW arrangements were developed to address the Scrutiny deficit it seems logical to continue with the joint Committee as the most effective way to scrutinise the LEP.

#### Transparency

- 3.2 We did not ask other Councils about how transparent the work of the LEP was to scrutiny, although this was hinted at in some of the answers, with a mix of how effective this was. It goes without saying that conducting public Scrutiny will help to increase public awareness and transparency. At Devon County Council we routinely both webcast Scrutiny Committee meetings and have an opportunity for public participation. Webcasting meetings does enable people who are not able to attend in person to review and listen to the debate and discussion. This is equally true of Councillors or businesses as well as members of the public. This report recommends that webcasting is extended to include the LEP Scrutiny Joint Committee.
- 3.3 Regarding public participation this is a matter for the Committee to discuss in more detail. The public participation policy for Devon County Council is appended to this report (Appendix 2). This allows fifteen minutes at the start of the meeting for members of the public to speak about a topic that is on the agenda for that meeting. The Committee should satisfy itself that members of the public would be engaged enough to be able to address the complexities of the high-level strategies that are subject to Scrutiny (e.g. contribution to the Local Industrial Strategy).

#### Impact

- 3.4 There are limited examples where Scrutiny has had a tangible impact on the operation of the LEP. It is interesting how one authority involves the LEP in their budget setting process. Ultimately for the HoTSW LEP, the establishment of the Joint Scrutiny Committee enabled the LEP to meet its compliance with the requirements from MHCLG, this in turn supported the continuation of LEP activity. Without the creation of the joint Scrutiny Committee it is possible that this may not have happened.
- 3.5 For 19/20 the HoTSW joint Scrutiny Committee demonstrating impact on areas of LEP activity will continue to be a challenge. The table below gives detailed measures for successes that have been synthesised from comments from current Committee members. These lay out a specific list by which effectiveness of the joint Scrutiny Committee could be measured in future.
- 3.6 The other two questions on the table below detail what has worked well – which seem to be the set up and running of the meetings as well as the fact that the Committee has been established. The ‘what could be improved’ will be taken by the Head of Scrutiny and used to improve operations over the next year.

## Views from the current HoTSW LEP Joint Scrutiny Committee

### What has worked well?

- Masterclasses and information – with Members having a much better understanding of the work of the LEP and their strategy for investment.
- The technical logistics, support and running of the meetings.
- Ample opportunity for Members to speak – no ‘battle for airtime’
- Having the Good for a democratically elected body to scrutinise this quango.
- Having the opportunity to comment on the criteria for lending.

### What could be improved?

- Focus on the LIS and the value for money that the LEP affords.
- More Members attending the Masterclass.
- Presentations need to be shorter (circa 10-15 mins)
- Get to practical, active items where Scrutiny can add value including financial outcomes,
- Look at real examples of organisations that have received funding, as well as those who have been rejected.
- Focus on producing recommendations that are relevant, timely and useful for LEP decision-making.

### How to judge success over next year?

- Positive and impactful relationship between Scrutiny and the LEP, evidenced by change or amendments to policy or decisions.
- Being cited in advance of priorities, decisions and strategy arising for the LEP
- Clarity on the Chair of the Board and LEP’s ambitions and how Scrutiny can add value particularly to investment strategy.
- Representing the ambition and concerns of the South-West’s residents
- Demonstrable contribution to productivity and growth by the LEP
- Increasing democracy in regional government
- Scrutiny to build a culture of learning and improvement, taking account of best practice nationally

## 4. Amended Terms of Reference

4.1 At the joint Scrutiny meeting of the 20<sup>th</sup> June, under the Local Industrial Strategy Item the Committee resolved to change the as follows:

(b) the Productivity Strategy and Local Industrial Strategy be added to the Committee's Terms of Reference.

The rationale for this was that it currently was not mentioned by name and there was also a sense that the Committee was only able to review decisions that had already been taken.

