Department for Communities and Local Government

Review of Local Enterprise Partnership Governance and Transparency

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Department for Communities and Local Government

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REVIEW OF LOCAL ENTERPRISE PARTNERSHIP GOVERNANCE AND TRANSPARENCY

1. Introduction to Local Enterprise Partnerships

1.1 Local Enterprise Partnerships (LEPs) were established as locally-derived business-led partnerships between the private and public sector that would drive local economic growth. There are now 38 LEPs and their role has developed considerably since 2010. They now have responsibility for around £12billion of public funding and are the mechanism for channelling the Local Growth Fund to localities. Each LEP has the flexibility to determine the details of its governance and accountability arrangements and there are a variety of models including those that have remained as partnerships, local authority Section 101 committees, community interest companies and companies limited by guarantee. Public funding for LEPs is directed via a local authority in the area of the LEP, which is appointed to undertake the accountable body role. The government also appoints Relationship Managers – regionally based civil servants who provide LEPs with day to day advice and support, and are the main channel of engagement between the LEPs and central government.

1.2 Each year the Department conducts a performance review (known as an Annual Conversation) with each LEP to review their progress on Growth Deal delivery over the past 12 months. The Annual Conversation also considers a range of issues, including governance and transparency. This leads to an agreed set of actions and next steps, if there are any issues to be addressed either by the LEP or by central government.

1.3 As the role of LEPs has developed, the government has reviewed the statement of arrangements it expects to see in place within the LEP and for the accountable body role. This is set out in the National LEP Assurance Framework and is one element of the wider assurance system, which also comprises LEP reporting to government on agreed outputs, evaluation frameworks and annual performance conversations. The National Assurance Framework sets out what government expects LEPs to cover in their local assurance frameworks. The last revision of the National Assurance Framework was issued in November 2016 in order to strengthen the rules which LEPs must follow to ensure greater transparency on how public money is spent. It required LEPs to review their arrangements and publish their own local assurance framework on their websites by 28 February 2017. It also required Section 151 officers to certify that a framework had been agreed and was being implemented to these new standards by writing to the DCLG Accounting Officer. At that deadline, DCLG found that not all LEPs were fully compliant, for instance not all documents were available on websites. However, all LEPs have now published their local assurance frameworks on their websites and Section 151 officers have certified compliance.

1.4 Following concerns raised about the governance and transparency arrangements of some LEPs, the Public Affairs Committee also looked at the role of LEPs in July 2016 and reported that DCLG '[…] should enforce the existing standards of transparency, governance and scrutiny before allocating funding. LEPs themselves also need to be more transparent to the public by, for example, publishing financial information'. The government has now put in place this internal review of LEP governance and transparency conducted by a Non-Executive Director from the DCLG board with the following terms of reference:

'To review whether the current systems provide sufficient assurance to the Accounting Officer and Ministers that LEPs fully implement existing requirements for appropriate governance and transparency; to consider whether the current requirements for LEPs are sufficient; and to make recommendations for improvements.'

It should be noted that this review has not investigated any specific allegations which are being pursued separately by the National Audit Office. In addition, in the time available, it has not been able to look in detail at every LEP and accountable body, to identify how arrangements are implemented in practice as part of normal business. The approach to the review is set out in paragraph 2.

2. Approach to the Review

2.1 The review commenced on 28 April 2017 and was required to be completed in a six week period. The approach has been to review key documents, view a sample of LEP websites and engage with a variety of stakeholders from the LEP sector in order to obtain an overview of both issues and practice. The focus has been on governance and transparency and not on other aspects of the assurance system such as those dealing with effectiveness or value for money. Whilst, in the time available, it has not been possible to undertake a deep dive into the practice of every LEP and accountable body, it is considered that sufficient information and views have been gathered to enable recommendations to be made to improve assurance.

2.2 Attached at Appendix A is the list of documents reviewed. In addition, a number of discussions have been held:

- Meeting with a Group of LEPs CEOs;
- Telephone conversations with seven LEP Chairs;
- Meeting with a Group of Section 151 officers;
- Telephone conversations with four council leaders/elected Mayors who sit on LEP boards;
- Follow-up meeting with a Group of CEOs of LEPs to test out findings.

