

**CABINET - 10 MARCH 2009**

**SUB REGIONAL ECONOMIC DEVELOPMENT ARRANGEMENTS**

**REPORT OF THE CHIEF EXECUTIVE**

**PART A**

**Purpose of Report**

1. This report seeks Cabinet approval to complete the establishment of:
  - (a) the new sub-regional economic development Leadership arrangements (including emda Sub-Regional funding programme, Multi Area Agreement and Support Unit); and
  - (b) the Leicester and Leicestershire Economic Development Company (EDC).

**Recommendations**

2. It is recommended:
  - (a) That progress in relation to the Multi Area Agreement, Leadership Board, Coordination Group, Strategy and Performance Groups, officer support unit and commencement of the Economic Assessment for the sub region be noted;
  - (b) That the reconstitution of the Leicester Regeneration Company Limited as the new Economic Development Company for Leicester and Leicestershire be approved;
  - (c) That Mr N J Rushton CC and the Chief Executive be nominated as non-executive directors of the new Company;
  - (d) That Mr N J Rushton CC be appointed as the representative of the County Council for the purposes of the annual general and extraordinary general meetings of the Leicester Regeneration Company Limited (or as renamed) and that he be authorised to vote on behalf of the County Council in all matters to be transacted at such meeting/s;
  - (e) That the Chief Executive be authorised to negotiate the terms of the funding agreement with the EDC in respect of the delivery of a programme of work in support of the sub regional arrangements described in this report and within the available funding.

### **Reasons for Recommendations**

3. To allow the final arrangements for the establishment of the EDC and Leadership functions to be completed by 1 April 2009 and to ensure they are operational from that date.

### **Timetable for Decisions (including Scrutiny)**

4. The Scrutiny Commission will be asked for its views on this report on 4 March 2009 and these views will be reported to the Cabinet at its meeting on 10 March 2009.
5. It is intended that the EDC and related Leadership arrangements should be implemented by 1 April 2009.

### **Policy Framework and Previous Decisions**

6. The Cabinet considered the proposals for sub regional economic development on 29 July 2008 when it noted the comments made by the Scrutiny Commission at its meeting on 23 July 2008 and resolved:
  - (a) That the scope, geography and functions of the proposed Economic Development Company (EDC) as outlined in paragraphs 15 to 17 of the report be approved;
  - (b) That approval be given to further work being carried out to bring about the establishment of an EDC as set out in the work programme detailed at paragraph 18 of the report, including the early appointment of a Chief Executive to be responsible for driving this programme forward and leading the new organisation;
  - (c) That the lead co-ordinating body for economic development and associated activity in rural Leicestershire be confirmed as the Leicestershire Rural Partnership (LRP), and it be noted that the operation and structure of the LRP should be reviewed to ensure its fitness for purpose for this role;
  - (d) That it be noted that a further report seeking formal approval for the establishment and launch of the EDC would be submitted to the Cabinet in March 2009.
7. Cabinet considered a further report on sub-regional arrangements for economic development on 14 November 2008 which sought approval for the submission to the Government of the Leicester and Leicestershire Multi Area Agreement (MAA) when it resolved:
  - (a) That, subject to (b) below, the County Council be recommended to approve the Multi-Area Agreement (MAA) for submission to the Department for Communities and Local Government;

- (b) That the Chief Executive be authorised to make such minor amendments to the MAA as he considers necessary prior to its submission to the County Council;
- (c) That approval be given to the establishment of a Leadership Board to enable the County Council and Leicester City Council to work together with other partners to provide a strategic approach to the promotion and improvement of the wellbeing of their areas;
- (d) That it be agreed that Leicester City Council act as host organisation to support the Leadership Board and as accountable body for the purposes of receiving the Grant for Economic Development from emda and in respect of other funding;
- (e) That the Chief Executive be authorised, in consultation with the Leader and Deputy Leader, to act upon the recommendations of the Leadership Board;
- (f) That the Chief Executive be authorised:-
  - (i) to finalise the wording of the Declaration of Grant for Economic Development in discussion with emda and Leicester City Council and to sign the Declaration of Grant on behalf of the County Council; and
  - (ii) to enter into appropriate agreements with Leicester City Council to act as host organisation to support the Leadership Board and as accountable body for the purposes of receipt of the Grant for Economic Development and other funding;
- (g) That progress in the establishment of the Economic Development Company (EDC) be noted.

### **Resources Implications**

8. The financial contributions by the County Council to the EDC and the support unit within the Leadership arrangements of £250,000 and £80,000 respectively will be met from the growth allocation of £375,000 in the 2009/10 budget, if approved.
9. There were no significant issues uncovered following the financial due diligence of the LRC.
10. The Company will be a regulated company for the purposes of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995. As such it will be treated (and in particular its credit transactions will be treated) in the same way as a subsidiary for the purpose of the Councils accounts and will need to be taken into

account by the Council in determining its prudential borrowing limit. Its liabilities would count against the County Council's borrowing limits if capital controls were to be reintroduced.

