

# **ECONOMY & SKILLS OVERVIEW AND SCRUTINY COMMITTEE**

**24<sup>th</sup> April 2019**

## **GBSLEP FUTURE OPERATING MODEL**

### **Background**

1. The Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) was constituted as a company limited by guarantee in May 2011. However, its Board has never considered it to be an 'active' company as it has not had a bank account nor employed any staff. Instead, GBSLEP's staff are employed on Birmingham City Council (BCC) contracts, BCC is GBSLEP's Accountable Body (AB), holding all of its funding (both capital and revenue), and its funding is expended in accordance with BCC's standing orders.
2. This arrangement has worked well over a number of years but as the LEP's roles, responsibilities and funding allocations have changed, the LEP Board has reviewed the operating model with a view to ensuring that it can meet the following objectives:
  - Be a strategy-led organisation, with structures and processes that support agile delivery.
  - Be seen as a separate entity with a clear identity, its own culture and its own risk appetite.
  - Be able to determine job roles, pay and reward commensurate with the market rate, and to be able to attract and retain employees.
  - Have the freedom and agility to respond to customer demand and opportunity.
3. A number of challenges have also arisen with the current arrangements, including in relation to recruitment, procurement and the time taken to implement LEP decisions.
4. In addition, Government published the findings of its review of LEPs in July 2018. "Strengthened Local Enterprise Partnerships" set out that all LEPs should have a "legal personality", be established as discrete and independent corporate entities such as companies limited by guarantee, and that their secretariats should be independent of Local Government.

### **Future Operating Model**

5. In order to meet the objectives set out above, address the challenges with the current model and fully meet the requirements of the LEP Review, the LEP Board agreed on 25<sup>th</sup> March 2019 that GBSLEP Ltd should become a fully independent active company. In order to achieve this, it has requested that BCC Cabinet considers formally consulting on the transfer of staff under the TUPE regulations. Under the new model, GBSLEP Ltd will hold its own revenue funding, whilst BCC will continue to be the AB for capital funding.

The intention is for the company to be fully active by 1<sup>st</sup> July 2019. The following sections provide more detail on how the model will be implemented.

## People

6. The GBSLEP Executive currently consists of 18 members of staff, the majority of whom are employed on fixed-term contracts owing to the relative uncertainty of funding available for LEPs. In addition, the Executive is currently carrying six vacancies.
7. The GBSLEP is aware that employees that have been on a fixed-term contract for four years will accrue permanent employment rights, whilst those who have been on a fixed-term contract for two years, will have the right to bring claims for unfair dismissal and redundancy rights.
8. The GBSLEP Board agreed to ask BCC Cabinet to agree to undertake formal consultation on the TUPE transfer of staff, with an effective date of transfer of 1<sup>st</sup> July 2019.
9. As per the regulations, successful conclusion of the consultation will mean that GBSLEP accepts BCC terms and conditions (T&Cs) for current staff, including pay, pensions and leave entitlement. Policies have been amended to ensure that they are commensurate with GBSLEP's structure.
10. With regards to staff pensions, the LEP Board agreed that GBSLEP should apply for admitted body status to West Midlands Pension Fund. BCC will assume responsibilities for any surplus or liabilities up until the effective date of transfer. Thereafter, pensions will become GBSLEP's responsibility. Discussions are ongoing around a guarantor for the Fund.

## Finance

11. BCC currently holds all of GBSLEP's capital and revenue funding. The LEP Board has agreed that as part of the future operating model, GBSLEP should hold its own revenue funding, to be drawn down from BCC on a quarterly basis against an agreed budget and expended in line with its own Financial Controls Policy. The Board would like BCC to remain GBSLEP's Accountable Body for capital funds.
12. In order to open a bank account and to give BCC confidence to transfer the funds to GBSLEP Ltd, the GBSLEP Board has agreed a Financial Controls Policy and a Treasury Management Policy.
13. The Treasury Management Policy is based on CIPFA guidance, and therefore represents good practice. BCC will undertake treasury management of all of GBSLEP's capital, and the portion of revenue that has yet to be drawn down into the company's bank account. The costs for doing so are 5% of the interest received on the funds held.
14. The Financial Controls Policy is based on BCC's scheme of financial delegation to officers and is in line with good practice.
15. A new Accountable Body Agreement, setting out the relationship between GBSLEP and BCC as its AB is in the process of being developed.

## Back office and operations

16. The GBSLEP considered the following options for the provision of back office and operations:

- Remaining with BCC
- Partnering with a similar organisation, such as West Midlands Growth Company
- Procuring its own

17. On balance, it was concluded that the strongest and most viable options were to procure its own systems, with the exception of payroll which will remain with BCC, albeit on a commercial basis (the City Council provides payroll services to a range of external organisations, and this was felt to be the best option given the need to ensure continuity, particularly for staff having been TUPE transferred).

18. The Executive has undertaken procurement exercises to ensure that staff have access to IT (computers, software and mobile phones) and systems (finance and HR), and will look to ensure that these are in place ahead of the effective date of transfer. The Executive has sought to agree in principle short-term contracts, so that the organisation can adapt should the need to do so arise.

19. In addition, the Executive has confirmed with BCC that the data created by the Executive since its inception is owned by GBSLEP, and that GBSLEP will therefore continue to have access to it via a cloud solution.

## Conclusions

20. This report sets out the case for the future operating model, which was approved by the GBSLEP Board on 27<sup>th</sup> March 2019, and some of the detail of how it will be delivered. BCC's Cabinet will consider various recommendations to support the implementation in May 2019.

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