

# SOLENT LOCAL ENTERPRISE PARTNERSHIP AND PORTSMOUTH CITY COUNCIL: PROTOCOL AND SERVICE SUPPORT AGREEMENT

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## Background

Solent Local Enterprise Partnership (LEP) is a partnership organisation between the business community, the Higher Education sector, three unitary authorities, six district councils and one county council, all of whom are actively working together to secure a more prosperous and sustainable future for the Solent area. These make up a fully-elected board of 16 directors.

The LEP is registered as a company limited by guarantee and it was incorporated on 18 March 2011. In keeping with the Articles of Association and in accordance with company law, the Board of Solent Local Enterprise Partnership Limited has been democratically elected by its members, thus ensuring that we have a robust, transparent and accountable delivery structure in place. The structures continue to evolve, reflecting both the ongoing local development of specific priorities, and also the Government requirement that LEPs should focus on the following four activities to support the development and delivery of their Solent 2050 Strategy<sup>1</sup>:

- Strategy: Developing an evidence-based Local Industrial Strategy that identifies local strengths and challenges, future opportunities and the action needed to boost productivity, earning power and competitiveness across their area;
- Allocation of funds: Identifying and developing investment opportunities; prioritising the award of local growth funding; and monitoring and evaluating the impacts of its activities to improve productivity across the local economy;
- Co-ordination: Using their convening power, for example to co-ordinate responses to economic shocks; and bringing together partners from the private, public and third sectors; and
- Advocacy: Collaborating with a wide-range of local partners to act as an informed and independent voice for their area.

Effective provisions for timely and binding decision-making are a central component of the LEP Strategic Economic Plan (SEP), EU Structural Investment Fund (EUSIF) Strategy and emerging Local Industrial Strategy (LIS). In pursuance of this and to ensure that the strategy and investments are effectively aligned, the LEP Board has decided to establish a Funding, Finance and Performance Management Group (FFPMG) to provide support and advice to the Board in relation to overall performance of commissioned activity against the published Solent SEP, EUSIF and Solent 2050 strategy<sup>2</sup>, to provide an overview of sources of funding that are being allocated to support activity under the published SEP, EUSIF, Solent 2050 strategy and Annual Delivery plan and to provide an overview and scrutiny of financial performance.

Portsmouth City Council (the Council) act as the accountable body for the LEP: the Council's section 151 Officer acts as the Chief Financial Officer, and the LEP team, who provide independent and impartial

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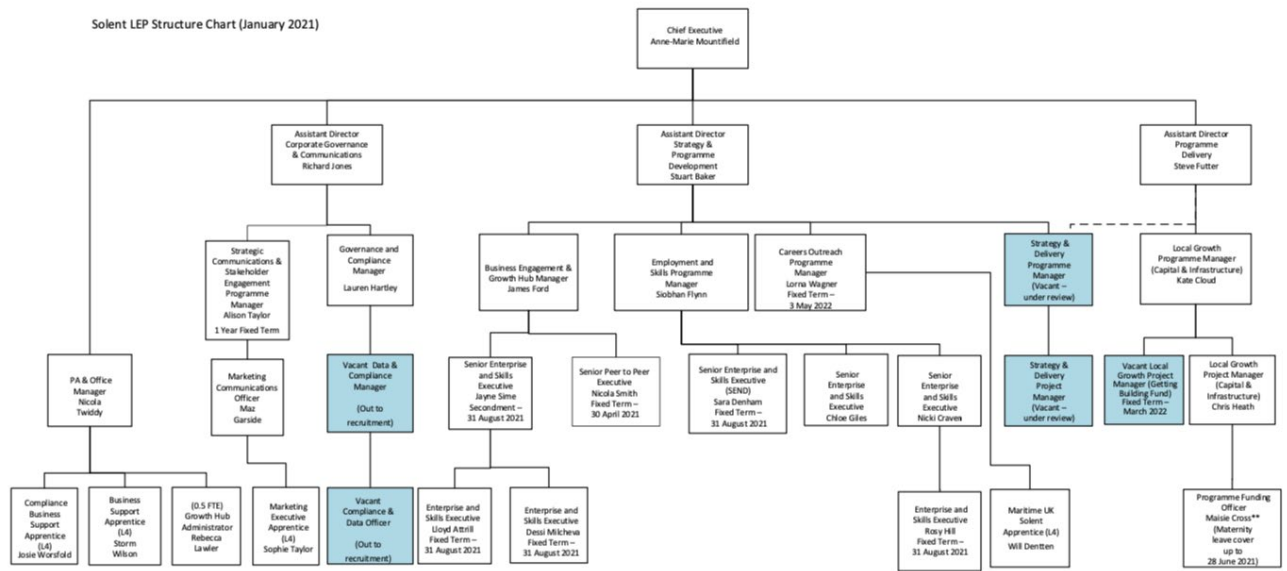
<sup>1</sup> And supporting Economic Recovery Plan (ERP)

