

LEP Transition – Phase 2

Business Case

November 2024

Table of Contents

Introduction	3
Strategic Context	3
Evaluation Criteria and Overarching Principles	4
Overview of Services	5
Options Appraisal	5
Legal Considerations	10
Governance	11
Business Engagement	16
Evaluation	17
Financial Case	19
People	21
Risks	22
Conclusion	22

Introduction

1. In August 2023, government confirmed that from April 2024, the government's sponsorship and funding of LEPs will cease. This means that LEPs will no longer have official recognition and that existing LEP functions will transfer to upper-tier local authorities or combined authorities, where they exist.
2. To support this transition a joint working group was established with representatives from Oxfordshire Local Enterprise Partnership and Oxfordshire County Council. This working group has undertaken detailed due diligence and options appraisal, with the output being discussed with cabinet members from Oxfordshire County Council, members of the OxLEP Board, and chief executives and Leaders via the Future Oxfordshire Partnership.
3. The option of retaining the company model is recommended, alongside changes to the company governance that would see a slimmed down company board, the creation of a Shareholder Committee as committee of the cabinet and an Economic Partnership Board being established.
4. This business case sets out more detail on the options to support decision making on future LEP functions.

Strategic Context

5. In August 2023 government provided guidance that from 31 March 2024, Local Enterprise Partnerships (LEPs) would cease to have official recognition. Further guidance was issued in December 2023 to support the transition of function to upper tier local authorities.
6. The government guidance states that the government expects the functions then delivered by LEPs – namely, business representation, strategic economic planning, and the delivery of government programmes where directed – to be exercised by upper tier local authorities, where they are not already delivered by a combined authority. In Oxfordshire's case this means Oxfordshire County Council.
7. In Oxfordshire, these functions have been delivered by the Oxfordshire Local Enterprise Partnership (OxLEP). Formally launched in March 2011, OxLEP Ltd was initially established as a partnership with the local authorities, businesses and education sector in the area, and was incorporated as a not-for-profit company limited by guarantee on 31 March 2015.
8. In February 2024 the cabinet agreed that the council would become the controlling member of the OxLEP Board exercising its membership functions through cabinet. This change in control was agreed by OxLEP Board and came into effect on 1 April 2024.
9. The council also agreed a three-phase approach to transition to cover transition, implementation, and establishment. These are:

Annex A - Business Case

- Phase 1 – Transition (by 1 April 2024)
 - Phase 2 – Implementation (1 April 2024 – 30 September 2024)
 - Phase 3 – Establishment (1 October 2024 – 31 March 2025)
10. The working group has continued to meet to during the implementation phase and has reviewed the options for delivering LEP functions, alongside due diligence on financial, legal and HR implications.
11. The recommended option is that the council retains the company model for delivering some former LEP functions and retains ownership of the company as the sole member. The company would continue to operate as a Company Limited by Guarantee, this would mean that the risks and liabilities for the council are ringfenced. Under this option the company would continue to qualify for the Teckal exemption, thereby limiting public procurement and VAT reclaim issues.
12. Under this option a ‘Shareholder Committee’ will be established as a committee of cabinet to oversee the council’s company interests. The company board would be amended to have a reduced number of directors to oversee the company. Alongside this an Economic Partnership Board will be established to support the Cabinet in the discharge of its economic development functions. This will build on the best practice established by OxLEP and will invite a wider range of voices to advise on the development of economic strategy in line with government guidance.

Evaluation Criteria and Overarching Principles

13. A number of different options for the delivery of economic functions have been reviewed. The following principles have been developed to evaluate the preferred delivery model. The delivery model should:
- Build stakeholder engagement into the model
 - Demonstrate council control
 - Provide operational flexibility to support commercialisation and income generation
 - Be deliverable within timeframes (by 31 March 2025)
 - Minimise financial risk for the council
14. These principles have been used to evaluate the delivery model, alongside the due diligence undertaken regarding financial, legal and HR matters.
15. In addition to these principles the council has a clear strategic intent set out in the strategic plan 2023 – 2025. This sets out the council’s vision to lead positive change by working in partnership to make Oxfordshire a greener, fairer and healthier county and sets out the priorities to achieve this vision.
16. The strategic priorities of the company will be founded on the council’s vision and priorities.
17. As such, the role of the revised company will be in refreshing the economic focus to ensure benefits are felt by the whole of the county population and delivering

programmes and interventions that deliver these benefits. These economic priorities will need to form the basis for future economic strategy development and implementation.

