

Marches Local Enterprise Partnership (LEP) Transfer Agreement

Meeting: Marches Joint Committee

Meeting date: Thursday 7 March 2024

Report by: Cabinet member corporate strategy and budget;

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose

For the Marches Joint Committee to consider and approve the Marches Local Enterprise Partnership Transfer Agreement, following government's decision to transfer all LEP functions to Local Authorities from April 2024.

Recommendation(s)

That:

- a) **The Marches Joint Committee approve the Marches Local Enterprise Partnership Transfer Agreement;**

- b) The Marches Joint Committee delegate to the respective constituent Local Authority's Corporate Director for Economy and Environment/ Executive Directors:**
- i. To make any minor amendments in finalising and to sign the Transfer Agreement on behalf of their respective council,**
 - ii. To extend the Terms of Reference for the Joint Committee as set out in Appendix 1 to include determining arrangements for ongoing oversight and management of the transferring functions and projects**
 - iii. To enter into a further agreement to reflect that the benefit and obligations under the Transfer Agreement are shared equitably between the councils from the Transfer Date based on the principles in paragraph 10 of this report AND provides a framework for future collaboration for economic functions should the Joint Committee require it.**

Alternative options

1. To not agree the Transfer Agreement – following a government decision to transfer LEP functions to Local Authorities in 2023, the Marches LEP is due to cease operations at the end of March 2024. Failure to agree the Transfer Agreement would result in functions not being transferred, significantly disrupting services to businesses and leaving publically funded assets and contracts at risk. This option is not recommended.
2. Not to enter into the further agreement – due to the short time frame to avoid the risk of extended negotiations between the councils before the Transfer Agreement is signed, the benefit and obligations will fall on Shropshire only (being the accountable body and signatory to the Transfer Agreement). This has been agreed but on the expectation that a fair sharing of benefits and obligations will be agreed by the councils within 30 days of the Transfer Date.

Key considerations

3. The government announced on 4 August 2023 that it will no longer fund LEPs, with functions due to transfer to Local Authorities. Following this decision and a period of review, the Marches LEP Ltd Board have taken the decision to cease operations from the end of March 2024.
4. The Transfer Agreement sets out the legal framework for the transfer of functions, current schemes, staffing, pension obligations, existing grant funding contracts, and publically funded assets to the Local Authorities, with Shropshire Council remaining as the accountable body for all legacy arrangements. This includes the transfer of both benefits and obligations. The day that these transfers are intended is 12 March 2024 (Transfer Date).
5. In summary, as set out in schedule 3 of the Transfer Agreement, the following functions are due to transfer;
 - a. Marches Growth Hub – current government funded activity comes to an end in March 2024.
 - b. Marches Career Hub - current government funded activity comes to an end in August 2024. One member of staff will transfer to deliver services in this period as reflected in schedule 4.
 - c. Department for Business and Trade Key Account Management - current government funded activity comes to an end in March 2024

- d. Programme Management Function – Shropshire Council will continue as the accountable body for current grant funding contracts, which are primarily in the final output delivery phase.
6. There are no new known financial liabilities to the Local Authorities in relation to the Transfer Agreement. All costs related to the closure of the Marches LEP Ltd, including redundancies and pension liabilities, will be met by the company's existing reserves. Where functions are transferring with activity to be delivered post March 2024 such as the Careers Hub, grant funding remains in place to meet these costs. Shropshire Council remain the accountable body for grant contracts issued by the Marches LEP. The government has confirmed an allocation of up to £240,000 to accountable bodies, such as Shropshire Council, in 2024/25 to meet the on-going costs of LEP transition.
7. Schedule 5 of the Transfer Agreement details 5 'special projects' where delivery and or future income may be generated post the closure of the Marches LEP. The Marches Joint Committee will have a role in overseeing these projects and related income. The Transfer Agreement states '*The Transferee shall utilise all sums in such restricted account for the purpose of regional economic development in the Designated Local Authorities' Geographies*'. This will ensure any legacy funds will continue to support the local economy, building on the great outcomes delivered by the Marches LEP Board for years to come.
8. The current Terms of the Joint Committee are limited only to activities for the transfer of the functions and projects. They do not include post transfer. The recommendation is that the Joint Committee continues to oversee and manage these functions and projects until they, or the Joint Committee arrangement, has come to an end.
9. To ensure that the short timeline to wind up the LEP are met, efforts have focused on negotiations with the LEP. This has meant the benefit and obligations are transferred to Shropshire but with the expectation that the councils will document as soon as possible after the Transfer Date, a fair sharing of benefits and obligations based upon matters such as the area, use or reach of a particular scheme.
10. The principles of fair sharing will depend on the nature of the function/project. Clearly where the benefit is seen over multiple council areas the costs will be shared. A scheme that only benefits one council, means that council bears the cost. For example, a scheme such as Hereford Enterprise Zone clearly only has rights and obligations for Herefordshire only.
11. In addition, there are obligations on Shropshire by way of its status as Accountable Body. Where this continues, there will either need to be a transfer to relevant council of that status, sharing of responsibilities or ability for Shropshire to recover its costs.
12. The contract will also provide a contractual framework for future collaboration between the councils should the Joint Committee determine that it is required. This doesn't mean that the council's must discharge such functions through a Joint Committee but provides the flexibility in the future should it be desirable.