11. The Director of Corporate Resources has been consulted on the financial implications of this report.

### **Circulation under the Local Issues Alert Procedure**

A copy of this report has been sent to all Members of the Council under the Members' Information Service.

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## **PART B**

### **Background**

12. This report outlines progress and seeks Cabinet approval for the final stages in establishment of the new Leicester and Leicestershire sub regional economic development Leadership arrangements including the Leadership Board, Coordination Group, Strategy and Performance Groups, officer Support Unit based at the City Council, Multi-Area Agreement and Proposed Economic Assessment for the sub region.
13. This report also updates on progress on the establishment of an EDC for Leicester and Leicestershire which is due to commence activity from 1 April 2009.
14. As outlined in the 2008 Cabinet reports the new sub-regional economic development arrangements have resulted from:-
  - The Government's sub-national review of Economic Development and Regeneration which proposes a greater role for upper tier local authorities in leading economic improvement at the sub regional level and a broader but more strategic role for Regional Development Agencies.
  - Leicester and Leicestershire functioning as a single economic area and being therefore, the appropriate geography for carrying out economic leadership functions;
  - The opportunities to align City and County economic development activity particularly in relation to Local Area Agreements and through a new Multi Area Agreement

### **Sub Regional Economic Development Leadership Structure**

15. The proposed new economic development structure for Leicester and Leicestershire is summarised below:
  - (a) The Leadership Board has been created with board membership as proposed in the previous Cabinet report.
  - (b) Co-ordination Group, which provides support to the Leadership Board, has met and terms of reference have been agreed.
  - (c) Themed Strategy and Performance Groups have also met and draft terms of reference have been established with these groups. The Strategy and Performance Groups are as follows:-
    - Enterprise & Business
    - Rural Partnership

- Housing, Planning and Infrastructure
  - Transport
  - Employment and Skills
16. A further legal agreement has been completed between emda, Leicester City Council and Leicestershire County Council in relation to management of the East Midlands Development Agency (emda) sub-regional funding allocation. Projects that are due to complete prior to 1st April 2009 will be overseen by LSEP and emda. Any liabilities for projects that cease prior to 31st March 2009 will remain with either emda or LSEP. For projects that continue from 1st April 2009 these will be novated to Leicester City Council as the Accountable Body. However, emda indemnifies Leicester City Council in respect of projects that cease to exist prior to 31st March 2009 and any projects that are novated after 1st April 2009 subject to the terms and conditions of the emda agreement.
17. The officer Support Unit for the new sub regional arrangements will be located within the Economic Development Function of the Planning and Policy Division of the City Council. TUPE consultation has commenced with staff transferring from the Leicester Shire Economic Partnership which is scheduled for completion by 1st April 2009. The Support Unit will:-
- Provide the support to the Leadership Board, Co-ordination Group and the Strategy and Performance Groups.
  - Develop and support the creation of a Economic Assessment which is a new statutory duty for Local Authorities by April 2010
  - Lead on the delivery of the Multi-Area Agreement
  - Creation of a new Economic Strategy by 2010
  - Programme Management of the emda Sub-Regional Allocation
  - Creation of a Sub Regional Investment Plan by 2010 to meet with EMDA's contract.
18. Funding for the Leadership Board and support structures is £525,000 of which £80,000 is the County Council's contribution.
19. Work on the creation of an Economic Assessment for April 2010 has already commenced with establishment of a Programme Board and this will help to inform the future strategy and programme to be delivered across Leicester and Leicestershire.

20. To update on progress, a news alert is being created which will provide monthly updates on progress in relation to all sub-regional activities. This is issued via email by the Economic Development Team of Leicester City Council.
21. Following approval by the Cabinet on 14<sup>th</sup> November 2008, work has progressed on the Multi-Area Agreement which was officially signed off by Government on 12<sup>th</sup> January 2009.

### **Economic Development Company**

22. A report was considered by the Cabinet on 29th July 2008 where approval was given for:
  - the principles, direction of travel and functionality of the EDC
  - the establishment of the EDC as set out in the work programme, and
  - the early appointment of a Chief Executive to be responsible for driving this programme forward and leading the new organisation
  - a further report to Cabinet before March 2009 formally launching the EDC.

### **Constitutional Arrangements**

23. A variety of options were considered for forming the new company. In the context of the operations of the Leicester Regeneration Company Limited (LRC), the intention that the new company should at least in part act in succession to LRC and for contractual convenience, it was decided to reconstitute this vehicle. A full Due Diligence exercise has been undertaken on LRC to confirm its suitability. This was completed without issue in December 2008.
24. The Cabinet is requested to approve the reconstitution of the Leicester Regeneration Company Limited (of which the Council is Corporate Member) as the new Economic Development Company for Leicester and Leicestershire.

### **EDC Membership**

25. The necessary papers have been drafted to allow a transfer of ownership from the current membership – Leicester City Council, English Partnerships (now the Homes and Communities Agency(HCA)), and emda – to the new owners – Leicester City Council and the County Council.