Overview of Services

18. As noted above the guidance states that government expects LEP functions as previously required under LEPs' annual core funding agreements (business representation, strategic economic planning, and delivery of government programmes) to be exercised by the respective upper tier local authority or authorities.

19. These functions form the basis of OxLEP's work programme, however alongside these core functions OxLEP also delivers additional programmes on behalf of the county and district councils. The work programme is agreed annually. In summary, at present OxLEP Ltd:

- Leads on business engagement to support economic development activities and prioritisation
- Convenes and engages with the Oxfordshire Whole System on behalf of Oxfordshire businesses
- Is responsible for the production the strategic economic plan, and other related strategies, including Destination Management Plan, Clean Growth Strategy and PAZCO
- Delivers Department for Business and Trade (DBT) funded Growth Hub. Delivers Careers Enterprise Company provision
- Delivers Skills Bootcamps
- Leads Internationalisation and Inward Investment with DBT
- Leads Social Contract programme
- Leads Visitor Economy Renaissance Programme
- Manages legacy capital programmes

20. OxLEP Ltd also currently has responsibility for the delivery of agreed Enterprise Zone (EZ) outcomes and the allocation of associated retained business rates across the two Enterprise Zones amounting to 216 hectares (ha) these are Science Value UK (EZ1) and Didcot Growth or Science Vale Growth Accelerator Enterprise Zone (EZ2).

21. It is proposed that a multi-year business plan and budget is prepared as part of the next phase of LEP transition. This will be developed by the OxLEP Board and approved by the Shareholder Committee.

Options Appraisal

22. Three options were considered as part of phase one of LEP transition, these were:

- Transfer current LEP employees directly into county council employment

Annex A - Business Case

- Create a new county council owned company and transfer LEP employees and functions to this
- Create a county council controlling interest within the existing company structure

23. The working group was tasked to look again at the options during the implementation phase to ensure the delivery model met the overarching principles set out above. This evaluation discounted the option of creating of a new county council owned company and transfer the LEP employees and functions to this. This was because there were no perceived benefits to this option.

24. The options considered during phase two are set below and summarised in the following table below, alongside the benefits and risks of each model.

Local Authority Company – County Council is Sole Member

25. With this option the county council retains the company model for delivering LEP functions and retains ownership of the company as the sole Member. The company would continue to qualify as a Teckal company, thereby limiting public procurement and VAT reclaim issues. The company would continue to operate as a Company Limited by Guarantee, this would mean that the risks and liabilities for the council are ringfenced. However, the company board would be amended to have a reduced number of directors.

26. The benefits of the company model are that it enables the delivery of existing projects in line with funding agreements (such as Skills Bootcamps), positions the county council well to respond to new government policy and funding announcements and, provides operational flexibility, maintains tax status and meets the Teckal exemption under procurement law meaning the need to undergo competitive tenders can be avoided.

27. The disadvantages are that there is potential duplication with council services that would need to be considered, potential additional overheads of having a separate company and potential disconnect with county council activity and strategic priorities. In addition, the company trading limits will need to be monitored to ensure the company continues to remain Teckal compliant.

Local Authority Company - county council invites additional Members in Shareholder A / Shareholder B ownership model

28. An alternative company model has also been explored to deliver broader membership of the company to enhance engagement. This would have involved creating two different classes of membership, with the council being Member A and inviting other organisations to apply for B Membership. While the control of the company would have remained with the county council, this option would have included stakeholders as B Members with the ability to nominate directors to the Board. This model is not recommended as it is considered to create risk for the Teckal status of the company, and so compromise programme delivery and future ambitions for the company. It would also lead to ambiguity and complexity for stakeholders on control (a principle set out above) and accountability.

In House

29. Under ‘in house’ option, the economic functions delivered by the LEP would be brought into the county council to be delivered directly. The service would form part of the newly established Economy and Place service area and would involve the TUPE of existing OxLEP employees delivering the functions transferring to the council. Under this option OxLEP Ltd would be wound up. More information on this is set out in the final option considered below.
30. The benefits of this model are that it would provide the county council with a perceptible direct control of economic functions and direct link to council priorities. It would also avoid the need to provide separate company and consolidated financial accounts. The disadvantages include the potential delay to programme delivery and service continuity, and the potential loss of cohesive inter-disciplinary operating model that delivers flexibility, effectiveness and efficiency, together with the ability to respond to new policy direction from government. It may also be the case that losing the flexibility of a company structure may reduce the opportunities to act in innovative and commercial ways in the future. There could also be implications for the programmes that the company delivers on behalf of partners (for example through the UK Shared Prosperity Fund).

