

Forward Plan reference number: (N/A)

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| Report title: SELEP Operations Update | |
| Report to Accountability Board | |
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| Date: 24 January 2020 | For: Information |
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| SELEP Partner Authority affected: Pan-LEP | |

1. Purpose of Report

- 1.1. The purpose of this report is for the Accountability Board (the Board) to be updated on the operational activities within the Secretariat to support both this Board and the Strategic Board. The report includes an update on risk management and updates on items of governance. The financial update is now included in a separate report.

2. Recommendations

- 2.1. The Board is asked to:
- 2.1.1. **Note** the risk register at Appendix A and the update included below;
 - 2.1.2. **Note** the update on the LEP Review and Assurance Framework; and
 - 2.1.3. **Note** the update on the Annual Performance Review.

3. Risk Register

- 3.1. As previously reported, programme risks of the LGF are reported as part of the Capital Programme update and more general risks are covered in this report.
- 3.2. There has been a great deal of activity within the Secretariat since the last meeting of the Accountability Board and the progress made has reduced the likelihood of some risks occurring. Therefore, the risks associated with the LEP Review and the production of the Local Industrial Strategy have been downgraded to a medium and low risk respectively.
- 3.3. There have also been a number of changes at a national level following the General Election in early December 2019. This has increased the rating of some risks relating to future funding and policy decisions and the downgrading of others associated with additional work supporting Brexit.

LEP Review

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- 3.4. Over the Christmas 2019 period the final decisions were made by the Strategic Board on the governance documentation for the LEP Review. There are now decisions pending in partner organisations, but current timelines are such that SELEP Ltd will be registered on 28 February 2020 should all those approvals be gained. We have worked with partners to ensure that these decisions are programmed in so the likelihood of not reaching this timeline has reduced.
- 3.5. The Deputy Chair recruitment is complete and the preferred candidate has been selected, thus ensuring another LEP Review recommendation has been met. The two remaining Federated Boards that required a refresh of membership have now been through that process. A full and open recruitment was run for both Kent and Medway Economic Partnership (KMEP) and Opportunity South Essex (OSE) in the last couple of months. Confirmation on those members selected to become Directors of SELEP Ltd (pending governance decisions in other organisations in some cases) will be made in February 2020.
- 3.6. With these changes and other small changes to strengthen our governance policy suite, we will be compliant with the majority of the LEP Review recommendations at the end of February 2020. There are governance decisions to be made in other organisations so the likelihood of not being compliant cannot be entirely dismissed, but it has reduced and therefore this risk is downgraded to medium.
- 3.7. However, there is a risk that the recommendation of female representation on the Board being at least 33% might not be met. The Chair of SELEP has been clear that he expects Federated Board nominated representatives to the Strategic Board be gender balanced. It is currently unclear as to what the impact will be if the gender balance representation is not met. Government have informed us that the Annual Performance Review assessment of Governance will be rated as Requires Improvement if the 33% is not achieved but it is not clear whether Government will sanction those LEPs with a Requires Improvement rating.
- 3.8. In order to mitigate the potential impact of not receiving Core Funding (£500,000) from Government, which is the most likely sanction to be taken if a Requires Improvement rating is applied, a renewed assessment of the 2020/21 revenue budget is being made to identify activity that could be deleted or postponed. Additionally, it is now probable that there will be a larger underspend on 2019/20 budget, mainly due to an increased interest receipt on capital funds held and reduced project activity due to a focus on the LEP Review. This underspend could be carried forward to offset the loss of the Core Funding Grant and therefore the impact of this grant not being provided could be largely mitigated. Further information on the Forecast position is included within the Finance Update (Agenda item 17)
- 3.9. If Government chose to withhold Local Growth Fund (LGF) grant in 2020/21 the impact would be much more serious. This would also impact on delivery partners who currently have projects in progress and are in contractual

arrangements with third parties, meaning they may need to meet those obligations from their own budgets. Should this happen there is a very high risk that those partners would choose to not continue their relationship with the LEP. Representations will be made to Government to highlight the severe impact of withholding LGF. This would be a particularly harsh sanction given that best efforts have been made across the Partnership and the target missed only by only a very small margin. There has been considerable improvement shown over the year moving from a 18% female representation in April 2019.

- 3.10. In the event that LGF grant is withheld in 2020/21, a review across the whole programme will be undertaken to assess the impact on projects currently underway and for those yet to start, with an update brought back to the Board at the earliest opportunity.