<sup>2</sup> And supporting Economic Recovery Plan (ERP)

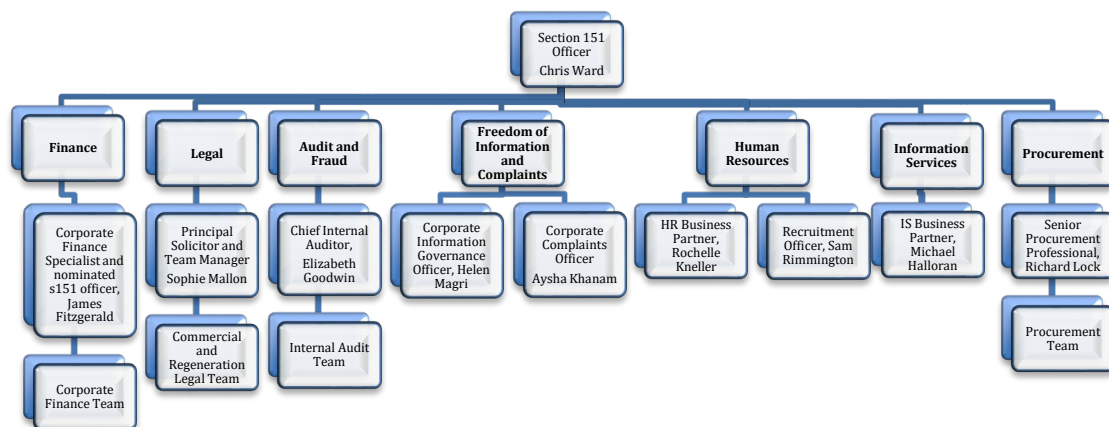
strategic and logistical advice and support, are employed by the Council on behalf of the LEP. These officers promote the objectives of the LEP, and report exclusively to the LEP, while having the authority to administer funds held by the Council as accountable body under the supervision of the section 151 officer.

### Solent LEP Executive Team Structure Chart Portsmouth City Council Team

#### Solent LEP



#### Portsmouth City Council



#### Purpose of this protocol and service agreement

The LEP Board, and its supporting governance structure, is the strategic body responsible for taking decisions on LEP business and LEP programme activity. The Accountable Body, however, is responsible for overseeing the proper administration of financial affairs within the LEP when these affairs relate to public funds.

This protocol sets out how the Council will provide support and operational supervision to perform this function, and how it will conduct itself as accountable body for the LEP related projects and activities.

### **Role of the Council as Accountable Body**

The LEP conducts its business in accordance with its Articles of Association, Assurance Framework, National Local Growth Assurance Framework and local enterprise partnership governance and transparency: best practice guidance. While certain business of the LEP will be conducted in accordance with the meetings and access to information rules prescribed by Part VA of the Local Government Act 1972, the Council in holding and administering funds, is required to do so in accordance with its statutory duties, which include duties relating to proper accounting and expenditure (including due diligence in relation to applicants), and the recording of decision-making. All LEP Board and FFPMG documents will be provided to the Section 151 Officer and, where decisions are being made, the Section 151 Officer or their nominated representative has the opportunity to comment.

As accountable body, the Council is responsible for securing the delivery of project outcomes, and seeks to do so by way of appropriately structured contract and project documentation.