Meetings were also held with:

- British Chamber of Commerce
- LEP Network
- Chartered Institute of Public Finance
- National Audit Office.

3. Overview of Findings

3.1 All those who contributed welcomed the review and expressed a shared desire to ensure that LEPs provided the highest standards of stewardship of public money. There was a widespread view that the sector should work collectively and avoid reputational damage from any inconsistencies in governance arrangements and transparency. In addition, some private sector board members were concerned that their association with weak practice in governance and transparency would have potential reputational implications for their companies. LEP board members are generally not remunerated albeit the role and expectations of time commitment have increased as the workload of LEPs has developed. A number of private sector participants in this review referred to the ethos of making a public service contribution. It is important that this ethos is supported and that proposals to achieve good governance are proportionate.

3.2 Some LEPs have a history of establishing robust governance arrangements and to some extent the National Assurance Framework lags behind the practice on the ground in these places. There is a general recognition that additional clarity on the requirements in the National Assurance Framework would assist in raising standards and consistency of stewardship across the sector. This was not seen by those participating as detracting from the flexibility for LEPs to develop local arrangements but rather assisting them with the journey they were on. Overall there appears to be commitment from the LEPs to meeting the requirements of the National Assurance Framework but issues remain on the effectiveness of implementation in some cases. This would be mitigated by additional clarity in the National Assurance Framework which is proportionate, as well as by increasing the sharing of best practice, peer challenge and support across the sector.

3.3 The British Chamber of Commerce, in conjunction with the Confederation of British Industry (CBI), the Engineering Employers' Federation (EEF), the Federation of Small Businesses (FSB) and the Institute of Directors (IoD), has also recommended improvements particularly on the financial information which should be published.

3.4 There is also a need to consider the position of public sector members on LEP Boards in the context of the changing role of local authorities and their increased involvement in commercial enterprises and alternative delivery mechanisms. This is currently somewhat underdeveloped in terms of LEP governance implications and is referred to below in greater detail.

3.5 A feedback session has been held with a group of CEOs of LEPs to test out the emerging findings and broad support was received to the range of issues which would be addressed in the recommendations. In addition a feedback discussion with CIPFA was also supportive of the proposals.

4. Culture and Accountability

4.1 As with any organisation, the establishment of an embedded culture across the LEP is a prerequisite to assurance that governance arrangements are fit for purpose and are being adhered to. This requires direct and proactive leadership from the Chair and CEO of the LEP to own the establishment of a culture of strong adherence to good governance and clarity about standards. At present the National Assurance Framework requires written assurance from the Section 151 officer that standards are being met. Whilst the Section 151 officer has a critical role to play, it is insufficient to place reliance on this alone. **It is recommended that the National Assurance Framework requires a brief formal assurance statement on an annual basis from the leadership of the LEP (i.e. the Chair and CEO), on the status of governance and transparency within their organisation and which can be explored in greater detail during the Annual Conversation process with government. This statement to be published on the website.** (See also section10 below).

4.2 It will have the benefit of making the LEP itself more directly and publically accountable and will reinforce the role of the Chair and CEO in developing the culture and dealing with matters of good governance within their organisation. It will assist in formalising good practice, which is already being developed in some LEPs. To assist in establishing an organisational culture, LEPs need to put in place their own statements of their values and the standards of conduct expected from board members and senior staff. Indeed, a number of LEPs already have such statements in place. In some cases these expectations are based on the Nolan Principles of public life, but in others they are framed in terms of requirements of company board directors and do not sufficiently embrace the dimension of public sector accountability. This is inadequate as it does not reflect the dual dimension (i.e. public and private) of the role of board members. **It is recommended that the current National Assurance Framework requirement for LEPs to have a code of conduct, which all board members and staff sign up to, should explicitly require the Nolan Principles of public life to be adopted as the basis for this code.**

4.3 The National Assurance Framework should be explicit that the code of conduct for board members should address the way in which the board conducts business; the role of the board member; dealing with conflicts of interest; declarations of interest and transactions, gifts and hospitality; policy on fees and expenses. Information on some aspects was not always easily found on LEP websites and is essential to ensure transparency. For instance, not all websites state that the board member role is unremunerated. One instance of a reference to the position of Board members undertaking contracted work/services for the LEP itself was seen. This is a potential conflict of interest which should be avoided wherever possible and the code should be explicit and transparent about its approach to such situations should they arise.