4.2 Following from this request, and the information gathered as part of this review this report has reproduced the terms of reference of the Committee with suggested amendments highlighted below:

The Joint Scrutiny Committee provides strategic overview and Scrutiny of the activities of the Heart of the South West (HotSW) Local Enterprise Partnership (LEP)

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 **development and** delivery of the Strategic Economic Plan, ~~and~~ the Productivity Strategy, and **Local Industrial Strategy**; and
- To review LEP performance and **effectiveness** and consider any comparative data the Joint Committee deems necessary.

## 5. Conclusion

The Heart of the South West Local Economic Partnership Joint Scrutiny Committee has had a reasonably successful first year in operation. By necessity some of the Committee time has been taken up in understanding the workings of the LEP and appreciating the priorities. With the development of the Local Industrial Strategy Scrutiny has had some opportunity to comment, but this could be developed further to better demonstrate the impact of early Scrutiny involvement in key decisions and developments. When compared to other local authorities it does appear that HoTSW LEP Scrutiny is ahead of many authorities in trying to get to grips with public Scrutiny with issues that transcend the borders of individual local authorities. It will be interesting to see if Central Government strengthen LEP Scrutiny powers and increase local accountability.

# 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.

## Appendix 2: Scrutiny Public Participation Policy at Committee

*Any resident (of the administrative county) of Devon may speak on any substantive matter listed on the Agenda of any Scrutiny Committee (i.e. other than matters for information or administrative business); excluding the Annual Joint Scrutiny Committee meeting where separate arrangements apply.*

*Any person wishing so to do must register their desire to speak, in writing (by letter, fax or email), by 0900 hours on the (working) day immediately preceding the day of meeting of the relevant Scrutiny Committee - giving a brief outline of the point(s) or issue(s) they wish to raise. If more than one person wishes to make the same point or make similar representations, those persons may be asked to agree a spokesman to make a single presentation.*

*Any statements/representation shall be limited to 3 minutes per person, within an overall time limit of 15 minutes. Any and all such statements/representations will be taken together at the beginning of the relevant Scrutiny Committee, immediately after consideration of any urgent business. If there are more than 5 persons wishing to speak the Chairman may reduce the amount of time for each person. For best effect, any statement/representations should be short and concise and must not be defamatory or offensive. No writing or photographic material may be circulated around a meeting during any presentation.*

*Direct, specific, questions to Members or Officers will not be accepted but, in making any statement/representation, a person may of course pose a general inquiry or suggestion that they would wish the Committee to have regard to in the course of its subsequent deliberations. There will be no debate on or response given to any statements/representations made at that time: the Committee will have regard to all issues so raised during its consideration of the substantive matter later in that meeting.*

*[NB: The introduction of any form of public speaking at Scrutiny Committees does not preclude or prevent a Scrutiny Committee or Task Group from inviting members of the public or interested parties to give evidence (as happens now) when gathering data etc., for a particular piece of work.]*

*In addition and both as a means of 'advertising' this facility and encouraging the public to submit views to any Scrutiny Committee reviewing or examining a specific topic, the arrangements set out above could be more widely promulgated through the media/social media to encourage wider public participation and involvement in Scrutiny activity generally.. using a form or words along the following lines (which could also be included on the agenda for all Scrutiny Committee meetings) viz:*

*'Devon's residents may attend and speak at any meeting of a County Council Scrutiny Committee when it is reviewing any specific matter or examining the provision of services or facilities as listed on the agenda for that particular meeting.*

*Scrutiny Committees set aside 15 minutes at the beginning of each meeting to allow anyone who has registered to speak on any such item. Speakers are normally allowed 3 minutes each.*

*Anyone wishing to speak is requested to register in writing with .....[insert contact details]..... by 0900 hours on the day before the meeting... indicating which item they wish to speak on and giving a brief outline of the issues/ points they wish to make.*

*Alternatively, any Member of the public may at any time submit their views on any matter to be considered by a Scrutiny Committee at a meeting or included in its work Programme direct to the Chairman or Members of that Committee or via the Democratic Services & Scrutiny Secretariat (insert email..). Members of the public may also suggest topics (see:*

<https://new.devon.gov.uk/democracy/Committee-meetings/scrutiny-Committees/scrutiny-work-programme/>

All Scrutiny Committee agenda are published at least seven days before the meeting on the Council's website: at <http://www.devon.gov.uk/cma.htm> '