Wind up OxLEP

31. The final option considered was to Wind up OxLEP with no agreed structure for the delivery of economic functions. This process is likely to take at least three months following the appointment of liquidators. The fundamental disadvantage of this model is that the county council is unable to demonstrate how it will deliver the economic functions as required by government. This existing stakeholder relationships through the company would need to be reestablished. There are also the significant costs, time taken and possible reputational risks that could arise from winding up the existing LEP company that would need to be considered. Finally, terminating projects/programme mid-delivery cycle is likely to introduce avoidable risk and incur additional costs and some legal and statutory obligations will continue for some years beyond company closure and will need to be undertaken by OCC. There were no identified benefits for the county council in pursuing this option in isolation.

Option	Benefits	Risks
Local Authority Company – keep existing company to deliver functions county council as sole member	<ul style="list-style-type: none"> • Partnership and influence through EPB and Company Board • Operational flexibility and forming basis for a more commercial approach • Provides vehicle for delivering county council services 	<ul style="list-style-type: none"> • Potential duplication with county council services • Potential additional overheads of having a separate company • Potential disconnect with county council activity and strategic priorities.

Annex A - Business Case

	<ul style="list-style-type: none"> • Deliverable within timeframes • Provides county council control • Financial risk limited through CLG structure 	<ul style="list-style-type: none"> • Company trading limits need to be monitored for Teckal exemption • Need to provide company accounts
<p>Local Authority Company – keep existing company to deliver functions county council invites additional Members in Shareholder A / Shareholder B ownership model</p>	<ul style="list-style-type: none"> • Partnership and influence through EPB and Company Board • Operational flexibility and forming basis for a more commercial approach • Provides vehicle for delivering county council services • Deliverable within timeframes • Financial risk limited through CLG structure 	<ul style="list-style-type: none"> • Potential duplication with county council services • Potential additional overheads of having a separate company • Potential disconnect with county council activity and strategic priorities. • Need to provide company accounts • No longer meets all of the limbs in the Teckal exemption test • No longer under sole county council control • Need to hold an AGM
<p>In house – functions transferred to county council</p>	<ul style="list-style-type: none"> • Direct control of functions • Direct alignment to council priorities • Direct link to wider council services 	<ul style="list-style-type: none"> • Loss of continuity of service delivery, funding and impactful initiatives • Impact on relationships with partners and government • Transfer process will take time and could delay programme

Annex A - Business Case

		<p>delivery and risk losing employees</p> <ul style="list-style-type: none"> • Potential for additional costs such as Local Government Pension Scheme (LGPS).
<p>Wind Up LEP – with no agreed model to deliver functions</p>	<ul style="list-style-type: none"> • No benefits identified 	<ul style="list-style-type: none"> • No agreed model for delivery of economic functions • Unable to demonstrate control test • Stakeholder relationships would need to be reestablished • Wind up process will take time and incur redundancy costs • Terminating projects/programme mid-delivery cycle is likely to introduce avoidable risk and incur additional costs • Some legal and statutory obligations will continue for some years beyond company closure and will need to be undertaken by OCC

32. These options have been assessed against the evaluation criteria set out above and are summarised in the matrix below.

	Company - Sole Member	Company - Multiple Members	In House	Wind Up
Stakeholder Engagement	Yes	Yes	No	No
Council Control	Yes	No	Yes	No
Operational Flexibility	Yes	No	No	No
Deliverability	Yes	Yes	No	No
Minimises Financial Risk	Yes	Yes	No	No

33. From this assessment the option of delivering economic functions via the Local Authority Company – County Council is Sole Member is the only option that meets all the evaluation criteria and is therefore recommended.

Legal Considerations

34. OxLEP is a company limited by guarantee which is wholly owned by Oxfordshire County Council (the Council). As part of the transition of Local Enterprise Partnership functions to upper tier local authorities, the council has reviewed the governance arrangements and model for delivering economic functions via OxLEP, trading as Enterprise Oxfordshire.

35. The company would continue to operate as a Company Limited by Guarantee, this would mean that the risks and liabilities for the council are ringfenced.

