

12 February 2020		ITEM: 10
Cabinet		
Incorporation of South East Local Enterprise Partnership		
Wards and communities affected: All	Key Decision: No	
Report of: Cllr Rob Gledhill, Leader of the Council & Portfolio Holder for Public Protection and Anti-Social Behaviour		
Accountable Assistant Director: N/A		
Accountable Director: Andy Millard, Director of Place		
This report is public		

Executive Summary

The South East Local Enterprise Partnership (SELEP) is one of 38 established Partnerships across the country, set up to provide the vision and strategic leadership to drive sustainable private sector-led growth and job creation. The Local Enterprise Partnership (LEP) is responsible for distributing significant amounts of Government funding to support growth priorities. Thurrock has been allocated funding to support the Grays South Regeneration and the widening of the A13 among other things. Following a Government Review all Local Enterprise Partnerships have been required by central government to comply with a set of recommendations including establishing a legal entity. This report explains how incorporation of the South East LEP is proposed to happen and asks Cabinet to take the necessary decisions.

1. Recommendation(s)

That Cabinet:

- 1.1 Note that the Council will become a member of South East LEP Limited with articles of association as set out in appendix 1.**
- 1.2 Note that the Council will sign the framework agreement as set out in appendix 2.**
- 1.3 Agree that the Leader will be the Council's initial member of the Board with the Portfolio Holder for Regeneration and Strategic Planning as alternate director.**

1.4 Agree that the Leader will be the Council's initial member of the Accountability Board with the Portfolio Holder for Regeneration and Strategic Planning as principal substitute.

2. Introduction and Background

2.1 Local Enterprise Partnerships were created to replace Regional Development Agencies. In order to allow flexibility, the Government did not have any prescriptive requirements as to legal structure to enable a variety of operating models to develop. However, following a review of LEPs Government has set out a series of recommendations with which LEPs must comply – including establishing themselves as a legal entity if they are to continue to be eligible to receive government funding.

2.2 Thurrock is part of the South East Local Enterprise Partnership (SELEP). This covers the combined administrative areas of:

- East Sussex
- Essex
- Kent
- Medway
- Southend on Sea
- Thurrock

2.3 SELEP currently operates as a partnership with Essex County Council acting as the 'Accountable Body'. As Accountable Body it is legally accountable to government for how the money is spent across the SELEP area. SELEP has a strategic board and four federated boards which are all informal bodies with no legal constitution. These organisations consider applications for funding and the Strategic Board makes recommendations to a local authority joint committee comprising one member for each of the six upper tier local authorities and an independent non-voting chairperson drawn from the Strategic Board. Funding passes from ECC to the relevant local authority who then enters into an agreement with the recipient, ensuring there is local accountability for funding. SELEP is supported by a small team of officers who are employed by Essex County Council but who report directly to the Section 151 Officer. The current structure therefore gives:

- A strong voice for business who dominate the Federated and Strategic Boards.
- An efficient structure which uses existing employers, pension arrangements and financial systems.
- Local accountability so that local authorities have an input in allocation of funds via the Strategic Board and the joint committee and are accountable for the activities of recipients of funding by signing agreements with the Accountable Body.

2.4 A sketch diagram showing how SELEP currently operates is attached at appendix 3.

- 2.5 To comply with the recommendations in the LEP Review the Government decided that all LEPs would need to have a legal identity by April 2020.
- 2.6 The SELEP partners have been working on how best to achieve this. The consensus is that a company should be established and that as far as possible this should be with minimal impact on the other arrangements for Governance and Operation.

3. Issues, Options and Analysis of Options

- 3.1 The Strategic Board of the LEP established a sub-group to consider legal entity and agreed a proposal to create a company limited by guarantee. A sketch diagram showing how the company will operate is at appendix 3. The members of the company would be:

- Members of the federated boards who wish to become members of the company.
- One member nominated by each local authority.

This will continue to give federated boards a strong voice in the running of the company and the members/federated boards will continue to make recommendations on allocation of funding and will continue to have a say in the appointment of the board of the company

- 3.2 The board of the company would be comprised of between 20-25 directors as follows:

(1) Fourteen Private Sector Directors:

- The Chair (independently appointed)
- The Deputy Chair (independently appointed)
- Two individuals nominated by the Success Essex Members
- Two individuals nominated by the Opportunity South Essex Members
- Five individuals nominated by Kent & Medway Members
- Three individuals nominated by East Sussex Members

(2) Six Public Sector Directors, one appointed by each of the six local authorities.