5. Structure and Decision-Making

5.1 Each LEP has developed its own arrangements for decision-making which reflects its legal structure, the complexity and needs of the locality and compliance with requirements to ensure value for money, local engagement and democratic accountability. However, the review identified a number of key features of these decision-making processes which promote assurance on good governance. These are:

- a clear strategic vision and priorities set by the Board which has been subject to wide consultation against which all decisions must be judged;
- open advertising of funding opportunities;
- a sub-committee or panel with the task of assessing bids/decisions
- independent due diligence and assessment of the business case and value for money;
- specific arrangements for decisions to be signed off by a panel comprising board members from the local authority, in some cases including a power of veto;
- Section 151 officer line of sight on all decisions and ability to provide financial advice;
- use of scrutiny arrangements to monitor decision-making and the achievements of the LEP.

It is not appropriate to be descriptive on the specific arrangements which should be adopted due to the variety of structures **but it is recommended that the National Assurance Framework draws explicit attention to the importance of LEP decision-making structures accommodating these separate components of good governance and that they form an essential part of assurance and ensuring probity.**

5.2 Local assurance frameworks describe arrangements for decision-making, including urgent decisions and decisions in the absence of a formal meeting. Whilst there may be some exceptional circumstances requiring urgent decisions, extra care is needed in such circumstances to ensure propriety and to comply with the normal rigours of the decision making process. **Local assurance frameworks should set out that ALL decisions must be subject to the normal business case, evaluation and scrutiny arrangements; there must be a written report with the opportunity for the Section 151 officer to provide comments, that the conflicts of interest policy will apply to decision makers regardless of whether there is a formal meeting, and that decisions should be recorded and published in the normal way, regardless of how they are taken. It is recommended that the National Assurance Framework includes requirements in relation to this.**

6. Conflicts of Interest

6.1 The National Assurance Framework requires the publication of a conflicts of interest policy and a register of interests for each board member. Whilst LEPs comply with this requirement, the content of policies and approach to publication varies considerably and is dependent on the overall cultural approach within the organisation (see 5. above). For instance, some statements seem to focus on registering directorships only, exclude land and property

interests and any significant household member interests. Others seem to either use a proforma from another public body rather than having their own bespoke proforma or display board members' register from another public body. The conflicts of interest policy should be based on compliance with standards which promote good governance, transparency and stewardship. Given the wide variety of approaches currently operating it is suggested that there is a need to be more explicit about requirements to ensure consistency of standards. In addition, policies need to be clear on how conflicts are managed, the action to be taken when conflicts arise and the recording of that action. Policies should also make clear that consideration of conflicts of interest is not reserved for formal decision-making meetings and should be applied to any activity or involvement of the board member in the work of the LEP. **It is therefore recommended that the National Assurance Framework sets out specific requirements on the principles which each LEP must incorporate into its conflicts of interest policy and how it is implemented which includes:**

- **All board members taking personal responsibility for declaring their interests and avoiding perceptions of bias. This should be evidenced by producing and signing of their register of interests and publication on the website.**
- **Use of a bespoke proforma for collection and publication of the information which ensures all categories of interest are systematically considered.**
- **Categories of interest to include employment, directorships, significant shareholdings, land and property, related party transactions, membership of organisations, gifts and hospitality, sponsorships. Interests of household members to also be considered.**
- **Action in response to any declared interests applies to any involvement with the work of the LEP and is to be recorded.**

6.2 Whilst such declarations may be more familiar to public sector board members, it should be born in mind that it is not sufficient to merely refer to the councillors' declaration on the authority's website as some LEPs seem to do: a councillor's interest as a member of the LEP board may be different. Councillors will need to consider the interests they hold as council leaders/cabinet members for council land and resources, as well as for aspects of the council's commercial interests. As councils increasingly broaden their commercial undertakings and investment in land and property for income generation purposes, as well as the increasing use of council owned companies and trusts, there is increasing scope for conflict. Council leaders will need to consider the declarable interests this may give rise to in relation to their board membership of the LEP.

