



Committee and Date

Cabinet

1st May 2019

Item

8

Public

Membership of The Marches Local Enterprise Partnership Limited

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1. Summary

- 1.1 This report seeks approval for Shropshire Council to become a Public Sector Member of The Marches Local Enterprise Partnership Limited. Following a national review, Central Government has issued a directive that all Local Enterprise Partnerships should have a legal personality. The Marches Local Enterprise Partnership (LEP) must incorporate as a company before any further local growth funding is released. It has been determined that this will through a company limited by guarantee and Shropshire Council as a public sector body within the geographical area of the LEP has the right to become a Public Sector Member of the company. Doing so will confer the right to appoint a director to the board of the company to represent the Council and participate in decision-making.

2. Recommendations

2.1 Cabinet agrees that:

- (a) Shropshire Council becomes a Public Sector Member of The Marches Local Enterprise Partnership Limited;
- (b) subject to approval of recommendation (a) above that the Leader of the Council shall be nominated as a director and the Council's representative on the board of The Marches Local Enterprise Partnership Limited; and
- (c) the Marches Local Enterprise Partnership Limited be added to the Council's list of outside bodies to which the Council makes appointments.
- (d) Shropshire Council will continue as the Accountable body for the Marches LEP.

REPORT

1. Background

- 1.1 The Marches Local Enterprise Partnership (LEP) covers the geographical area served by Herefordshire Council, Shropshire Council and Telford and Wrekin Council. In 2014, the three councils agreed to establish a joint committee to exercise executive functions in relation to the Marches LEP. The Marches Enterprise Joint

Committee comprised one executive councillor from each council with the Marches LEP Board Chair as a non-voting member.

- 1.2 In July 2018 the Ministry of Housing, Communities and Local Government (MHCLG) published its report [Strengthened Local Enterprise Partnerships](#) which sets out the conclusions of its policy review into LEPs including changes to governance structures and measures to improve leadership and accountability.
- 1.3 All LEPs must now have a distinct legal personality. The Marches LEP has agreed with the Government to become a company limited by guarantee with effect from 1 April 2019. It must then abide by the laws and regulations that apply to this form of legal entity.
- 1.4 The new [national assurance framework](#) for LEPs sets out that the LEP Board is the ultimate decision making authority. With the change in governance arrangements, the joint committee is no longer able to exercise the functions previously assigned to it. At its meeting of 19 March 2019 the members of the Marches Enterprise Joint Committee agreed to cease the joint committee with effect from 31 March 2019.
- 1.5 The national assurance framework also states, “The LEP should ensure that there are Local Authority representatives on the LEP Board to ensure democratic accountability and provide local intelligence”. The Articles of Association of the new company (attached at Appendix 1) set out that membership will include Public Sector Members.
- 1.6 It is proposed that Shropshire Council become a Public Sector Member of The Marches Local Enterprise Partnership Limited. Membership will confer the right to appoint one director to the board of the company. The director will be able to represent Shropshire Council, and by extension the residents of Shropshire, on the board and contribute to decision making. The quorum for the transaction of business at a meeting of directors of the company will be any seven Eligible Directors, which must include at least two Public Sector Directors.
- 1.7 In addition to the input of the appointed director, Shropshire Council as a Public Sector Member would have rights of consultation and engagement as set out in the Articles of Association of the company and that which is set out in the company’s Accountability and Assurance Framework.
- 1.8 The change in structure will remove the ability of the three councils to determine proposals in key areas previously assigned to the Marches Enterprise Joint Committee. However the LEP board and management team have expressed their commitment to continue to work in close partnership and recognise that the three councils remain key strategic partners in the delivery of economic growth. The local Accountability and Assurance Framework, due to be approved by the LEP Board on 21 May 2019, sets out the strategic issues on which the three councils will be consulted prior to the board taking decisions. The views of the three councils will be included in reports put before the Board.
- 1.9 The national assurance framework sets out that LEPs should participate in relevant scrutiny arrangements to guarantee the effective and appropriate democratic scrutiny of their investment decisions. All three councils in the Marches LEP area will be able to scrutinise its work through their individual scrutiny committees. For Shropshire

Council it is proposed that the LEP be invited to present its annual report and delivery plan to Place Overview Scrutiny Committee.