### **Role of the Chief Financial Officer**

The statutory Chief Financial Officer (section 151 officer) to the Council has a statutory responsibility for the financial affairs of the Council's and is the accountable person for all of its financial activities. The Chief Financial Officer (section 151 officer), or their nominated deputy, also acts as Chief Financial Officer to the LEP. The Section 151 Officer is required to exercise their duties in line with both the National Local Growth Assurance Framework and CIPFA guidance. The s151 officer has nominated James Fitzgerald as their nominated deputy to generally undertake this role and in accordance with the LEP assurance framework is required to attend all LEP Board, FFPMG, SERCOM meetings and the nominated deputy or another duly authorised representative is required to attend Investment panel meetings and internal compliance meetings as required. This statutory Chief Financial Officer (section 151 officer) is in receipt of a general delegation from the Council in relation to accountable body matters, and through a team which includes commercial, financial, and legal officers undertakes the following:

- Holds funding and makes payments to delivery bodies;
- Ensures the separable accounting for LEP related funds;
- Invests LEP funding held prior to defrayal to earn interest for the LEP to deploy as appropriate;
- Provide financial statements and advice to the LEP Board, Executive and FFPMG;
- Provide advice as to the correct deployment of funding and advises on the associated risks as necessary;
- Provide formal finance and legal comments on all reports considered by the LEP Board and FFPMG;
- Provide (as part of the documentation to be made available to the LEP Board in advance of making a decision relating to project and investment funding) a view by a legal expert, if required, on legal considerations including, where applicable, the percentage risk of challenge and non-compliance with the proposed course of action and any mitigating factors which may be taken to address this;

- Ensure that the recommendations, advice and activities of the LEP and its sub-panels are deliverable, are appropriately structured, and comply with statutory obligations, (for example, those under the Equality Act 2010, the Data Protection Act 1998, the General Data Protection Regulation (EU Regulation 2016/679), the Law Enforcement Directive (EU Directive 2016/680) and any applicable national implementing laws as amended from time to time, procurement, state aid and environmental duties etc.);
- Implement the joint risk management framework agreed by the LEP and the Council for funded schemes to inform monitoring in line with central Government standards;
- Implement agreed corrective actions to be taken by the LEP and the Council in relation to funded projects/contracts, including recovery of funding in circumstances where there has been non-compliance, miss-representation or under-performance;
- Conduct due diligence in relation to applicants and relevant third-parties;
- Monitor funds to ensure that they are used appropriately;
- Monitor the compliance of LEP business in accordance with the relevant assurance framework, local enterprise partnership governance and transparency: best practice guidance, maintaining an official record of Solent Growth Forum (SGF) proceedings and documents;
- Procuring the independent audit of LEP related funds and activity and ensuring, with the LEP, an appropriate response;
- In relation to schemes for which the Council is accountable body, to be responsible for the supervising the integrity of decision-making, and for taking and defending legal proceedings;
- To ensure appropriate audit processes are in place in relation to LEP activity;
- To ensure compliance with agreed policy protocols on behalf of the LEP, including; GDPR; Freedom of Information Requests, Whistleblowing and Complaints;
- To ensure appropriate HR support is available to the LEP Executive;
- Undertake all procurement on behalf of Solent LEP;
- To provide all IT infrastructure and associated support to the LEP; and
- Ensure appropriate accountable body attendance at all LEP meetings (including Board and sub-group / panel meetings) where decisions are made in relation to public funding.

The section 151 officer shall be supported by the LEP and other representatives of the accountable body to carry out such checks as are necessary to independently ensure the proper administration of financial affairs in the LEP.

### **Role of the Monitoring Officer**

The role of the monitoring officer is held at the Council by the City Solicitor. The monitoring officer may deputise their duties to another officer - in receipt of a general delegation from the Council in relation to accountable body matters, and through the legal commercial and litigation team provides (as part of the core service (as detailed within the annual Client Care letter) advice in the following areas:

- Litigation;
- Commercial;

- Procurement;
- Employment;
- Property;
- Public and Administrative Law; and
- Company Law.

It is the role of the monitoring officer to ensure that the Council (acting as accountable body for the LEP) at all times acts lawfully and within its own rules and procedures as set down in the Council's constitution. In fulfilling this role the monitoring officer undertakes to discharge their responsibilities in a manner which will enhance the reputation of the Council.

### **Support Budget**

The Chief Financial Officer will agree with the Chief Executive of the Solent LEP a budget based on total cost recovery, and the terms of service provision at schedule 1.

### **Service standards and terms of service**

A schedule of service standards appears within the terms of service at Schedule 1.

The detail legal services engagement is contained within the Annual Client Care Letter at Schedule 2.