36. To avoid public procurement and VAT reclaim issues, the company would most likely need to qualify as a “Teckal” company.

37. Teckal is short-hand for a procurement exemption, whereby the need to undergo competitive tenders can be avoided if Teckal applies. The Teckal exemption recognises that where a contracting authority contracts with a company that it owns, the position is effectively no different from the services being provided in-house.

38. Regulation 12(1) of the Public Contracts Regulations 2015 (PCR) codifies the Teckal exemption and confirms that it will apply where all of the following conditions are met:

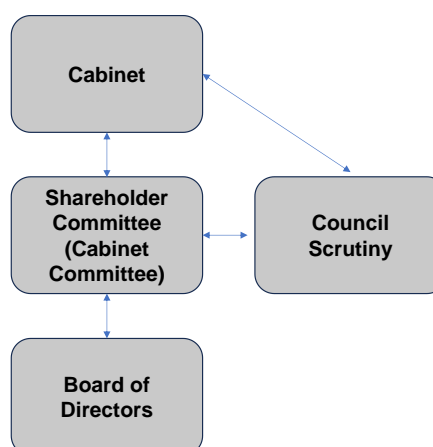
- the contracting authority (e.g. the Council) exercises over the legal person concerned (OxLEP) a control which is similar to that which it exercises over its own departments
- more than 80% of the activities of the controlled legal person are carried out in the performance of tasks entrusted to it by the controlling contracting authority; and
- there is no direct private capital participation in the controlled legal person

39. The working group is satisfied that recommended option meets all three limbs of the Teckal test and will continue to assess the company’s operations against these conditions to ensure compliance.

40. A non-Teckal structure would have significant impact on the company as it would need to compete in the open market for council contracts. This may impact upon the company’s VAT status and thereby introduce additional costs, and it would also introduce delay as the council would need to build in additional time to run procurement processes.

Governance

41. As noted above, OxLEP is set up as a company limited by guarantee, this means that it has a 'member' rather than 'shareholder' structure.
42. The council has considered how it exercises control of the company and how oversight will be undertaken. Best practice guidance from Local Partnerships has been considered and while aimed primarily at Local Authority Trading Companies with a shareholder structure, provides a model that can be adapted for companies limited by guarantee. This guidance has helped to inform the initial principles which are explored in the following paragraphs.
43. The role of the member includes:
- Oversight of any decisions that can only be made by the member, rather than left to the entity (known as 'reserved matters')
 - The necessary oversight from the member's perspective that the parameters, policies and boundaries that the council has established are being adhered to
 - A mechanism to communicate the member's views to the entity
44. In addition, there should be evidence that the individual undertaking the member role is provided with suitable training and support commensurate with the role and is independent of the company. This responsibility may be delegated to a committee rather than an individual. If this is the case, there must be terms of reference drawn up and a suitable cohort of elected members identified to sit on the committee.
45. The council has taken external legal advice in relation to company law issues. It is recommended that a Shareholder Committee is established as a committee of Cabinet to oversee the council's company interests. The governance model is set out in the diagram below:



46. The purpose of the Shareholder Committee is to approve and oversee the council's strategic objectives for the council's company and to support the development of

Annex A - Business Case

the company in line with the council's regulations and ambitions and the constitutional instruments of the company.

47. Membership of the Shareholder Committee will be comprised of such Cabinet Members as the Cabinet shall determine in line with the Terms of Reference to be agreed by Cabinet.
48. In summary, the Shareholder Committee will provide oversight of the company as set out in the Articles of Association, this includes responsibility for:
- appointment and removal of directors;
 - approval of an annual business plan for the Company;
 - approval of an annual budget for the Company; and
 - appointment of external auditors.
49. The Shareholder Committee will also receive regular performance reports on the company. The council's Chief Executive, the Executive Director of Resources (Section 151 Officer) and the Monitoring Officer will support the Shareholder Committee and the representatives of the company, including the Company Secretary, shall be invited to all meetings on a non-voting basis.
50. Scrutiny oversight will be undertaken through existing council scrutiny arrangements.
51. Whilst the Shareholder Committee will be responsible for providing the oversight of the company through the reserved matters set out in the Articles, there will also need to be a board of directors appointed so to comply with company law regulations (Companies Act, 2006). The primary purpose of the company will be to deliver projects and programmes on behalf of the council. The current OxLEP Ltd company board consists of six local authority non executive directors (NEDs) (Leaders), three further and higher education NEDs and nine private sector NEDs alongside the LEP Chief Executive (ex officio). It is proposed that all directors will resign. In the new structure, the council would retain control and exercise that through the Shareholder Committee which is a committee of cabinet. Additional directors will be appointed to the company board that would be focused on the day to day running of the company. As part of this transition the company trading name will be changed to Oxfordshire Futures.
52. A number of options have been explored to identify the optimum composition of the company board. This includes having an all member board, an all officer board, or a board with both officers and members and independents. These options and the advantages and disadvantages are set out in the matrix below.

