

CABINET – 2ND APRIL 2015 – Annex 'A'

LEP Assurance Framework: LCC Scrutiny Committee Comments

The Scrutiny Committee met on Friday 13 March to consider the draft LEP Assurance Framework. The Committee were appreciative of the opportunity to comment at this stage, and in general welcomed the approach outlined in the Framework, and the commitments enshrined in relation to open, transparent and accountable decision making by the LEP.

The principle interests of the Scrutiny Committee to the involvement of locally elected representatives, and how they could be involved in supporting and developing accountability and assurance. It was recognised by the Committee that the development of Section 2 of the Framework on "Local Authority Partnership working" will be key to setting out how this will be achieved, and several of the specific recommendations of the Committee will need to be considered as this section of the Framework develops.

The specific recommendations of the Scrutiny Committee were that:

1. In relation to the membership of the LEP Board itself,
 - a. The Framework should clearly explain how the membership of the LEP Board is determined, with reference to any government guidance and local determinations.
(This is dealt with on page 4 of the revised AF)
 - b. The Framework should set out how Board members are appointed, how they are held to account for their actions, and how their membership of the Board would end or could be terminated.
(This is dealt with on pages 4-5 of the revised AF)
 - c. Consideration should be given to increasing the number of locally elected representatives on the Board. It was noted that the current composition of the LEP was smaller than the permitted maximum, and that therefore there was room for further places to be given to local councillors.
(This matter will be considered as part of the on-going discussions regarding combined arrangements. At present, the membership of the LEP Board is reviewed on a regular basis, in light of changed responsibilities and the skills sets required to perform its duties. This approach has enabled the Board's membership to refresh itself naturally in response to new demands. This approach does not debar local authority leaders with the required skill sets or expertise from being sought by the Board. However, it is the practice, with regard to local authority membership at District level, that two Board Directorships are reserved, with nominations proposed by District Leaders. This usually takes place annually. It is worth noting that agreed District Leader nominations have always been accepted by the

LEP Board. It is also worth noting the guidance with regard to Board membership set out on page 4 of the document).

2. Consideration should be given to how locally elected politicians could be involved in the monitoring of complaints made against the LEP
(The involvement of county and district councillors in the scrutiny and monitoring of the LEP is a matter for on-going discussion. It is always appropriate for complaints against a body or organisation to be, in the first instance, investigated by that organisation itself, in order to give the opportunity for a problem to be addressed most efficiently and effectively. These will be dealt with, in the first instance by the LEP's newly established Performance Committee. However, part of the overall performance monitoring arrangements for the LEP will be regular analysis of any complaints received and actions taken in consequence, and there is no reason why, as part of the overall scrutiny arrangements, such issues do not form part of the information asked for and shared with elected representatives in order for the appropriate critical friend challenge to take place. Any complaints made against any County Council staff working on LEP issues would be covered by the County Council's existing procedures.)
3. Paragraph 4.10 on Independent Scrutiny will, in time, need to be developed further to ensure that local Overview and Scrutiny arrangements are in line with wider local authority engagement to be set out in Section 2. The committee recognised the advantages of joint scrutiny, formal or informal, between all 15 local authorities in the LEP area.
(The LEP recognises that the current position set out in the Framework, with regard to scrutiny of the LEP, could, potentially, mean a number of local authorities could instigate a scrutiny process at the same time, which may not be productive. The Lancashire Chief Executives Group, is currently considering the scope of the governance review of combined arrangements, which will be considered by Lancashire Leaders in June. There could be merit in Lancashire Leaders, on an interim basis, taking on the oversight of the activities of the LEP, and the Chief Executives Group at its meeting on March 30th have been asked to consider this proposal, with a view to preparing draft terms of reference for this role, for consideration at a future meeting of Lancashire Leaders.)
4. There should be clarity about the powers of the independent person(s) in conflict resolution (paragraph 4.9), and whether the LEP and the local authority should be bound to accept any ruling or recommendation of the Independent person(s).
(The Company Secretary of the LEP (the County Secretary & Solicitor) clarified with the Board that the proposed conflict resolution policy was intended to be use as a last resort in the unlikely event that the Accountable body and the LEP were unable to resolve any dispute over a recommendation or decision taken by the LEP. He advised that the purpose of appointing an independent person(s) was to seek to facilitate agreement between the parties and he cautioned against adopting a more detailed or complex provision or one which would bind the LEP or Accountable Body to accept a

decision of the independent person. In his view such a provision was rarely to the benefit of the parties and the Board were advised that if it was not possible to resolve a particular issue by agreement then, rather than resort to expensive and protected arbitration or mediation provisions, it would be preferable to have differences determined by the courts. That was particularly so in circumstances where any objection by the Accountable Body to a LEP decision could arise from concerns about vires issues. In such circumstances it would not be appropriate for the Accountable Body to have agreed to be bound by a decision to act outside its powers as that would by definition be unlawful)

5. Consideration should be given to ensuring that the Framework is clear throughout on the assurance measures in place in relation to the allocation of funding through any of the funding streams under the control of the LEP.
(section 5 – Value for Money and new flow diagram)
The Committee was keen to ensure that the assessment of organisations and projects in receipt of public money was seen to be extremely robust, and that this should therefore be fully reflected in the Framework document
(Page 22 of the AF confirms that there is a MoU between the LEP and Skills Funding Agency which ensures that a full due diligence exercise is undertaken on providers as part of the assessment of business cases)
6. In relation to the Skills Board, the Framework should be clear on how possible conflicts of interests have been, and will be in the future, avoided in the allocation of funding, especially where those bodies potentially in receipt of funding are represented on the decision making body.
(This is dealt with on page 6 of the revised AF)
7. On the Local Funding Contribution for transport schemes, it was felt that it should be made clear that the 10% minimum contribution could not be waived in any circumstances
(This is dealt with on page 20 – 5.3, page 23- 5.4 and page 25- 5.5)

Finally, the Committee emphasised again their appreciation for the level of engagement being offered in the Framework, and felt that the increased understanding of the work of the LEP amongst councillors and the public that would result would be beneficial to all concerned. It was confirmed that the Scrutiny Committee would maintain a keen interest in the work of the LEP and would look to engage regularly with the LEP, including at least on an annual basis in reviewing and refreshing the Framework itself.

Additionally, the Committee called for a series of "Bite Sized Briefings" (short information or training sessions offered to all County Councillors) on LEP related matters, with ESIF and skills funding being particularly identified as areas where councillors would benefit from increased understanding.

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