## Terms of Service

### 1. Parties and Purpose

- 1.1. These Terms of Service set out the performance standards and governance framework by which Portsmouth City Council (the Council) will engage and deliver work (the Services) with and for the Solent LEP Secretariat (that team of Portsmouth City Council employees who work to the Solent LEP (the LEP)), together "the Parties".
- 1.2. The Parties acknowledge that these Terms of Service are intended to govern the working relationship between the LEP (as defined above) and the Council, however, the Parties acknowledge that these terms may create a contractual relationship between Solent Local Enterprise Partnership Limited (registered company number: 07569938) of 1 London Road, Southampton, Hampshire, England, SO15 2AE (the LEP Company) insofar as Services provided by the Council are Services to the LEP Company (which shall be a matter of fact in each instance).

### 2. Roles and responsibilities

- 2.1. The respective roles of Council and LEP are set out at Annex 1.

### 3. Duration

- 3.1. These Terms of Service shall continue unless revised or terminated in accordance with the terms herein.

### 4. Communications

- 4.1. Instructions and communications to the Council will be accompanied by information as to which LEP officer is leading on a given matter, together with such information as the Council shall require, and will be given by e-mail, in writing (i.e. by letter, memo), in person or by telephone to either of:

**Chief Financial Officer (also Section 151 officer):** Chris Ward

**Finance:** James Fitzgerald - Accountable Body Value for Money Officer and lead for Risk Management

**Legal:** Peter Baulf City Solicitor and Sophie Mallon - Head of Corporate, Commercial and Regeneration

**Audit and Whistleblowing:** Elizabeth Goodwin

**Freedom of Information and GDPR:** Helen Magri

**Complaints:** Aysha Khanam

**Employee Relations:** Rochelle Kneller

**Recruitment:** Sam Rimington

**Information Services:** Michael Halloran

**Procurement:** Richard Lock

Requests for routine contract advice should be addressed to the LEP legal team general inbox [LSCTDiary@portsmouthcc.gov.uk](mailto:LSCTDiary@portsmouthcc.gov.uk)

Following which it may be actioned, or distributed for action.

- 4.2. Any communications to the LEP may be addressed to:

Anne-Marie Mountifield, Chief Executive, Solent LEP

**Assistant Director - Strategy and Programme Development:** Stuart Baker - Solent LEP Value for Money Officer

**Assistant Director - Programme Delivery:** Steve Futter - Senior Responsible Officer for Delivery

**Assistant Director - Corporate Governance and Communications:** Richard Jones - Senior Responsible Officer for Compliance and Management of Enquiries and Complaints (including confidential complaints)

Routine requests for advice should be addressed to:

**Solent LEP Executive Support Officer**

- 4.3. Both parties commit to notifying the other in relation to any central Government communications which relate to the services covered within this protocol and service support agreement. In the event that either party is in receipt of hard copy documentation, this will be notified to the relevant partners in line with the details provided in 4.1 and 4.2 and, where transfer of documentation is required, this will be undertaken via recorded delivery to the following addresses:

FAO: Chris Ward  
Portsmouth City Council  
Civic Offices - Floor 3, Core 3  
Guildhall Square  
Portsmouth  
PO1 2AL

FAO: Anne-Marie Mountifield  
Solent LEP Office  
1000 Lakeside  
Western Road  
North Harbour  
Portsmouth  
PO6 3EN

## **5. Responding to Communications**

- 5.1. Each party shall aim to respond to communications from the other within the following target times:

5.1.1. Where something is urgent, a response will be given as soon as reasonably practicable.

5.1.2. For non-urgent matters, a response should normally be given within five working days. Where a full response cannot be given in this time period, the party shall aim to respond as soon as possible thereafter and in any event within 10 working days.

## **6. Knowing who is Dealing with a matter**

- 6.1. The Council's written communications with the LEP on individual matters shall contain the name and contact details of the actual person dealing.

## **7. Management of interests**

- 7.1. Both the LEP and the Council will ensure that all officers with a role in decision making, relating to the LEP or the Council's role as accountable body for the LEP adopt the HMG bespoke pro-forma register of interests. In the event that any commercial, actual or potential interests arise, the LEP and the Council will ensure that such interests are managed in accordance with the National Local Growth Assurance Framework.
- 7.2. If the dual role of the section 151 officer results in a potential conflict of interest, impartial advice will be sought to ensure transparency. Options for securing independent advice will include:
- 7.2.1. Securing advice from alternative officers within the Council, or;
  - 7.2.2. In any circumstance where this is not possible as a result of either line management structures or seniority of available staff at the Council, independent external review of advice may be commissioned by the LEP.
  - 7.2.3. The Council will give due regard to external advice sought however will not be bound by any external advice or second opinion sought by the LEP and this will not constitute an outsourcing of accountability.
  - 7.2.4. In the unlikely event that the LEP and the Section 151 Officer are unable to reach agreement on the way forward, the matter shall be referred to The Ministry of Housing, Communities and Local Government (MHCLG) who will escalate as appropriate.