	Advantages	Disadvantages
3 Members	Strong political oversight of company	Possible conflicts of interest between the relevant duties owed to company and council respectively

Annex A - Business Case

		<p>If Cabinet Member they will be unable to vote on LEP items at Cabinet due to conflict of interest</p> <p>Members wouldn't be able to be on the Cabinet Committee</p> <p>Potential loss of clarity over roles of company and that of Cabinet Committee</p> <p>Potential risk to board continuity and company management if changes due to political cycle</p> <p>Depending on identity of appointee(s) may not have experience of board directorship or relevant skills upon appointment</p>
<p>3 Officers</p>	<p>Mirrors how council services are delivered with officers providing technical expertise</p>	<p>Lacks diversity of input to company board</p> <p>Possible disconnect from strategic direction set by Cabinet Committee</p> <p>Possible conflicts of interest between the relevant duties owed to company and council respectively (exacerbated for Statutory Officers due to legal duties owed to Council)</p> <p>Officers will need to balance both their duties as employee to the authority and their duties when acting as a director of a council owned company – having 3 council officers may make this more challenging</p> <p>Depending on identity of appointee(s) may not have experience of board directorship or relevant skills upon appointment</p>

Annex A - Business Case

<p>3 Members / Officers</p>	<p>Provides both political input and officers technical expertise</p>	<p>Possible challenge to independence of officers if take a different view to members</p> <p>Possible conflicts of interest between the relevant duties owed to company and council respectively (exacerbated for Statutory Officers due to legal duties owed to Council)</p> <p>Lacks diversity of input from beyond council</p> <p>Lack of external and objective challenge may limit company's performance and growth</p> <p>Depending on identity of appointee(s) may not have experience of board directorship or relevant skills upon appointment</p>
<p>3 = Cabinet Member, Officer, Independent</p>	<p>Introduction of an independent NED will bring experience and objectivity</p> <p>Independent NED could help establish a more commercial mindset</p> <p>Enables partner engagement</p> <p>Provides clear political connectivity</p> <p>Brings technical expertise from officer</p> <p>Credibility of having independent director</p>	<p>Perception that having independent NED could see as loss of control</p> <p>Possible challenge to independence of officers if take a different view to members</p> <p>Possible conflicts of interest between the relevant duties owed to company and council respectively (exacerbated for Statutory Officers due to legal duties owed to Council)</p> <p>Cabinet Member unable to vote on LEP items at Cabinet due to conflict of interest</p> <p>Cabinet Member wouldn't be able to be on the Cabinet Committee</p> <p>Members/Officers will need to balance both their duties as employee to the authority and</p>

Annex A - Business Case

		<p>their duties when acting as a director of a council owned company</p> <p>Depending on identity of appointee(s) may not have experience of board directorship or relevant skills upon appointment</p>
<p>3 = Non-Cabinet Member, Officer, Independent</p>	<p>NED will bring experience and objectivity</p> <p>Independent NED could help establish a more commercial mindset</p> <p>Credibility of having independent director</p> <p>Enables partner engagement</p> <p>Provides clear political connectivity</p> <p>Brings technical expertise from officer</p> <p>Board appointment could be drawn from a broader pool of elected members</p> <p>No conflicts for the non-Cabinet Member in Cabinet decisions on LEP items</p>	<p>Perception that having independent NED could see as loss of control</p> <p>Possible challenge to independence of officers if take a different view to members</p> <p>Possible conflicts of interest between the relevant duties owed to company and council respectively (exacerbated for Statutory Officers due to legal duties owed to Council)</p> <p>Members/Officers will need to balance both their duties as employee to the authority and their duties when acting as a director of a council owned company</p> <p>Depending on identity of appointee(s) may not have experience of board directorship or relevant skills upon appointment</p>

53. Following this assessment, it is recommended that the new company board will be a board of three non-executive directors appointed by the Shareholder Committee. This will include a cabinet member and senior officer from the council and alongside an external independent non-executive director who would also chair the company board. The board may also be supported with one or two co-optees (for example from the Economic Partnership Board – see below) and be advised by the company Chief Executive and council Director of Economy and Place. The existing Company Secretary would also advise the Board on company law,

governance and other compliance matters. The proposed changes will mean changes to the Articles of Association.

