

CABINET – 26 FEBRUARY 2013

THE COUNCIL'S ROLE AS ACCOUNTABLE BODY FOR OXFORDSHIRE LOCAL ENTERPRISE PARTNERSHIP

**Report by Director of Environment and Economy and Assistant Chief
Executive and Chief Finance Officer**

Introduction

1. The Oxfordshire Local Enterprise Partnership (OLEP) was established in 2011 with the aim of creating private sector jobs and removing barriers to business growth. It is a partnership between the business community and local government that operates as an unincorporated association. The governance structure comprises an Executive Board, Programme Sub-groups and the Forum. The Executive Board is responsible for preparing an annual business plan on behalf of the Partnership and for ensuring that its agreed priorities are taken forward.
2. Local Enterprise Partnerships are the Government's mechanism for the distribution of Growing Places Funds which are issued pursuant to section 31 of the Local Government Act 2003 and therefore can only be paid to a local authority nominated to act as accountable body. The County Council has agreed to act as accountable body in respect of Growing Places Fund allocation on behalf of Oxfordshire Local Enterprise Partnership.
3. It is anticipated that Oxfordshire Local Enterprise Partnership will receive additional funding streams from government in the future and the Council may also be required to act as accountable body for these.
4. A Memorandum of Understanding has been drawn up to set out the roles and responsibilities of the Council acting as accountable body for OLEP. Cabinet approval of this Memorandum of Understanding is sought.

Memorandum of Understanding

5. The Memorandum of Understanding at Annex 1 sets out the operational protocols between the Council and Oxfordshire Local Enterprise Partnership (the Parties) and is intended to apply to all arrangements where the Council acts as accountable body on behalf of Oxfordshire Local Enterprise Partnership. Whilst not legally binding, and no legal obligations or legal rights arise between the Parties from the Memorandum of Understanding both Parties enter into the agreement intending to honour all their obligations.

6. The Memorandum of Understanding sets out protocols covering the following;
 - Introduction and Background
 - The principals of decision making
 - Variation and termination
 - Charges and liabilities
 - Asset related matters
 - Data Protection
 - Confidentially
 - Freedom of information
 - EqualityThe Contracts (Rights of Third Parties) Act 1999
 - Status
 - Governing Law
7. The Memorandum of Understanding was formally approved by Oxfordshire Local Enterprise Partnership at its meeting 5 February 2013.

Growing Places Fund

8. The Growing Places Fund is a scheme jointly run by the Department for Communities and Local Government and the Department for Transport. The Fund has three overriding objectives:
 - To generate economic activity in the short term by addressing immediate infrastructure and site constraints and promoting the delivery of jobs and housing;
 - To allow local enterprise partnerships to prioritise the infrastructure they require;
 - To establish sustainable revolving funds so that funding can be reinvested to unlock further development, and leverage private investment.
9. There is an emphasis on the third objective, and an expectation that the fund will be used to pump-prime infrastructure delivery. The further expectation is that the funds managed by the Local Enterprise Partnership will be recycled by securing repayment of the investment in projects, and reinvesting it when money is returned to the fund.
10. All projects assessed as being eligible are appraised using the following criteria:
 - **The number of 'additional' permanent private sector jobs created** – and the acceleration of these jobs.
 - **Value for Money** – the cost per job created.
 - **Local/regional impact of the proposed investment** - the project's wider positive impact on the economy of Oxfordshire (i.e. will it help unlock or bring forward other development sites or economic activity, will it help grow a particular sector of the economy, beneficial impacts to other companies in a supply-chain).
 - **The level of risk** – including risks relating to delivering the project, securing the benefits and achieving repayment.

- **The timescale for repayment** – how the project supports the Enterprise Partnership's objective of establishing a sustainable revolving fund and the speed of the return to the Fund.
11. Successful applicants will usually be offered a repayable loan to fund capital investment. A return will be charged either at market rates or at nominal rates dependent upon whether State Aid is applicable. Funding may also take the form of a grant and be recovered through the new business rates retention provisions contained in the Local Government Finance Act 2012. Such grants will also need to be State Aid compliant. Officers are currently finalising the mechanism with regard to such recovery.
 12. Seven round one Growing Places Funds applicants were approved in principle in September and are going through a due diligence process before funding agreements are issued.

Corporate policies and procedures

13. Supporting and facilitating the Oxfordshire Local Enterprise Partnership will help the County Council achieve its corporate goal of a Thriving Oxfordshire.

Financial and Staff Implications

14. The Growing Places Fund is a resource made available to, and should be directed by the Oxfordshire Local Enterprise Partnership. The Local Enterprise Partnership has received £9m spread across two tranches of the fund. Funding is un-ringfenced - the only condition being that the capital allocations are spent on capital projects.
15. The Council will be responsible for submitting a statement to Government confirming that this condition has been, or will be, adhered to. As accountable body the Council is responsible for ensuring appropriate financial administration and governance of the Growing Places Fund and other local enterprise partnership monies. It will achieve this by applying its own governance framework, accounting policies and financial procedures to ensure that the funds are applied and accounted for appropriately.
16. The accounts of the Enterprise Partnership will be maintained on the Council's financial systems, and will be incorporated into the Council's own accounts.
17. An annual income and expenditure statement will be prepared in accordance with generally accepted accounting principles, on behalf of the local enterprise partnership.

Legal Implications

18. The Council has power under section 1 of the Localism Act 2012 to do anything that individuals generally may do. The Council may therefore assume accountable body status for the Growing Places Fund and may enter into loan

and various other agreements with applicants who successfully bid for funding under the Growing Places Fund.

19. The agreements for Growing Places Fund set out clearly what the funding is to be used for and will provide for repayment/recovery of the funding on a specified date, together with the payment of interest where appropriate. The Enterprise Partnership will then utilise the repaid monies to fund future investments. The Council would be able to take legal action under the agreements in the event of default on repayment.
20. In accordance with the Council's Constitution, Part 8.2 Financial Procedures Rules Paragraph 99, the Cabinet is required to agree with partners the formation of any strategic partnership for the County and monitor its governance and performance to ensure that that these partnerships are improving the well-being and outcomes for local people in the County and do not subject the Council to undue risk. The Cabinet is required to ensure that any partnership has clear operational procedures as set out in the partnership agreement which maintains the highest standards of ethics and probity. In this case the agreement takes the form of the Memorandum of Understanding.

Risk management

21. The Growing Places Fund guidance (DCLG September 2011) does not suggest any particular financial risks to the Council, other than ensuring compliance with State Aid regulations which is undertaken internally through Legal Services and external expertise as required. The funding was transferred in a single payment and is un-ringfenced.
22. There is no requirement for the accountable body to underwrite the Fund, and there is no suggestion of "clawback" from the Council if, for example, an applicant is unable to repay the funding provided. The only risk for the Council arises if capital funding is not spent on a capital project and the money has to be repaid to the Government. This risk is minimised through the funding agreements that will be in place with all applicants where the requirement will be on them to repay the funding.

RECOMMENDATIONS

23. Cabinet is recommended to:
 - (a) Approve the Memorandum of Understanding with the Oxfordshire Local Enterprise Partnership in relation to the Council's role as accountable body for the allocation and distribution of government funds allocated to/via Oxfordshire Local Enterprise Partnership; and
 - (b) Authorise the Chief Finance Officer to approve loan applications recommended by the Executive Board of the Oxfordshire Local Enterprise Partnership and to enter into appropriate legal agreements

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on behalf of Council with the recipients of the grant funding once they are approved by the Enterprise Partnership Executive Board.

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February 2013

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