## **8. Instructions and Updates**

- 8.1. The LEP will aim to instruct the Council in a timely fashion in relation to given matters in order for the Council to advise fully on relevant legal, financial and policy issues including but not limited to:
- 8.1.1. Fund compliance;
  - 8.1.2. Financial advice and risk;
  - 8.1.3. State aid;
  - 8.1.4. Delivery structures;
  - 8.1.5. Property and planning implications;
  - 8.1.6. Recipient standing and status;
  - 8.1.7. Nature and scope of audits;
  - 8.1.8. Freedom of Information requests;
  - 8.1.9. GDPR
  - 8.1.10. Complaints; and
  - 8.1.11. Procurement.
- 8.2. The detailed legal core services are contained within the annual Client Care Letter at schedule 2.
- 8.3. The Council will aim to keep the LEP instructing officer informed of progress in a case at appropriate intervals. Information will be shared when key stages in the matter are reached.
- 8.4. The LEP will provide the Council with clear, timely and accurate instructions, and any necessary supporting documentation.



## **9. Charging for Services**

- 9.1. Services provided by the Council shall be charged at rates detailed on a statement of rates (Statement of Rates).
- 9.2. Services provided by the Council's legal services team shall be charged at rates detailed within the annual Client Care Letter.
- 9.3. The Council will provide the Statement of Rates in writing within one month from 1 April in each year.
- 9.4. The Council shall provide a monthly report to the LEP of the charges incurred by the Council on LEP business.

## **10. Initial Meeting, Review Meetings, and Governance Arrangements**

- 10.1. The Parties shall hold regular review meetings, which shall be not less than every three months, to consider the needs of the LEP for support and whether the way in which services are being provided is meeting those needs and to discuss ongoing projects, and upcoming matters. The Council welcomes feedback on its performance and the identification of areas in which performance and Client satisfaction can be improved.
- 10.2. The Governance Arrangements set out in this protocol and service support agreement may be amended at any time by agreement between Head of Legal Services and the Chief Executive of the LEP.

## **11. Comments, Complaints, Freedom of Information, Whistleblowing and Fraud**

- 11.1. The Council welcomes comments and suggestions about how services are provided, whether this is to commend the Council on something which has been handled particularly well, or where there is concern that a matter could have been handled better. The Council approaches such comments in a positive way to assist with the continuous improvement of services. The LEP Enquiry and Complaints policy can be found at:  
<https://solentlep.org.uk/media/2248/enquiry-complaints-and-whistleblowing-policy.pdf>

## **12. Audit and Fraud**

- 12.1. The LEP and the Council will maintain and manage a risk register to cover all areas of LEP activity on a regular basis. This will be reviewed by the LEP Board and the FFPMG at each meeting and shared with the Council's Audit and Fraud team to assist in the development of an annual programme of audit activity. The Council will undertake an annual programme of audit activity for the LEP, the scope of which will be agreed on an annual basis by the FFPMG. Findings and recommendations will be reported to the FFPMG by exception on a quarterly basis and, on an annual basis, a detailed report will be provided.
- 12.2. The Council will endeavour to undertake and report on audits identified by the FFPMG within one quarter, with specific timeframes to be agreed by the LEP Chief Executive and Council Chief Internal Auditor in consideration of specific audit requirements.
- 12.3. The Council will undertake independent audits of specific matters on an exceptional basis in relation to any area covered by this protocol and service support agreement, where deemed appropriate by the LEP Chief Executive and Council Chief Internal Auditor, and in line with the LEPs Complaints policy in relation to any concerns raised regarding potentially illegal, unethical or immoral conduct.

### **13. Confidentiality**

- 13.1. The Council shall not make use for its own purposes of, or disclose to any person (except as may be required by law or as referred to in Paragraph 13.2), any information contained in any material provided to it by, or prepared by it for, the LEP, which is of a confidential nature.
- 13.2. Files may be required to be produced to quality assessors as part of an audit or quality check. Where this is the case, the Council shall ensure that the assessor is required to maintain confidentiality in relation to the files.
- 13.3. The Council will ensure that all officers with a role in decision making relating to the Council's role as accountable body for the LEP, adopt the HMG bespoke pro-forma register of interests. In the event that any commercial, actual or potential interests arise, the Council will ensure that such interests are managed in accordance with the National Local Growth Assurance Framework, that confidential information is not shared with any conflicted individual and that appropriate alternative representatives are provided to support the LEP.