54. Those officers or members who may be nominated as directors of the revised company will have a primary fiduciary duty to the company and will need to vote in its best interests and manage its affairs in accordance with what is in the best interest of the revised company. That raises a potential risk of conflicts of interest in connection with their separate responsibilities to the Council. However, as the main object of the company as set out in the articles of association is to bring about sustainable economic growth of the county through the implementation of a strategic economic plan that will be agreed by the Council, these risks of conflict are minimised.
55. Acting as a director can give rise to personal liability, and it is recommended that the Council should offer indemnities to members or officers serving as company directors, to prevent members or officers from being deterred from taking up a position on the board. Board member training will also be provided.

Business Engagement

56. It is recommended to establish an Economic Partnership Board (EPB) to support the Cabinet in the discharge of its economic development functions. This will build on the best practice and will invite a range of voices to advise on the development of economic strategy in line with government guidance. The guidance also asks upper tier authorities to consider the inclusion of local economic partners outside of the business community in the membership for the board. This will be important in Oxfordshire given the strength of expertise in the wider system.
57. The Terms of Reference for the Economic Partnership Board are to be defined in engagement with partners and ratified by cabinet at a future date. However, it is likely that this will include representatives from lower tier authorities, the private sector, further and higher education, health and community and voluntary sector. This broader membership will add significant value to the board.
58. While the initial function of the EPB will be to advise the council on the development of economic strategy and the design and deployment of programmes, its terms of reference should be flexible enough to act as a business engagement vehicle on wider economic matters in the county.
59. The existing board of OxLEP (that is before the changes are made as envisaged in paragraph 51) includes private sector directors who have already been through a Nolan compliant recruitment process alongside further and higher education directors. These board directors will form the EPB should they choose to do so. The initial membership of the EPB will also include representation from lower tier authorities. A review and further recruitment will be undertaken to ensure appropriate diversity alongside relevant sector specialisms and geographical representation. The December 2023 government guidance states that any new business board members must be appointed through an open process. The process should ensure appointees are able to provide a constructive check and

challenge on local decision making using their private sector perspective. This guidance will continue to be followed in making future board member appointments and the appointment process will be owned by Cabinet.

Evaluation

60. The following section highlights the findings of the detailed options analysis, focusing on the implications of the preferred company model option. The working group has further evaluated the recommended option against the criteria recommend in the Local Partnerships guidance on Local Authority Trading Companies to test the viability and benefits of retaining the company model as the recommended option.

Analysis	Advantages	Disadvantages
Strategic Fit	The model meets government guidance and allows for county council to set strategic direction for the company	County council company governance structure needs to ensure that the control of strategic direction and policy is retained by county council
Legal	Contracts do not need to be novated	Company structure is unfamiliar and requires members and officers to have full understanding of company law and process
Financial	County council can decide what financial obligations and authority rests within the company	Additional requirement to provide group accounts
Governance and Risk	<p>County council is sole member of company demonstrating overall control and specific control over listed reserved matters</p> <p>Shareholder Committee allows the cabinet to delegate specific matters for expediency</p> <p>Company Board of Directors appointed by the council are directly accountable to the Shareholder Committee and have formal fiduciary</p>	New governance structure to be established

Annex A - Business Case

	<p>duties to the company under company law</p> <p>CLG structure minimises financial risk for the council</p>	
People	<p>No TUPE impacts at this stage</p> <p>Employment contracts continue with existing company</p>	Terms and conditions may need to be reviewed over time
Commercial	<p>Provides operational flexibility to support commercialisation and income generation</p> <p>Builds on strong track record of existing company</p> <p>Enables the continuation of existing contracts</p> <p>Provides platform for future growth</p>	Need to maintain a balance of directly awarded and competed or otherwise awarded external business to continue to meet Teckal conditions
Stakeholders	<p>Stakeholder engagement built into the model via board and EPB</p> <p>There is support for the model from members and senior officers</p> <p>District council senior officers and members have been engaged as proposals have been developed</p>	Will need to establish the EPB and set out how links to wider county governance arrangements.
Skills and Capability	The company has been running successful since 2015 meeting all compliance requirements, maintaining financial stability and delivering impact in Oxfordshire	Training will be needed for those company board directors without previous experience, and for any county council officers directly interfacing with the company

