Agenda Item 5.1

Report to Accountability Board	Forward Plan reference number:
Date of Accountability Board Meeting: 13th November 2015 **Date of report:** 5th November 2015	
Title of report: Local Growth Fund Capital Monitoring	
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1. Purpose of report

1.1. The purpose of this paper is to:

- **Advise the Accountability Board on the conditions of the Local Growth Fund** (LGF) capital grant - the main Government funding source for the South East Local Growth Plan
- **Approve recommendations for effective management** of the SE LEP Growth Deal Capital Programme

1.2. It should be noted that the conditions of the grant funding from the Department of Communities and Local Government (DCLG) and the requirements of our Assurance Framework have shaped the options that are available for managing the capital programme and all decisions regarding the LGF funding must be made within the scope of the conditions and flexibilities laid out in this paper

2. Recommendations

2.1. The Board is asked to:

- **Note the funding conditions** that apply to the LGF as set out in paragraph 3.2
- **Agree the options** for managing the forecast Capital Programme variances as set out in Table 1, paragraph 3.14

2.2. If the recommendation above is agreed, the Board is further recommended to:

- **Consider and approve changes to the SE LEP Capital Programme** to ensure greatest impact of Local Growth Fund investment approving the identified spend mitigations, which fully mitigate the forecast under-spend of £17.6m.
- **Consider and approve the** transfer of £0.49m of 2015/16 LGF allocation from Essex County Council to Southend-on-Sea Borough Council, to enable Southend to bring forward LGF spend on the Southend Central Area Action Plan (SCAAP), where the

delivery of the project is time critical. The equivalent LGF allocation would be transferred back in later years, such that the overall allocation across years remains the same.

- **Note and acknowledge that there remains a risk of further underspend** versus the 2015/16 allocations.
    - To reduce risk of underspend in the remainder of the year, promoters are encouraged to actively consider further mitigations that could be deployed should the Q3 position reveal additional underspend risk.
- **Agree reporting of all Local Growth Fund schemes to Government** under the current conditions of our Assurance Framework
- **Note the implementation of the Capital Programme process** and the wider context of these changes

3. Background and Proposal

Grant funding conditions

3.1. The grant funding conditions for the Local Growth Fund (LGF) were confirmed by the DCLG in early February of this year (see appendix 1 for detail).

3.2. The following conditions must be satisfied to ensure compliance with the grant funding agreement:

- The funding for the Growth Deal is provided as a capital grant under Section 31 of the Local Government Act 2003 and can be used for **capital expenditure** purposes only
- The funding must be applied in respect of **capital expenditure incurred** during the financial year in which it is awarded (i.e. the period 1st April 2015 to 31st March 2016)
- All funding (whether awarded by DCLG or Department for Transport (DfT) will be used to support the **Growth Deal** agreed between the Government and the LEP and will be used to secure the outcomes set out in the Growth Deal
- The funding must be deployed solely in accordance with decisions made through a local Assurance Framework agreed between the LEP and the Council as Accountable Body. This framework must be consistent with the standards set out in the national assurance framework. In the case of specific schemes which are still subject to business case sign off by DfT, the DfT business case sign-off process may mean that the local assurance framework process is not required in full. This must be agreed on a scheme by scheme basis with the DfT.
- That the LEP will track progress against agreed core metrics and outcomes, in line with the national monitoring and evaluation framework.

3.3. DCLG advised in February that payment of the grant would be on a quarterly basis. However, the successful adoption of our Assurance Framework provided the

Government with sufficient confidence to release the remaining three quarters of funding in May of this year.

SE LEP capital programme

3.4. For SE LEP the Government requires notification, and potentially approval, of all proposed changes to Local Growth Fund projects. This includes, but is not restricted to, changes to allocations of funding, total project costs, outputs and outcomes.

3.5. Currently funds are transferred to the relevant Highways Authority, in the case of transport schemes, or the appropriate county/unitary council in the case of non-transport schemes. The only exception to this approach is with regard to the funding of Skills projects, where the grant is allocated direct to the relevant college. The grant transfers are made through a signed Service Level Agreement (SLA) between the Section 151 Officer of the Accountable Body and that of the receiving authority. The SLA requires the receiving authority to meet all the conditions laid out in paragraph 3.2 above.