Local Industrial Strategy

- 3.11. Following a huge effort from members of the team and partners a working draft of the LIS was discussed with Board in January 2020. Discussions have begun with Government in advance of full submission and no major issues have been flagged. The timelines for the LIS have adjusted very slightly in our favour as there is a significant backlog within Government on agreeing those LISs already submitted. Currently we are expecting the LIS to be agreed with Government at some point in the summer., This has meant that the risk of not producing a LIS in line with Government's expectations and timelines has been downgraded to a low but this should be considered in conjunction with the increase in the rating of the risk related to changes in policy by Government.

Other Risks Now Ranked Low

- 3.12. The risk relating to work connected to Brexit is now rated low due to the Withdrawal Agreement and Transition period being in place. However, this could increase again as we move towards the end of Transition at 31 December 2020.
- 3.13. At the meeting of the Strategic Board in January 2020 the Board agreed to extend the Chair's term by a further (and final) two years. A more detailed Succession Planning approach has also been adopted to mitigate the risks of changes to senior members of the Board such as the Chair and Deputy Chair.

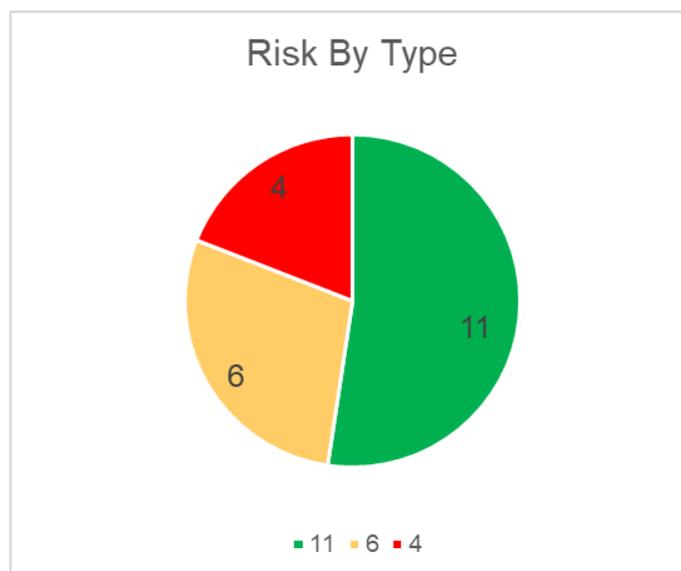
Future Policy Direction and Funding

- 3.14. We are now very close to the start of the final year of the LGF Programme and the ESIF funding programme is also coming to an end as the UK withdraws from the EU. Whilst there has been discussion over the last few years of a new fund called the UK Shared Prosperity Fund (UKSPF) being the replacement for both these programmes, there has been no meaningful information shared despite a consultation being promised in the Autumn of 2018.
- 3.15. Following the General Election in December 2019 there has effectively been a change in administration. At time of writing, a Cabinet reshuffle is still pending

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as is the March Budget and the Comprehensive Spending Review. However, it would appear that Government's focus is on the northern parts of England at least in the short term. There has also been a marked decrease in references to the National Industrial Strategy and the productivity challenge more generally.

- 3.16. These two events present a number of risks to SELEP. Firstly, there is no new capital investment funding available beyond 31 March 2021. This will also impact the revenue budget as this is largely funded through the interest receipts paid on capital funds that held prior to investment. The Secretariat is currently working with the Accountable Body Finance Team, Essex County Council, to model potential scenarios of how the team could be funded beyond 31 March 2021 and these will be presented to the Board at their next meeting following provisional outturn position on this year's spend and the consequent balances held in reserves, but the opportunities are very limited.
- 3.17. Without further access to capital funding it is very unlikely the ambitions in the LIS could be delivered and the productivity gap faced by the South East and the UK more generally will continue or worsen.
- 3.18. There may be a policy change away from LISs meaning a revised or new strategy will need to be put into place which will both stretch the resource of the team and could create "strategy fatigue" in our partners and business communities meaning they would be less likely to engage.
- 3.19. There is little that the Secretariat can do to mitigate these risks. Further efforts are being made to communicate with MPs in our geography to ensure they are well apprised of the impact of the partnership and understand the partnerships role in driving economic growth. We are also working with our neighbouring LEPs in the southern part of England to build a common case for investment in our areas. Despite this mitigation, the future funding of the LEP remains the highest ranked risk.
- 3.20. There still remains a risk around the workload and pressures on the Secretariat team but this has eased slightly as the LEP Review and LIS programmes of work have advanced. The management team of the Secretariat will continue to work to mitigate the risk through workload planning and support to the team. At time of writing no confirmation of funding for 2020/21 has been received but plans have been constructed on the basis of Government funding continuing. A more stable and structured approach to funding by Government would allow for a better resourcing approach within the team. We will continue to work with our neighbouring LEPs and the LEP Network to lobby for this.
- 3.21. We are currently managing 21 risks, four of which are high and six medium risks. Full details on these risks can be found at Appendix A.