	<p>Legal advice has been taken on HR and governance matters</p>	
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Financial Case

61. The Government confirmed on 19 December 2023 that they will provide up to £240,000 per local authority area in 2024/25 to deliver the functions previously delivered by LEPs – namely business representation, local economic planning, and delivery of Government programmes where directed – subject to final business case approval and the approval of integration plans. Funding beyond 2024/25 will be subject to future spending review decision. This core funding is separate to any programme funding that may be provided to support the delivery of, for example, Growth Hubs or Careers Hubs. Funding for the delivery of government programmes as directed will be communicated to authorities by the responsible government department or body as per usual processes.
62. OxLEP receives income annually from a number of government departments including £261,000 Growth Hub and £120,000 Careers Enterprise Company grant funding. In addition, OxLEP has been successful in securing up to £1.7m Skills Bootcamps grant funding. Remaining funding has been taken from Enterprise Zone 1 business rates drawdown and OxLEP reserves. In addition to this OxLEP has secured contracts to deliver programmes on behalf of the district councils that will be funded by UKSPF and to support the council develop a Green Investment Pipeline.
63. As at March 2024, OxLEP Ltd’s audited financial statements show total reserves held of £2.087 million, £225,000 of which was retained by the Council on its Balance Sheet in its capacity as Accountable Body. The latest balance sheet at the 30 September 2024 shows a reserves balance of £1.95m. The difference being the amount approved by cabinet in July 2024 for approved budgets of £142k to be reprofiled and carried forward from 2023/24.
64. During phase two of LEP transition, OxLEP has developed a multi-year Business Plan that sets out that OxLEP will also be seeking to secure additional funding to support programme delivery, but this is subject to competitive funding process. As part of phase three OxLEP will refine this business plan and budget and this will be brought to the Shareholder Committee for approval.
65. Oxfordshire County Council is the accountable body for OxLEP Ltd. As an accountable body, the Council takes responsibility for receipt and financial probity of external funding on behalf of the OxLEP Ltd and ensures the proper and effective use of those funds. As required in Financial Regulations, where the Council acts as an Accountable body, a formal agreement (memorandum of understanding) is in place which sets out the operational protocols between the Council and OxLEP Ltd.

66. The Council has undertaken due diligence to ensure it understands the financial position of OxLEP and any risks associated with the transfer of ownership of the company to the Council.

Assurance Framework

67. To demonstrate value for money/best value and meet defined strategy, delivery, governance and transparency requirements LEPs have been required to comply with a national assurance framework that specifies a wide range of requirements to meet and assurances to be provided. The assurance cycle was managed jointly by the Ministry of Housing, Communities and Local Government (MHCLG) and the Department for Business and Trade (DBaT), aspects of which were undertaken by the Cities and Local Growth Unit (CLGU) and others by departmental assurance teams. As well as six monthly formal interviews, involving OxLEP's Corporate Management Team, the Board Chair and OCC's Section 151 Officer, CLGU and the departments also conducted independent compliance checks and risk assessments resulting in a formal compliance outcome being published and core funding allocation for the following year. The process included signed and published assurance statements prepared by the Board Chair and OCC's S151 Officer, together with a separate assurance letter signed by the S151 Officer.

68. In line with this previous assurance framework and compliance checks and to reflect the transfer of LEP functions to local government, this financial year, MHCLG and DBaT have revised the assurance process with a new Assurance Framework that requires the council's S151 Officer to provide a Statement of Grant Usage for the Council's 2024/25 Local Economic Development Fund (LEDF) allocation (LEP Integration Core Funding). This LEDF funding has been retained by the council.

69. The statement sets out specific assurances to ensure compliance in the following areas:

- Business representation is in place
- Economic strategy is published
- Legacy funds - referring to the delivery of a Growth Hub and a Careers Hub, as directed by the relevant departments, together with the ongoing oversight, reporting and evaluation of legacy capital programmes, (including LGF, GBF and GPF) and managing any residual funds as necessary.