3.6. The SLA allows for a tolerance of 10% per project. This means that the receiving authority is able to vire LGF monies between LGF projects that have been approved by the Accountability Board to the value of 10% of the total LGF allocation without seeking Accountability Board approval for the transfer. However, the Accountability Board will be informed of the change and, as per paragraph 3.4, the Accountable Body will inform the Government of the change.

3.7. Currently monies are held at the county/unitary level and are not managed formally at a Federal level although there is reporting on the relevant schemes to the Federal Boards by those authorities.

Spending in 2015/16

3.8. At an update with Department of Business, Innovation and Skills (BIS) and DCLG colleagues on 16th September 2015, it was made very clear that all LGF funds received by SE LEP in 2015/16 are expected to be defrayed by 31st March 2016. Minimal amounts of slippage at the end of the year will be considered in very exceptional circumstances as part of the 'Annual Conversation' between SE LEP and Government and whilst there is no intention to claw back funds there potentially would be an adverse effect on future year allocations.

3.9. Whilst Government officials recognise that there will be some degree of slippage in LEP programmes they are encouraging LEPs and their Accountable Bodies to proactively manage the use of LGF funding.

3.10. At the meeting on 16th September 2015, it was highlighted that it would be permissible for LGF under spends to be applied to non LGF capital projects within wider capital programmes. This would be on the basis that the unrestricted capital funding replaced by LGF in 2015/16 would be used to swap back into LGF schemes in 2016/17, effectively swapping the funding sources between years.

3.11. To swap out LGF to the wider capital programme the following conditions would have to be met by the relevant local authority:

- approvals for any virement between LGF and non LGF projects must be secured from the Accountability Board regardless of value
- demonstrates to the LEP and Accountable Body that LGF has been applied to capital expenditure within 2015/16
- identifies the equivalent unrestricted local capital financing sources that have been displaced by the LGF in 2015/16, and demonstrates to the LEP and Accountable Body that these funding sources are subsequently applied in 2016/17 against the LEP Growth Deal projects.
- demonstrates to the LEP and Accountable Body that the full amount of allocated LGF for the approved Local Growth Deal project(s) has been properly applied to the approved project(s) over its agreed project delivery profile.

3.12. DCLG is clear that should LEPs and Accountable Bodies chose to use the mechanism outlined above, they are reminded of the key requirement of robust and sustainable project development and delivery within the funding conditions. Any change to funding must not adversely affect the outputs and outcomes of projects.

Management options

3.13. Given the guidance from Government, the funding conditions and the Assurance Framework requirements, the options for managing slippage in the SE LEP Capital Programme have been identified in the table below:

Table 1 2015/16 LGF Underspend Mitigation Options

Option	Description	Implications for SELEP
Option 1 - Bringing forward LGF spend on schemes in the 15/16 capital programme	• Bring forward spend where delivery can be advanced and additional spend incurred in 15/16 • Re-profiling of spend between funding sources and years for LGF projects in 15/16 programme. Total project cost and LGF cost unchanged and • LGF funding brought forward to spend in 15/16	• Bringing forward spend is appropriate programme management measure at LA / FA level. • For re-profiling there would need to be a process / assurance in place to ensure that equivalent non-LGF money deferred is recycled into LGF programme. • Low risk option as ITE approval exists, and schemes generally are in delivery phase.

Option	Description	Implications for SELEP
Option 2 – Bringing forward of 16/17 LGF schemes to spend in 15/16	• Advancing delivery of projects due to start in 16/17 to 15/ 16.	• Fits with principle of devolution to Federal Areas • New schemes would be subject to ITE / approvals (as exception). No release of LGF funding prior to ITE assessment. • Limited scope for Promoters to do this at this point in the programme. • Medium risk, as required to go through ITE approval and spend in remainder of 15/16.
Option 3 - Transfer of LGF spend on schemes between Partner authorities.	• LGF spend directed to Local Authorities with schemes that could spend over and above the 15/16 allocation. • Could either be within FAs or across FAs.	• Option would demonstrate collaborative working across LEP. • Option would include a mechanism for 'payback' in future years so the pot for each FA / LA unchanged. • Low risk option as ITE approval exists, and schemes generally are in delivery phase.
Option 4 – Re-profiling of spend between LGF projects and Capital Programme projects	• LGF funding would be spent on non-LGF capital programme projects. • The Promoter would recycle its deferred funding back to the LGF pot, such that total LGF allocation unchanged (over the programme)	• Need process / assurance in place to ensure that equivalent non-LGF money deferred is recycled into LGF programme. • Low risk, as Capital Programme not subject to ITE process, and schemes generally in delivery phase.