4. Local Assurance Framework Implementation Plan

- 4.1. It is the role of the Accountability Board to oversee the implementation of the requirements of the Local Assurance Framework (LAF). To receive grant funding from central government, SELEP must have in place a LAF which demonstrates full compliance with the National Assurance Framework, published by central Government in January 2019. The LAF Implementation Plan, included at Appendix B sets out the actions required to ensure that SELEP is fulfilling its commitments under the LAF.
- 4.2. The most challenging but pressing actions detailed in the Implementation Plan relate to the recommendations of the LEP Review. Specifically, the requirement for incorporation and the changes to board composition. Government is keen to see these requirements of the LEP Review implemented as soon as possible, so it is crucial that SELEP maintains momentum with this work.
- 4.3. These changes must be implemented by the end of 2019/20 financial year in order to receive SELEP's grant and core funding in 2020/21. As such, the implementation of these changes remains a priority for SELEP.
- 4.4. As highlighted above at 3.4 onwards, a great deal of activity was undertaken on the LEP Review since the last meeting of the Accountability Board. The final decisions required of Board were made and the registration of SELEP Ltd is now dependent on decisions within partner organisations. The Secretariat and the Accountable Body have been working with key organisations to ensure that these decisions are programmed so that they are made before the end of February 2020.
- 4.5. On the basis that those decisions are passed and the company is registered the only outstanding issue on the LEP Review would be gender diversity. Federated Boards have been through open and transparent recruitment processes and we are waiting for final confirmation of who each Board member will be.

- 4.6. Further work will be needed on the diversity agenda as the target becomes even more stretching and requires 50% representation by 2023. The Chair is also committed to considering diversity more generally. It is agreed that a more diverse Board is likely to be a more effective Board and as a partnership we should be looking across all protected characteristics not just gender. We will be sharing learning from the recent Deputy Chair recruitment process and continue to work with the Southern LEPs group that has been formed to consider diversity.
- 4.7. All Board members will be supported through an induction process which will make clear the changes in the governance structures of the LEP and their revised roles and responsibilities, including as Directors of a limited company. Counsel's Advice on the liabilities of Directors has been circulated and Directors' Insurance will be put in place.
- 4.8. The Board has agreed to extend the term of the Chair for a further two years. This is the final extension allowable under the Assurance Framework and Board Recruitment Policy. We have strengthened our Succession Planning Policy and have a process that will begin nine months before the final term ends on 21 March 2022. This will allow sufficient time for the Strategic Board to consider any changes to the role and person specification before launching a full recruitment process.
- 4.9. A revised Assurance Framework has been constructed and approved by Strategic Board which will be adopted when the company is registered and supporting guidance documents such as the Guide to Governance and Board Members' Handbook have been created. At the next meeting of the Board a final report will be made on the current Implementation Plan and a new Implementation Plan/Action Plan to monitor ongoing performance against the revised Assurance Framework will be presented.

Key Performance Indicators

- 4.10. We are tracking a number of KPIs to ensure there is compliance with the governance requirements in the Assurance Framework. These can be found at Appendix C. Generally, all targets have been met but there are still some issues with the publication of minutes for Federated Boards, however it is acknowledged that officers supporting the Federated Boards have been implementing the changes required under the LEP Review which has created additional workloads. The target for the publication of business cases in advance of Accountability Board has been met for the first time for the February 2020 meeting.

5. Annual Performance Review

- 5.1. The Annual Performance Review (APR) formal meeting was held on 27 January 2020. As in earlier years, the Cities and Local Growth Unit (CLGU) has refined the process for the APR. LEPs will continue to be assessed on three categories of performance: Strategic Impact, Governance and Delivery.

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The scoring for the three categories differs. Strategic Impact is rated as a binary met/not met requirements. The other two categories have the following possible ratings:

- Inadequate
- Requires Improvement
- Good
- Exceptional

- 5.2. The CLGU will make an assessment based on the information shared at the meeting, alongside template submissions required of each LEP. These templates were submitted in December 2019 and can be updated on 1 March 2020. The templates included information on the current performance across the three categories; this includes investment spend, evidence of strategic impact and evidence of the LEP meeting all requirements under the LEP Review.
- 5.3. Subsequent to the submission of the updated templates on 1 March 2020, CLGU will go through a process of moderation of scoring across all the LEPs and the final scores will be provided to LEPs at the end of that month. No major issues were raised at the meeting on 27 January 2020 and pending all the LEP Review requirements being met by 1 March 2020 then our score is expected to be positive. However, as noted above, if the gender balance target isn't met then the Governance category cannot be rated higher than Requires Improvement.