### **14. General Data Protection Regulations & Data Protection Act 2018**

- 14.1. The Council shall at all times comply with the General Data Protection Regulations and the Data Protection Act 2018.
- 14.2. The Council is registered with the Information Commissioner's Office as a Data Controller and Data Processor and has a nominated Data Protection Officer in accordance with the Regulations.
- 14.3. The Council shall not disclose personal data unless:
  - 14.3.1. As set out in the Council's Data Privacy Notice which can be found on the Council's website;
  - 14.3.2. To the extent required by law, as set out in the Council's Information Asset Register, which is annually review and available on inspection.

### **15. Freedom of Information Act 2000 ('FOIA')**

- 15.1. The parties recognise that they are subject to legal duties which may require the release of information under the FOIA or any other applicable legislation governing access to information, and that they may be under an obligation to provide information to third parties on request. Such information may include matters relating to or arising out of this Agreement.
- 15.2. Each party will assist the other to enable it to comply with its obligations. In the event that either party receives a request for information under the FOIA or any other applicable legislation governing access to information, and requests the other party's assistance in obtaining the information that is the subject of such request or otherwise, the parties will respond to any such request for assistance at its own cost and promptly, and in any event within seven days.

### **16. Conflict of Interest**

- 16.1. The obligations of the Council to provide legal services are subject to there being no professional conflict of interest arising such that to act or continue to act would constitute a breach of the Solicitors' Code of Conduct.

16.2. Where a conflict of interest does arise, the matter shall be discussed between the Council's Deputy City Solicitor and the LEP's Chief Officer. Where the matter is within the core services (as contained within the legal engagement letter), the Council shall (where requested) assist the LEP by making other suitable arrangements for legal services to be provided to the LEP by another solicitors' practice, on the matter giving rise to the conflict. The costs incurred in obtaining such services shall be borne by the LEP.

## **17. Health and Safety**

17.1. The parties shall at all times take all such precautions as are necessary to protect the health and safety of all persons employed by them and members of the public, and shall comply with the requirements of the Health and Safety at Work Act 1974 and of any other Acts, Regulations or Orders pertaining to health and safety at work.

17.2. Each party shall ensure that the working environment for the other party's staff on their premises meets all relevant legal requirements with regard to health and safety. Whilst on the other party's premises, staff shall comply with the other party's general statement of safety policy and with any reasonable requirements for maintenance of health and safety.

## **18. Legal Requirements**

18.1. Each party shall at all times conduct its affairs in a reputable manner, and observe all legal requirements.

18.2. Both parties will ensure that all officers with a role in decision making relating to the LEP, and the Council's role as accountable body for the LEP, adopt the LEP's Code of Conduct which is compliant with the Seven Principles of Public Life (the Nolan Principles).

## **19. Legal Liability**

19.1. The Council and the LEP Company shall be liable for the consequences of any breach of its obligations under this Agreement, including any injury to, or death of, any person, or loss of, or damage to, any property, except and to the extent that such consequences are a direct result of the act, omission, default or negligence of the other party, or except and to the extent that such breach is a direct result of circumstances beyond the party's control which could not reasonably have been avoided by that party. The Council and the LEP Company shall maintain such insurances as are necessary to cover this liability. A copy of the Council's officer indemnity insurance is available on request from the City Solicitor of the Council. A copy of the LEPs Directors & Officers Liability, Corporate Legal Liability and Employment Practices Liability is available from the LEPs Assistant Director of Corporate Affairs and Communications.

## **20. Default and Termination**

20.1. The LEP and the Council will always seek to resolve any conflicts between LEP Board decisions and Section 151 Officer advice based on the standards set out in CIPFA's guidance.

20.2. The chair and chief executive of the LEP shall work with the section 151 officer to agree an effective responsibility arrangement. This will include both parties agreeing to work together to seek a mutually agreeable resolution where disputes arise.

20.3. Where concerns or improper financial administration are identified the section 151 officer

shall provide recommendations for improvements to be made. The LEP board shall be responsible for making changes to address the concerns in line with the recommendations following local discussion with the section 151 officer in line with the agreed responsibility arrangement. Where the board does not agree with the recommendations and no agreement on the way forward can be reached with the section 151 officer, the matter shall be referred to MHCLG who will escalate as appropriate.