70. The framework expects the S151 Officer to ensure that their oversight of the proper administration of financial affairs relating to the funding for the prescribed activity continues throughout the year and lifespan of the funding programmes requirements.

71. This assurance cycle will include further independent checks by the relevant central government teams. Through routine engagement with the Council, the Cities and Local Growth Unit (CLGU) Area Team will also secure up to date intelligence as to the governance and delivery of the three functions set out in the guidance (set out in bullets above).

72. A separate independent annual audit of OxLEP's Growth Hub service and related returns is also required each year to provide assurances to DBaT, the funding department.

Additional independent assurances

73. In addition to the assurances required by central government, OxLEP must meet company law assurance requirements and undertakes several other voluntary assurance steps, including:

- An annual internal controls review conducted independently by OxLEP's external auditors to confirm compliance with OxLEP's financial regulations, financial scheme of delegation and financial procedures, together with other standard controls.
- An annual external audit to provide an audit opinion on the financial statements and other assurance outputs prepared by OxLEP and to provide full audited accounts for OxLEP Board and audited filing accounts for Companies House.

74. On 1 October 2024, OxLEP Board's Finance and Audit Committee received the external auditors verbal report and audited financial statements and letters for financial year 2023/24. The auditors presented a clean audit report for the period, with no comments to be made on the qualitative aspects or on the controls and no adjusted or unadjusted errors identified during the audit. The audit team highlighted the strong control environment and the efficiency of the OxLEP finance team.

75. From 2024/25 group accounts will be required to incorporate the accounts for the OxLEP Ltd Teckal company into the County Council's Statement of Accounts

People

76. Under the recommended option of Local Authority Company the staff implications are limited as the company will operate as it does currently. OxLEP operates different terms and conditions and working patterns to the county council and these could be reviewed in the future. Legal advice would be taken on any proposed changes and consultation requirements.

77. Under the In House option there would be a TUPE transfer of those employees assigned to the activities transferring to the county council. Under TUPE, the county council as the new employer would need to inform and consult with a recognised trade union or employees and their representatives. Employees would transfer with their current terms and conditions, including continuous service. Any subsequent change to terms and conditions or redundancies would only be justifiable if there is an 'economic, technical or organisational' reason involving a change in the workforce. Employees transferring to the council would be enrolled into the Local Government Pension Scheme (if they are not already a member of that scheme).

78. In the event that OxLEP Ltd's status changes in the future, OxLEP Ltd has maintained a level of financial reserves to mitigate the operational risks of future

funding challenges. The total reserves figure currently exceeds any potential employee costs in the event of termination of employment.

79. In arriving at the recommended option there has been consideration of the employment law risks in relation to the options and how these risks can be managed, whilst also maintaining effective operational delivery and working relationships.

Risks

80. There are a number of risks associated with the council retaining OxLEP as a company as the means by which the council delivers economic functions:

Risk	Mitigation
Business representation becomes less-engaged as no longer on company board	Engagement with OxLEP Chair and 121s with Board Members Economic Partnership Board to be established
New company board directors may take some time to fully understand role and purpose on a council company	Training to be provided to new company board directors Company Secretary in place
Company does not meet the conditions of the Teckal exemption under procurement regulations	The Teckal conditions have been applied and the company currently meets the control, trading and private capital tests meaning the procurement exemption applies. The delivery of programmes will be closely monitored to ensure the company continues to meet conditions
The governance structure is not implemented effectively to ensure the adherence to parameters, policies, and boundaries set by Shareholder Committee	Regular performance reports to Shareholder Committee
The changes unsettle company employees leading high turnover of employees and impacting on business continuity	Regular and effective communication to company employees

Conclusion

81. A full evaluation has been undertaken of the viable options for continuing to assume full responsibility for the economic development functions that have transferred to the county council by government. This has identified a preferred option to retain the existing company structure and control mechanism.

Annex A - Business Case

82. The preferred option has then been considered against best practice assessment criteria and this has demonstrated its viability and clear benefits.
83. Consequently, it is recommended that the county council retains the company structure for the delivery of economic functions with the county council being the sole member of the company.
84. To further enhance the delivery of economic functions it is recommended that a new governance framework is put in place that includes the creation of a Shareholder Committee as a committee of cabinet and smaller company board with revised articles of association, alongside the establishment of an Economic Partnership Board to meet the government's business representation requirements.