(3) Up to five co-opted directors:

- Two District/Borough/City Council Leaders or Cabinet Members
- One Further Education representative
- One Higher Education representative
- One Third Sector representative

- 3.3 This is the maximum size of board permitted by central government and strikes a balance between different parts of the LEP. The government also requires a local authority to remain as accountable body since the statutory power used to pay money only allows funds to be paid to local authorities.
- 3.4 In order to minimise the changes required the Strategic Board has decided that it does not want the company to hold the funding or employ any staff. This minimises risk and cost and does mean that it is still the local authorities who will be making the final decision on allocation of funding via the Accountability Board and money will still pass from the Accountable Body to the local authority.
- 3.5 The business members of the SELEP Boards have decided that this is the way in which they want to work. They are comfortable with this because in practice the SELEP partners and the secretariat have worked hard to develop consensus on funding, meaning that in practice funding is rarely contentious by the time decisions are taken. The joint committee will of course continue to give great weight to the views expressed by the federated boards and the business representatives.
- 3.6 The SELEP Strategic Board has therefore recommended that this approach is taken.
- 3.7 The other main option considered was to have the company employing the secretariat and receiving and distributing the funding, but this would involve a lot of legal and financial structures and the consensus is that the costs and bureaucracy involved in this outweighs the benefits.
- 3.8 The recommended approach has been developed in consultation with the Ministry of Communities, Housing and Local Government and the Department for Business, Energy and Industrial Skills who are happy with the proposals.

4. Reasons for Recommendation

- 4.1 The Government Review of Local Enterprise Partnerships (LEPs) set out a series of recommendations with which each LEP is required to comply. The Recommendations cover issues such as legal identity, board composition and size, election of Chair and other issues.
- 4.2 To comply with the recommendations SELEP must establish a legal identity for the Local Enterprise Partnership by 31st March 2020. To establish the Company Limited by Guarantee requires approval from each of the upper tier authorities in the SELEP area.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The changes to the Local Enterprise Partnership have been considered by the Strategic Board whose members include each upper tier authority, private sector and Further Education and Higher Education.

5.2 The Chair of Corporate Overview and Scrutiny Committee has been briefed on the changes and decisions that Cabinet need to take to comply with SELEP requirements.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The SELEP Board and secretariat have sought to minimise the changes required to the LEP and its operating procedures while ensuring that it complies with the changes required by Government.

6.2 As an upper-tier Authority Thurrock will still have representation on the Strategic Board and the Accountability Board. The Council will still be able to access funding managed by the LEP and will contribute to development of policy.

7. Implications

7.1 Financial

Implications verified by: **Jo Freeman**
Finance Manager

This report will have no direct financial implications since SELEP will continue to operate in the current manner and the Council will continue to contribute and passport funding to recipients in the same way as it currently does. The changes will comply with Government recommendations.

7.2 Legal

Implications verified by: **Courage Emovon**
Acting Strategic Lead / Deputy Head of Legal Services/ Deputy Monitoring Officer

The recommendations in this report have been developed in consultation with the other five local authorities and with the current SELEP boards.

SELEP has obtained Counsel's advice on the potential liabilities of Directors and Members of the proposed new company. Directors' liabilities are statutory in accordance with the Companies Act 2006. Counsel has advised that since the company will have no assets the risks to Members/ Local Authorities are low. Potential liabilities will be mitigated by the Directors and Officers insurance which the company intends to procure. Legal Services will provide advice as and when required.

7.3 Diversity and Equality

Implications verified by: **Becky Lee**
Team Manager – Community Development and Equalities

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

No equality impact assessment has been written as this report will largely continue with SELEP's existing processes. One positive impact which is related to but not directly caused by the incorporation of SELEP is that the new assurance framework requires SELEP to meet requirements relating to equalities which is therefore likely to lead to a greater participation in public life by people with a protected characteristic.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder, and Impact on Looked After Children)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

9. Appendices to the report

- Appendix 1 – Articles of Association
- Appendix 2 – Framework Agreement
- Appendix 3 – Diagrams showing how SELEP operates

Report Author:

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Strategic Lead – Economic Development

Economic Development