- 20.4. Where serious concerns are encountered during the year for example repeated non-compliance with legal requirements or fraud then the section 151 officer shall promptly raise these with the Cities and Local Growth Unit. Local resolution will be the first mechanism to resolve disputes, if this has been unsuccessful it should be raised with the Cities and Local Growth Unit
- 20.5. Subject to Paragraph 20.10 if either party considers the other party to be in default of their obligations under this Agreement (and the matter is not resolved via the complaints procedure under Paragraph 11 or local resolution in line with the standards set out in CIPFA's guidance), they may notify the other party in writing of the way in which it is considered they are in default, and if appropriate the matter shall be considered by the parties at a meeting. The parties shall make a reasonable effort to agree a joint plan of action to remedy the situation.
- 20.6. Subject to Paragraph 20.10 where, despite any action taken in accordance with Paragraph 20.5, a party still considers the other party to be in default, they may give that party notice specifying the default and the action to be taken to rectify it ("Default Notice"). The Default Notice shall state a period of time, being a reasonable period of time, in which the required action is to be taken.
- 20.7. Subject to Paragraph 20.10 if either party is in default of their obligations under this Agreement and fails to comply with a Default Notice the other party may give notice in writing terminating this Agreement ("Termination Notice"). A Termination Notice shall take effect four weeks from its date.
- 20.8. Subject to Paragraph 20.10 termination of this Agreement shall have no effect on the liability of either party to the payment of any sums arising under it, or any rights of remedies of either party already accrued, prior to the date upon which termination takes effect.
- 20.9. Subject to Paragraph 20.10 notwithstanding and without prejudice to the above paragraphs of this clause 20, either the Council or the LEP Company may terminate this Agreement following six (6) weeks of written notice to the other.
- 20.10. No "termination" shall have the effect of entitling the LEP or LEP Company to commission accountable body support (including monitoring and financial and legal supervision) without:
- 20.10.1. A resolution of the LEP Company board;
- 20.10.2. The agreement of the section 151 officer, chief executive and monitoring officer of the Council, and the chief executive of the LEP.
- 20.11. In the event that a "termination" is effected, both parties shall have a duty to cooperate to ensure the smooth transfer of services specified in this agreement.

**21. File Retention, disclosure, and Storage**

- 21.1. The Council will keep its file of papers relating to the services provided for the period set out in its document retention policy, or for any time period specified by Government regarding a specific programme of activity, after which they will be destroyed.
- 21.2. The Council will retain original copies of signed contracts in hard copy. The LEP will retain copies of signed contracts.
- 21.3. The LEP will retain project files for funded projects and programmes in line with the period set out in its document retention policy, or for any time period specified by Government regarding a specific programme of activity, after which they will be destroyed.
- 21.4. Each party will provide access to the other in relation documentation held relating to LEP activity and will provide this to the other upon request.
- 21.5. Any confidential documentation will be shared using the LEPs secure Huddle file transfer system or the Council's internal network drive.

## **22. Assignment**

- 22.1. Neither party shall assign or seek to assign or sub-contract any of their responsibilities under this Agreement without the prior consent in writing of the other party, such consent not to be unreasonably withheld.

## **23. Complete Agreement**

- 23.1. This Agreement embodies the complete agreement between the parties in respect of the provision of legal services, and supersedes all other written understandings and agreements with respect to the matters referred to in this Agreement. Each party acknowledges that no other agreement or statement not contained in this Agreement shall be valid and binding on either party.

## **24. No Waiver**

- 24.1. No failure by a party to insist upon the strict performance of any condition of this Agreement or to exercise any right of remedy upon breach of any provision of it shall constitute waiver of any condition or waiver of any subsequent breach or default in the performance of any condition.

## **25. Amendments**

- 25.1. To be effective, any amendment to this Agreement shall be recorded in writing and shall be signed by the parties.

## **26. Severance**

- 26.1. If any part of this Agreement becomes invalid, illegal or unenforceable the parties shall in such an event negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the invalid, illegal or unenforceable provision which as nearly as possible gives effect to their original intentions.

## **27. Reasonableness**

- 27.1. Any steps of any kind to be taken by either party in accordance with the terms of this

Agreement shall be taken reasonably, in good faith and without unreasonable delay.