6.3 Similarly, it is in the nature of the role of LEPs that industrial and commercial expertise amongst board members should be utilised in developing strategies and decision-making, but which also has the potential to raise issues of conflict. The policy should explain how scenarios of both of these types will be managed without impacting on good governance. Not all policy statements address this explicitly and **it is recommended that the National Assurance Framework requires LEPs to include in their local statements how scenarios of potential conflicts of interest of local councillors, private sector and other**

board members will be managed whilst ensuring input from their areas of expertise in developing strategies and decision-making, without impacting on good governance.

7. Complaints

7.1 The National Assurance Framework requires LEPs to publish a complaints policy. Whilst LEPs comply with this requirement, very few refer to a whistleblowing policy. Whistleblowing arrangements which provide confidentiality to the complainant are an important measure in securing good stewardship of public resources and need to be part of anti-fraud policies. **It is recommended that the National Assurance Framework requires the publication of a whistleblowing policy and arrangements for confidential reporting of allegations of untoward concerns by third parties/ the public.**

8. Section 151 Officer

8.1 Public funding for LEP programmes is held and managed by a local authority acting as an accountable body. The National Assurance Framework requires the Section 151 officer of the accountable body to provide reassurance on the activity of the LEP and outlines the accountable body arrangements which the LEP should have in place. Given the volume of public funding which LEPs have available, this role is a significant workload and a significant area of risk for Section 151 officers. Overall LEPs and Section 151 officers report good working relationships and a variety of arrangements in place to meet requirements. In the main, the arrangements and the role have developed over time, as LEPs have grown. In some areas they remain on that basis and in others have developed into Memorandums of Understanding or Service Level Agreements.

8.2 The Chartered Institute of Public Finance and Accountancy (CIPFA) publishes guidance on 'The role of the Chief Financial Officer'. Specifically of relevance to this role in LEPs is the need for the CFO to be ' actively involved in, and able to bring influence to bear, on all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the overall financial strategy.'

8.3 This review identified that LEPs have a variety of arrangements in place for the Section 151 officer to have line of sight and involvement in key decision making bodies including the LEP Board and in the main have the opportunity to bring influence to bear and provide their advice. However, it would be helpful if the National Assurance Framework provided additional clarity on the expectations of the role of the section 151 officer and the substance of how LEPs need to work with that role. **It is therefore recommended that further clarity is provided in the National Assurance Framework on the role of Section 151 officers and it is suggested that this be developed in consultation with CIPFA.** This will need to consider the mechanisms the Section 151 officer uses to fulfil their role, their requirements in terms of access to decision-making bodies, ability to provide written and verbal financial advice, role of their

transactional services, operation of normal checks and balances in approving expenditure, management of risk of fraud and corruption, monitoring of programme spend against resources, treasury management and borrowing, role of internal audit and external auditors and provision of an audit opinion for the LEP, visibility of reporting arrangements to both the accountable body and the LEP, production of accounts, inter-relationship with the LEP's own accounts, if relevant. The clarification of the role of the Section 151 officer could also consider the scope for the LEP CEO and the Section 151 officer to provide a formal joint Annual Governance statement which is reported to the LEP Board. **It is also recommended that the National Assurance Framework sets a requirement for the Section 151 to provide a report to the Annual Conversation on their work for the LEP and their opinion with a specific requirement to identify any issues of concern on governance and transparency.**

8.4 Finally, although not directly within the remit of this review, very many participants raised the difficulties experienced in financial programming which arise from the tension between LEP Programmes, which are by their nature longer term and spread over more than one financial year with complex phasing profiles, and the annualised budgets, sometimes with late notification of resources, and year on year uncertainty provided by government funding arrangements. Both LEPs and accountable bodies reported frustration with the diversion of effort on managing these tensions and associated risks. This could also impact on good governance if late and speedy decisions are made by LEPs which give insufficient time for all the checks and balances of the normal processes. The annual uncertainty of funding also has the consequence of some LEP staff being on fixed term contracts which is counter-productive in terms of efficiency and may have unintended impacts on good governance if it leads to insufficient organisation stability and continuity. **It is therefore recommended that government give some thought to what flexibility might be available to smooth funding allocations to LEPs over a longer period.**