3.14. All other options, including the carry forward of slippage, are high risk and potentially would undermine the effectiveness of the Local Growth Programme as it stands and future funding streams that may be allocated to the programme.

3.15. It is recommended that the Accountability Board adopt the options outlined in Table 1 to manage the programme.

The Capital Management Process for LGF

3.16. The following sections of the report are the culmination of the capital management process agreed by the Accountability Board in July and endorsed in September to achieve the best-possible economic impact of our £480m Growth Deal Capital Programme.

3.17. Currently around £60m (excluding skills capital) is being managed through this process and recommendations are brought to Board members for consideration and approval.

3.18. The agreed quarterly capital programme monitoring cycle includes:

- **Scheme monitoring by scheme sponsors** (primarily the county and unitary authorities)
- **Programme monitoring** by federal areas
- **LEP-wide programme consideration** by a small officer preparation group from each county/unitary
- **Exception reporting** (proposed by the above) reflecting agreed tolerance levels
- **Consideration of exception reporting and proposed changes by all Board members** and federal areas
- **Accountability Board endorsement (or rejection)** of any changes to local programmes within tolerances

3.19 Proposed changes are reported to Government under the terms of our Assurance Framework

Implementation

3.20 SE LEP wide capital programme management and monitoring has been undertaken by the SE LEP Secretariat with the support of Steer Davies Gleave and Essex County Council as SE LEP's Accountable Body.

3.21 Through Steer Davis Gleave, scheme promoter meetings have been held in Kent, Essex, East Sussex and Medway with close contact with Southend and Thurrock (recognising limited 2015/16 scheme spend). At each meeting, scheme by scheme consideration was undertaken with the risk of under spend identified and possible mitigations discussed. Other sundry issues were also identified.

3.22 The Programme Consideration Session then took place on 14 October to:

- Highlight schemes where there is a potential underspend of 2015/16 LGF money
- Answer questions on particular schemes and the level of certainty in the short-term programme and hence ability to spend in 2015/16
- Highlight schemes that will require 'exception reporting' at the November Accountability Board
- Discuss and, where possible, agree proposed mitigations to ensure that the current year LGF allocation can be spent
- Consider any implications of 2015/16 re-profiling on the 2016/17 programme, recognising need to report both on the 2015/16 spend and

provide confidence in the level of funding allocated and ability to deliver in 2016/17)
- Develop recommendations for the Accountability Board based on the above.

“Use it or lose it”

3.23 As reported to the SE LEP Strategic Board, and as outlined in 4.8 above, there is an increasing acceptance that capital programme funding may be on a “use it or lose it” basis, with Government focussed strongly on growth delivery. It is understood that under spend could result in loss of future Local Growth Fund and would undoubtedly weaken our position to win more funding, some of which may be released through the Spending Review in November.

3.24 As such, pro-active capital programme management taking full advantage of the scale of the SE LEP programme – including temporary “swaps” of funding between local authority areas - is both necessary to deliver our growth investment and essential in terms of future funding success. It is critical we demonstrate this pro-active management.

Forecast Local Growth Fund Programme for 2015/16

The 2015/16 capital programme allocation was based on spend of £60m across LGF schemes. Based on spend to date on these 2015/16 schemes, and re-forecast spend to year end, there is a forecast underspend at the programme level of £17.6m.

3.25 The forecast underspend is based on reduced expenditure compared to the LGF allocation for projects in Essex, Kent and East Sussex. For all projects the issues relate to the timing of expenditure and the consequent underspend in 2015/16, rather than the ability to deliver the project within the overall LGF programme timescale.