**28. Interpretation**

- 28.1. This Agreement shall be governed interpreted and enforced according to the laws of England.
- 28.2. The singular shall include the plural and the plural the singular except where the context otherwise requires and any word which refers to or implies any gender shall include any other gender.
- 28.3. References to the Council and the LEP shall include in each case the party's employees and agents.
- 28.4. Day, week and month mean calendar day, calendar week and calendar month respectively.
- 28.5. Specific references to any statute, statutory instrument or other legislation shall be construed as including a reference to any re-enactment, modification, extension or replacement for the time being in force.

## **Annex 1: Roles and Responsibility**

The Council will:

Act in accordance with the requirements of the National Local Growth Assurance Framework and, adhere to the five principles set out by CIPFA for the section 151 officer role of working with LEPs around the proper administration of financial affairs to ensure there is good and proportionate financial governance;

Actively participate in the HM Government Annual Performance Review of the Solent LEP (and any associated "Deep Dive" process if required); including provision of an Assurance Statement by 28 February each year and submission of a letter to the Department's Accounting Officer in the format and detailing the assurances required by HMG;

Hold funds and make payments to delivery bodies, maximising interest bearing opportunities;

Ensure the separable accounting for LEP related funds and complete financial elements of grant returns and claims for funding;

Provide financial statements to the LEP together with a monthly review of the progress to date against approved revenue and capital programmes and produce a summary set of management accounts within a reasonable period to be presented to the Chief Executive of the LEP;

Update the LEP Board and FFPMG at each meeting with a report on progress to date against approved revenue and capital programmes for the current financial year up to the relevant month end, the forecast to the end of the financial year and a further three year budget forecast;

Provide advice on risk and any associated implications for the LEP in terms of the defrayal of funding (including updates of the corporate and strategic and local growth deal / delivery risk registers with the LEP senior management team), setting out any mitigation measures as necessary;

Ensure that the recommendations, advice and activities of the LEP and its sub-panels are deliverable, are appropriately structured, and comply with statutory obligations, (for example, those under the Equality Act 2010, the Data Protection Act 1998, procurement, state aid and environmental duties etc.);

Conduct due diligence in relation to applicants and relevant third-parties including advice on financial status, review of past, current and forecast financial performance and scrutiny of business plan;

Attend and provide financial advice at all LEP funding panels;

Monitor all LEP funds to ensure that they are used appropriately;

Monitor the compliance of LEP business in accordance with the relevant assurance framework, local enterprise partnership governance and transparency: best practice guidance, and maintaining an official record of Solent Growth Forum proceedings and documents;

Procure the independent audit of LEP related funds and activity and ensuring, with the LEP, an appropriate response;

In relation to schemes for which the Council is accountable body, be responsible for the supervising the integrity of decision-making, and for taking and defending legal proceedings;

Provide a comprehensive accountancy service to the LEP including the filing of statutory accounts with companies' house;

Undertake an annual audit programme in relation to LEP services;

Provide all HR and recruitment services for the LEP;

Provide and maintain LEP IT Infrastructure;

Respond to all Freedom of Information (Fol) Requests on behalf of the LEP; and

Undertake independent audits of specific matters in line with the LEPs Complaints policy in relation to any concerns raised regarding potentially illegal, unethical or immoral conduct.

The LEP will:

Formulate strategy, and policy, to further the LEP Company objectives;

Manage the oversight and delivery of projects;

Review and report to the LEP Board, FFPMG or relevant Delivery Panel in line with the Scheme of Delegation included within the Solent LEP Assurance Framework and local enterprise partnership governance and transparency: best practice guidance, on funding applications;

Promote and manage project funding applications;

Maintain and manage a risk register to cover all areas of LEP activity on a regular basis; and

Provide all information required by the Council in Relation to management of Fol, Complaint and Audit processes.



### Form of Agreement

The LEP and the Council shall comply with their respective obligations as set out in this Protocol and Service Support Agreement.

**IN WITNESS** of which this Agreement has been duly executed by the parties.

Signed for and on behalf of the LEP by:-

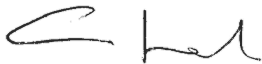


Signed (Authorised Signatory)

Printed name: Anne-Marie Mountifield

Date 12.2.2021

Signed for and on behalf of the Council by:-



Signed (Authorised Signatory)

Printed Name: Chris Ward

Date 12.2.2021