9. Transparency

9.1 A number of the above recommendations refer to the need for publication of information in order to provide transparency and avoid any suggestion of untoward use of public resources. In addition, the National Assurance Framework sets out the requirements on publication of agendas, minutes and decisions etc. There remains some inconsistency across LEPs in how this is approached. The review of a sample of websites identified the following areas needing further attention in some cases:

- Publication of the approach to the appointment of board members and providing information on the time board members commit.
- Publishing the policy on claiming of expenses by board members. For instance, it is understood that some LEPs adopt the local authority code whilst others have a policy of no claims.
- Including an item 'Declarations of Interest' on all agendas and ensuring minutes record any declarations and the action taken e.g. to leave the meeting and not take part.

- Approach to publishing agendas, meeting reports and minutes varied widely from LEPs who have adopted the Local Authority Standards including public meetings, those who hold no meetings in public, those who only publish the agenda page and do not publish meeting reports, and those who record no information on confidential matters. With the exception of those LEPs following the Local Authority Standards, it is not always clear what criteria are applied for dealing with matters in private.

It is therefore recommended that the National Assurance Framework provides additional guidance on expectations on publication of agendas, meeting papers and decisions.

9.2 The differing legal basis for LEPs does result in a variety of requirements on LEPs to publish financial information and accounts. However, the LEP's own accounts will not necessarily cover those projects supported by the LEP where the funding is managed by the accountable body. In addition, the accountable body may include some financial information in their own accounts. However, this may provide only high level financial data and insufficient granularity on the detail of decisions and performance of funded programmes. In order to achieve greater transparency of financial data, co-operation and agreement between the LEP and the Section 151 officer on how best to provide financial data is needed. **It is recommended that more explicit guidance would be helpful and that this should be developed as part of the work on the role of the Section 151 officer referred to at paragraph 8.3 above. In particular, in addition to the publication of accounts, it is recommended that the LEP maintains on its website a published rolling schedule of the projects funded giving a brief description, names of key recipients of funds/ contractors and amounts by year.**

9.3 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. This is an area for further development which would give increased independent assurance. Given the different structures across LEPs it is not appropriate to specify any particular approach to scrutiny. It is an area which could benefit from the sharing of good practice/'what works' to assist LEPs in shaping their own proposals. **It is recommended that LEPs report on this in their annual assurance statement (see paragraph 4.1 above) during the Annual Conversation process.**

10. Government Oversight and Enforcement

10.1 Government has a number of mechanisms which provide oversight of LEP performance and functioning including the National Assurance Framework, the assurance provided by the Section 151 officer, the Annual Conversation sessions with each LEP, and the government's LEP Relationship Manager who

also attend LEP Boards and have more detailed knowledge of the LEPs' functioning. Government has also made the allocation of funding conditional on compliance with requirements set out in the National Assurance Framework.

10.2 The Annual Conversation session with each LEP is a key opportunity for scrutiny and for holding LEPs to account. The focus of these conversations will be on the LEPs, strategy, its achievement of outcomes, value for money and delivery of programmes and individual projects. **It is recommended that the annual conversations have strengthened focus and designated time to examine the performance of LEPs in relation to governance and transparency and to discuss the assurance statements (see recommendation at paragraph 4.1 above) and the report of the Section 151 officer.**