6. Accountable Body Comments

- 6.1. It is a requirement of Government that the SELEP agrees and implements an assurance framework that meets the revised standards set out in the LEP National Assurance Framework.
- 6.2. The purpose of the Assurance Framework is to ensure that SELEP has in place the necessary systems and processes to manage delegated funding from central Government budgets effectively.
- 6.3. A requirement for the release of the Local Growth Fund (LGF) grant to SELEP for 2019/20, was that the S151 officer of the Accountable Body had to provide confirmation to the Government, by the 28th February 2019, that the SELEP has the following in place:
- 6.3.1. the processes to ensure the proper administration of its financial affairs;
 - 6.3.2. compliance with the minimum standards as outlined in the National Assurance Framework (2016) and the Best Practice Guidance (2018); and
 - 6.3.3. whether or not SELEP was expected to be compliant with the new National Local Growth Assurance Framework (2019) by 1 April 2019.

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- 6.4. This confirmation was provided to the Government, by the S151 Officer, on the basis that the revised SELEP Local Assurance framework was agreed by the Board at its March 2019 meeting, with a caveat that the requirement to adopt a legal entity by April 2019 is exempt by Government; this requirement is expected to be met by April 2020.
- 6.5. The S151 Officer of the Accountable Body is required, by the revised Assurance Framework, to ensure that their oversight of the proper administration of financial affairs within SELEP continues throughout the year.
- 6.6. In addition, the S151 Officer is required to provide an assurance statement as part of the Annual Performance Review and, by 28 February each year, they are required to submit a letter to the MHCLG's Accounting Officer. This must include:
- Details of the checks that the S151 Officer (or deputies) has taken to assure themselves that the SELEP has in place the processes that ensure proper administration of financial affairs in the SELEP;
 - A statement outlining whether, having considered all the relevant information, the S151 Officer is of the opinion that the financial affairs of the SELEP are being properly administered (including consistently with the National Local Growth Assurance Framework and SELEP's local Assurance Framework); and
 - If not, information about the main concerns and recommendations about the arrangements which need to be implemented in order to get the SELEP to be properly administered.
- 6.7. At present, no significant issues are arising with regards to the financial affairs of SELEP. It should be noted, however, that as SELEP transitions to becoming an incorporated entity, the arrangements with the Accountable Body will be reviewed and formalised as appropriate, to reflect the chosen arrangements agreed by the Strategic Board.
- 6.8. The key risk at present is the time remaining to finalise and implement the revised arrangements for the new company is the implementation of the induction programme for the new Board of Directors, including appropriate advice setting out what it means to be a Director of SELEP Ltd.

7. Financial Implications (Accountable Body comments)

- 7.1. The 2019/20 Core funding and LGF grant payments were confirmed and received in full by the Accountable Body in April 2019.
- 7.2. Given that future grant payments are reliant on continued assurances from the S151 Officer of the Accountable Body, it is essential that efforts continue to be made to ensure appropriate consideration and prioritisation is given to implementing the Assurance Framework in full.

- 7.3. Currently, no significant financial risks have been identified for 2019/20 as the majority of the funding anticipated from Government has been received and planned funding profiles for projects are expected to be met. In addition, SELEP has more than sufficient reserves to offset its revenue commitments should this be required. Uncertainties do, however, remain with regard to the Investments made by SELEP to Hadlow College, which remain subject to investigation; further information in relation to this issue can be found in Agenda item 19.
- 7.4. The main funding risk relates to the receipt of future funding from Government as this continues to be confirmed on an annual basis, undermining future planning and is counter-intuitive to the expectations of Government within the National Assurance Framework.
- 7.5. Essex County Council, as the Accountable Body for the SELEP, is only able to meet funding commitments made by the SELEP, where it is in receipt of sufficient funding to do so and any spend is in line with the requirements of the Local Assurance Framework and any conditions associated with individual funding allocations.

8. Legal Implications (Accountable Body comments)

- 8.1. There are no legal implications arising from this report

9. Equality and Diversity implications

- 9.1. Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when a public sector body makes decisions it must have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act;
 - (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.
- 9.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 9.3. Through SELEP's activities, SELEP will ensure that any equality implications are considered as part of the Board's decision making processes.

10. List of Appendices

- 10.1. Appendix A – Risk Register
- 10.2. Appendix B – LAF Implementation Plan

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10.3. Appendix C – Governance and Transparency KPIs

11. List of Background Papers

11.1. 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 |
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| Accountable Body sign off Stephanie Mitchener (On behalf of Nicole Wood, S151 Officer, Essex County Council) | 6/2/20 |