Community impact

- 1.10 The Marches LEP is required by Government to produce a Local Industrial Strategy setting out the area's key economic opportunities to deliver business growth. Becoming a member of the company and taking a seat on the board will allow the Council to continue to represent the interests of the residents of Shropshire in this work.
- 1.11 Becoming a member of the company specifically fulfils the objective to continue to work with the LEP and government with focus on: employment creation and business support; skills; health transformation; transport; broadband; property and finance; and governance. Co-operation with the LEP is an important component in delivery of many of the Council's Economic Growth objectives that are set out in the Corporate Plan and Economic Growth Strategy 2017-21. By being a member of the LEP, there is a direct link and relationship to Government economic strategy, priorities and funding to deliver these.
- 1.12 Good corporate governance encourages better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk. The Council is committed to ensuring that those making decisions and delivering services are accountable for them, and to ensuring stakeholders are able to understand and respond as the Council plans and carries out its activities in a transparent manner. Having clear and transparent processes for establishing our partnership arrangements in respect of the LEP, and ensuring those processes are in accordance with the Council's Constitution meets the objective of good corporate governance.

2. Risk Assessment and Opportunities Appraisal

Equality duty

- 2.1 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:-

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2.2 The public sector equality duty (a specific duty) requires the Council to consider how it can positively contribute to the advancement of equality and good relations, and demonstrate that its decision makers are paying 'due regard' in the decision making

and generally in the design of policies and in the delivery of services. There are no equality issues arising from this decision.

- 2.3 The LEP has its own equality and diversity policy, which is set out as an appendix to its Accountability and Assurance Framework. This policy sets out the LEP's commitment to equality and that the LEP will pay due regard to the Equality Act 2010 when making decisions.

Legal implications

- 2.4 A company limited by guarantee provides a flexible and well recognised corporate structure. The operation of the company will be governed by the Companies Act 2006 and related legislation.
- 2.5 In accordance with the Articles of Association of the company, the Council, as a member of the company, agrees to contribute a predetermined nominal sum of £1.00 to the liabilities of the company which become due in the event of the company being wound up.
- 2.6 The day to day management of the company will be the responsibility of the board of directors who have a legal duty to act in the best interests of the company, for the benefit of its members.
- 2.7 The Articles of Association and the Accountability and Assurance Framework indicate that the Leaders of the respective councils will be the Public Sector Board Members of the Company. The Leader of Shropshire Council, if the recommendations are approved, will be nominated as a director.

Risk management

- 2.8 To ensure democratic accountability for the work of the LEP and its investment decisions the Articles of Association of the new LEP company include the requirement that the three councils in its area each have a seat on the Board.
- 2.9 To ensure the three councils are given the opportunity to be consulted on strategic issues a clause is included in the Articles of Association for the new company regarding the rights of consultation and engagement reserved to Public Sector members of the company as set out in the Accountability and Assurance Framework.
- 2.10 If the Council chose not to become a member of the Company it would not have the right to appoint a director to the Board with the resulting risk that the interests and economic growth objectives of the Council are likely to have less prominence in decisions taken by the LEP Board.

3. Human Rights Act Appraisal

- 3.1 The recommendations contained within this report are compatible with the provisions of the Human Rights Act 1988.

4. Financial Implications

- 4.1 The Marches LEP was provided with funds in the 2018/19 financial year from MHCLG to pay for the cost of setting up the new company, including preparing the Articles of Association.
- 4.2 There are no resource implications for the Council arising from becoming a member of the company. Support for the appointed director will continue to be provided by Council officers with relevant expertise as with the Council's representative on the LEP Board at present.
- 4.3 The Marches LEP will continue to have its own independent secretariat, supported through LEP Core Funding, Growth Hub funding and contributions from the three Local Authorities and the University of Wolverhampton. Shropshire Council has been the Accountable Body for the Marches LEP since the LEP's inception. This role includes a number of support services, including the role of Treasurer to the LEP, with other services provided by Herefordshire Council. Shropshire Council will continue to act as the Accountable Body for the LEP in accordance the detailed arrangements as set out in the Local Accountability and Assurance Framework.

5. Conclusions

- 5.1 The LEP must incorporate as a company before any further local growth funding is released. Shropshire Council as a public sector body within the geographical area of the LEP has the right to become a Public Sector Member of the company. Doing so will confer the right to appoint a director to the board of the company to represent the Council and participate in decision-making. This report therefore recommends approval for the Council to become a member of the Company with the associated right to appoint the Leader as a board member of the Company.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Local Accountability and Assurance Framework

MHCLG report " Strengthened Local Enterprise Partnerships"

National Assurance Framework for LEPs

Cabinet Member (Portfolio Holder)

Cllr. Peter Nutting

Local Members

All Councillors

Appendices

Appendix 1 – Draft Articles of Association