10.3 This review has identified that whilst LEPs may be complying with the National Assurance Framework in terms of publication requirements, the approach to implementation locally will vary. The recommendations in this report seek to provide additional assurance without impacting on the ability to determine the detail that suits their local situation. In the main this will lead to the required improvements. However, there may be a residual need for government to be able to undertake a deep dive from time to time to provide assurance on the approach to implementation and how governance arrangements work on the ground. The LEP Relationship Manager has a key role in providing insight into that and it is important to ensure that they have the skills to identify the effectiveness of practice, perhaps using a good practice tool. In addition they should ensure that concerns about compliance are addressed by the LEP and have clear routes to escalate issues within government in a timely manner. They should contribute to the risk assessments to identify those LEPs who would benefit from a deep dive of their arrangements. **It is recommended that a risk based approach should be used to identify LEPs where a deep dive on governance and transparency would be of assistance. It is further recommended that this deep dive is undertaken by someone with no direct involvement with the specific LEP.**

10.4 The National Assurance Framework makes clear that serious non-compliance could result in delays to or loss of funding. **It is recommended that government sets out in the National Assurance Framework its approach to considering delay or withholding of funding for non-compliance so that LEPs have a clear and early understanding of the matters they need to address and the timescale to be met. In considering delay or withdrawal of funding from a LEP, government should consider the impact on the programme and the arrangements for projects to continue where appropriate under alternative mechanisms.**

11. Best Practice

11.1 The LEP Network currently supports a number of initiatives to share good practice and to provide support to LEPs at board and CEO level. This review identified a strong appetite amongst LEPs to further develop the sharing of

good practice, buddying arrangements, peer review and support, induction programmes for new chairs and for board members. The LEP Network receives a small amount of funding from government as well as a fee from its members. The support it can give on best practice is therefore limited. However, supporting self- improvement across the sector is a valuable mechanism and **it is recommended that government continue to support this work and discusses with the LEP Network how best to take this forward.**

12. Conclusion

12.1 This review has identified a number of measures which would give greater assurance to the Accounting Officer and government on the governance and transparency of LEPs. It found a sector which has a strong understanding of its responsibilities for stewardship of public funding and the need to improve its governance accordingly. There has been some historical concern that the strength of the LEP model, in providing private sector leadership of economic growth in localities, should not be damaged by an overly bureaucratic approach. This review has found that there is on the ground recognition that strong and proportionate governance arrangements can be pursued with overall benefit and safeguarding to all involved without becoming overly bureaucratic. In practice, some LEPs have already made their own choices to go beyond the current National Assurance Framework requirements and would welcome greater clarity in the NAF so that the sector as a whole can be seen to be excellent and effective stewards of public resources. The recommendations made in this report are intended to strengthen the improvement journey and are felt to be proportionate to the need for good governance and probity whilst promoting the uniqueness of the private-public relationships which the LEPs provide. These recommendations if supported should be taken forward in partnership with the LEPs and with accountable bodies and in doing so, consideration may need to be given to the resources and capacity of both to respond effectively.

12.2 Finally, I would like to thank all those who took part in this review and gave their time to provide information and views. I am particularly grateful that contributors were able to work to such short notice. I would also wish to acknowledge the work and support provided by the Cities and Local Growth Unit in undertaking this review.

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NED DCLG BOARD
JUNE 2017.

ANNEX A. Documents Consulted During the Review

1. National Audit Office report on *Local Enterprise Partnerships* – Mar 2016

2. Public Accounts Committee report on *Cities and local growth* – 1 July 2016

3. Public Accounts Committee report on *Devolution in England* – 18 Dec 2016
4. National LEP Assurance Framework - (Nov 2016 and Dec 2014)
5. Government response to PAC reports in *Treasury minutes* - Dec 2016
6. Table of Chronology on LEP Assurance and Accountability
7. Local Growth Fund Accountability and Assurance Process Map
8. Examples of LEP Local Assurance Frameworks
9. Single Pot Assurance Framework guidelines; examples of Single Pot areas
10. Daily Mail articles and background (including government response)
11. Recent NAO letter from Aileen Murphie to Jacqui Ward on Daily Mail follow up and suggestions for improvement
12. Business Representative Organisations note on LEP reform
13. Summary from the recent assurance and transparency spot checks following Section 151 officer letters
14. Examples of Section 151 officer letters
15. CIPFA. 'The role of the Chief Financial Officer'.
16. CIPFA. 'Managing the Risk of Fraud and Corruption'.
17. CIPFA/IFAC 'Good Governance in the Public Sector'.