3.26 Individual Promoting Authorities have set out proposed mitigations for underspends within their area. As such, Essex, Kent and East Sussex have each developed proposals to address underspend which, in combination, would mitigate the forecast 2015/16 underspend.

3.27 As part the proposed mitigation Essex CC has agreed, in principle, to transfer £0.49m of 2015/16 LGF allocation to Southend, to enable Southend to bring forward LGF spend on the Southend Central Area Action Plan (SCAAP), where the delivery of the project is time critical. The equivalent LGF allocation would be transferred back in later years, such that the overall allocation across years remains the same.

3.28 However, there remains risk that underspend is likely to materialise in Q3 and Q4 related to potential further risk of underspend on schemes within the existing LGF programme, and because there are also risks associated with some of the proposed spend mitigations. For example, £12.5m of proposed spend mitigation (across 10 schemes) is based on Option 2; for each scheme this will require the submission of a business case, ITE review, SE LEP Accountability Board approval and must spend in the remainder of the financial year.

3.29 To reduce risk of underspend in the remainder of the year, promoters are encouraged to actively consider further mitigations that could be deployed should the Q3 position reveal additional underspend risk.

3.30 Further potential mitigation options exist whereby LGF spend from Authorities not currently forecasting an underspend (Medway, Thurrock, Southend) could be brought forward. For example, Medway has projects that are in the delivery phase, and where additional LGF spend could be brought forward to 2015/16 – these offer a low risk way of mitigating potential further underspend risk. Such a transfer (shown as Option 3 in Table 1), would require the agreement between Partner Authorities to transfer 2015/16 spend between Partner Authorities, with the undertaking that LGF spend would be recycled in later years (i.e. on a similar basis to the proposed transfer between Essex and Southend).

3.31 Should there be a further forecast underspend (i.e. underspend compared to the mitigated programme) there is likely to be the option that LGF underspend could be transferred to Local Authority capital programme budgets as outlined above. However, dialogue with Government suggests that this would be viewed as a failure to deliver on the LGF programme, and would be likely to result in lower future year LGF allocations, with greater funding directed to those LEPs that demonstrate a strong track record of delivery and collaborative working.

4 Financial Implications

4.1 The Government have indicated that future grant allocations to the SELEP may be impacted should the Local Growth Fund not be defrayed in the year it has been allocated. The late confirmation of allocations from the Government has presented challenges for delivery within the year and as such mitigations have been developed by each area to maximise the spend of the Local Growth Fund in 2015/16.

4.2 The mitigation proposals for managing the Local Growth Fund spend within the current financial year aim to maximise defrayal of the Local Growth Fund allocated in 2015/16. The following should be noted with regard to these proposals:

- 4.2.1 The mitigations do not reflect a change in the total funding allocated to each project, they simply re-profile the spend of the grant across the years.
- 4.2.2 The mitigations may mean that delivery of some of the Local Growth Fund outputs are delayed for those projects re-profiling spend into future years.
- 4.2.3 Where funding swaps are requested to prioritise LGF spend in 2015/16, certification will be required to

confirm that equivalent substitute funding will be made available in 2016/17.

4.2.4 There is a risk that optimism bias has not been sufficiently considered in the forecast spend profiles for the projects. This will continue to be reviewed as part of the on-going programme monitoring; if necessary, further options will be presented at future meetings of the Accountability Board.

4.3 Confirmation is required from the Government with regard to the total amount of Local Growth funding to be received in 2016/17.

5 Legal Implications

5.1 None at present.

6 Staffing and other resource implications

6.1 None

7 Equality and Diversity implications

7.1 None

8 List of Appendices

8.1 Appendix 1: Grant funding conditions for the Local Growth Fund
8.2 Appendix 2: Programme summary dashboard, including headline summary of 2015/16 forecast underspend and risk.
8.3 Appendix 3: Detail of all Local Growth Fund schemes indicating spend against profile with Red/Amber/Green (RAG) rating against tolerances and proposed mitigations.

(available at www.essex.gov.uk if not circulated with this report)

9 List of Background Papers

9.1 None

(Any request for any background papers listed here should be made to the person named at the front of the report who will be able to help with any enquiries)

Role	Date
Accountable Body sign off Lorna Norris On behalf of Margaret Lee	5th November 2015