Community impact

13. In accordance with the Levelling Up White paper, Government have taken the decision to focus business engagement and support services at a local level, responding to the needs of local communities. Through these changes the three Local Authorities can ensure that business representation, engagement, functions, and any available funding (such as UK Shared Prosperity Funding) are aligned in meeting local needs.

14. The respective authorities Economic Plans recognise the need for co-ordinated business support, skills, educational and wider place services in order to achieve lasting growth.
15. Engaging and supporting businesses to enable growth, attracting new investment and the creation of higher value jobs, through working in partnership with existing local partnerships and the business community, is a priority for all three councils.

Environmental Impact

16. The Marches LEP has made investments in a range of renewable energy and low carbon projects, and it is important that these are overseen and enabled through to successful delivery. The Joint Committee provides the vehicle for the partner local authorities to continue to support each other on climate and net zero plans and local delivery as required.
17. Each council has clear strategies for managing climate change and carbon reduction.

Equality duty

18. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. The transfer of functions from the Marches LEP to the councils will provide an opportunity to better respond to local needs, and ensure that services are available and accessible to all who would like to use them. Equality Impact Assessments will be undertaken on all successor services prior to transition/ launch.

Resource implications

20. As per para 5 above, there are no new financial liabilities to the three council's as a result of approving the Transfer Agreement. Only the Careers Hub function has on going operational activities required post transfer, which is fully grant funded until August 2024. Under the existing service level agreement between Shropshire Council and the LEP, Shropshire Council will continue to employ the related staff for this period.
21. Delivery of activities related to the other functions will depend on any new government funding, with details yet to be announced at the time of this decision. Therefore, budget implications for the delivery of these services will need to be considered by each respective Local Authority as future funding is known.
22. Herefordshire Council will provide governance support to the Marches Joint Committee until such time as longer term local governance arrangements are established. It is anticipated that the Joint Committee will meet bi-monthly over this period, requiring some minimal Herefordshire Council staff time in preparing for and minuting meetings.

23. Any costs related to the closure of Marches LEP Ltd will be met by their reserves, and overseen by a liquidator appointed by the LEP Board.
24. The Joint Committee will oversee any legacy contracts as defined in schedule 5 of the Transfer Agreement, ensuring funds are utilised for economic development activity in the former LEP area in accordance with the Transfer Agreement and any specific contractual arrangements in place. Shropshire Council, as the accountable body, will manage legacy contracts and the undertaking of any actions agreed by the Joint Committee.
25. Government have confirmed that LEP accountable bodies such as Shropshire Council will receive up to £240K in 2024/25 for their continued role in managing LEP transition arrangements.

Legal implications

26. The Transfer Agreement has been drafted in consultation with the legal teams from all three Local Authorities.
27. Although there are no new additional liabilities known at this time, an indemnity has been sought from the LEP in relation to pre-transfer activities of functions that transfer to the councils. This indemnity is sufficient on the presumption that sufficient funding exists within the LEP and will end once the LEP has been liquidated.
28. The appointment of a liquidator means that the Council's will need to liaise with the liquidator. The LEP has indicated that residual monies within the LEP (those remaining after the Transfer Date) will be used to fund liabilities, pay the liquidator and the intention would be to return those to the councils to be distributed in accordance with the articles of association.

Risk management

Risk / opportunity	Mitigation
Businesses encounter disruption in the delivery of functions previously delivered by the Marches LEP.	LEP and Local Authority officers are working closely to minimise the impact of the transition of functions on local businesses, as reflected in the Transfer Agreement. Although future government funding arrangements for functions such as the Growth Hub are unknown at this stage.
Contracted projects transferred from the LEP fail to deliver contract outputs.	The vast majority of project contracts that are due to be transferred have drawn down their grant and are in the project delivery stage. The Marches LEP Project Management and Risk Committee have undertaken an extensive review of contracted projects in preparation for transfer. As accountable body, Shropshire Council will manage the contracts post transfer, reporting to the Joint Committee. Appropriate management controls will be utilised should projects fail to meet their contracted requirements.
Costs related to the closure of the Marches LEP Ltd have to be met by the Local Authorities.	The three Local Authorities are not liable for any closure related costs, the Marches LEP is an independent business. The Transfer Agreement does not transfer any closure liabilities or costs to the three councils.

Consultees

A Political Group Consultation was held on the 27th February 2024. Those attending the consultation noted the significant contribution the Marches LEP has made through funding the county to date, although recognising the opportunity to further consider local Herefordshire needs through the government changes. Some concerns were raised regarding the council's capacity to deliver additional functions, particularly as future government funding for these activities is not currently known. All of those attending recognised the need for a managed transfer process through the Transfer Agreement in transferring the LEP functions as company closes.

Appendices

Appendix 1 – Terms of Reference for Joint Committee

Background papers

None

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published

Governance	John Coleman	Date 20/02/2024
Finance	Karen Morris, Judith Tranmer, Andrew Lovegrove	Date 27/02/2024
Legal	Sean O'Connor	Date 19/02/2024
Communications	Luenne Featherstone	Date 16/02/2024
Equality Duty	Harriet Yellin	Date 16/02/2024
Procurement	Carrie Deeley	Date 19/02/2024
Risk	Kevin Lloyd	Date 18/02/2024

Approved by Ross Cook Date 27/02/2024