26. Formal transfer of ownership and control is planned to be effected on 18 March 2009 when, subject to Cabinet approval from both the City and the County Councils, the changes described in this report will be confirmed.

### **Funding**

27. Funding provisions for the EDC are as follows:
- £250,000 City
  - £250,000 County
  - £125,000 Districts
  - £250,000 Homes and Communities Agency (HCA)
  - £282,000 emda
  - Total core funding - £1.2m/annum (Plus programme funding for specific programmes and projects)

### **Board Membership**

28. While HCA and emda will remain key funding partners, they have elected not to remain in membership of the new company. Nor will they seek executive control through directorships. Instead each will be represented as observers to the Board.
29. Neil Morris, the current chairman of the company, is to step down. Nick Carter, the former editor of the Leicester Mercury, has been appointed as Executive Chairman of the new Company.
30. David Hughes has been appointed as Chief Executive of the new Company but will not be a statutory director. John Nicholls, Chief Executive of LRC is to step down as a director and will be leaving the Company to pursue other projects.
31. The Board will have private sector control and four additional private sector directors are currently being sought. The Business Forum has been asked to nominate a non-executive Deputy Chairman. Together with the Chairman, this will give a total of six private-sector Board members.
32. The District Councils have nominated Ms Sue Smith, Chief Executive of Harborough District Council, as a statutory director. Leicester City Council and the County Council will each nominate two directors. It is proposed to nominate Mr Nick Rushton and the Chief Executive as non-executive directors of the new Company.



### **Operating Plan**

33. A draft Operating Plan for the Company is being prepared and this will form the basis of further preparatory work to be undertaken by the new Chief Executive ahead of the launch of the EDC in early April 2009.

### **Staffing**

34. The current staff of LRC will retain their contracts of employment. Three Members of staff from Leicester Shire Promotions Limited (LPL) will transfer into the new company under the Transfer of Undertakings Protection of Employment Regulations (TUPE). A further current member of staff at LPL on a fixed term contract will be granted a new fixed term contract by the new company. Two further members of staff at LPL are to be seconded to the new company.

### **Premises**

35. The current premises of the LRC are not large enough to accommodate the newly merged team. Nor are they Disabled Access compliant. Suitable alternative accommodation is currently being sought.

### **Launch of the EDC**

36. Preparatory work is nearing completion on the launch of the EDC at which a new company brand and logo will be revealed. The launch of the EDC will represent achievement of one of the key actions of the 'One Leicester' Enterprise and Skills priority. This will be the first EDC in the East Midlands and together with the new wider sub regional arrangements set out in this report represent a unique approach nationally.

### **Legal Implications**

37. The key points relating to the new financial framework have been set out above. Further ones relating to the establishment of the EDC may be summarised as follows:
- (a) The new EDC will be brought into being by reconstituting the existing Leicester Regeneration Company Limited.
  - (b) The company will be reconstituted under a new name and its membership will comprise Leicester City Council and Leicestershire County Council. The day to day business of the company will be undertaken by the Board of Directors, although certain significant transactions will require the approval of both the County and City nominated directors.

- (c) The memorandum of the Company will be altered to extend its objectives to Leicestershire and the sub regional regeneration objectives.
- (d) The articles of the company also require some technical amendments to reflect the change in membership and consequential practical points. It is proposed that the outgoing executive directors of the Company, on behalf of the Company, enter into a disclosure agreement containing the usual undertakings as to trading, liabilities etc.
- (e) The Company will be a regulated company for the purposes of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995. As such it will be treated (and in particular its credit transactions will be treated) in the same way as a subsidiary for the purpose of the Councils accounts and will need to be taken into account by the Council in determining its prudential borrowing limit. Its liabilities would count against the County Council's borrowing limits if capital controls were to be reintroduced.
- (f) It should also be noted that the above legislation also imposes other requirements on local authority companies, in particular as to the disclosure of its status as a local authority company, access to information and directors salaries and interests.
- (g) The Company is a company limited by guarantee. The guarantee is given by its members but is limited to £1. No distribution is permitted to members, profits are to be applied for the purposes of the Company.
- (h) Because of the private sector balance on the board of directors the Company will not be able to trade with the two Councils outside of the law relating to public procurement. It will also be a "contracting authority" itself and therefore subject to the law relating to public procurement.
- (i) The County Council has power to participate in this company under the provisions of section 2 of the Local Government Act 2000 (well being).
- (k) It is intended that the Company delivers a programme of work in support of the sub regional partnership priorities. This will be supported by stepping down emda sub regional funding allocation under a funding agreement which will reflect the terms and conditions of the emda declaration of grant entered into by the Council.

- (l) The report has identified a TUPE transfer of staff from Leicester Shire Promotions to the EDC. The staff concerned have rights in respect of their current conditions of service and in respect of pensions, and to be consulted and provided with information. Failure to observe these rights could lead to liability for the EDC.
38. Two legal agreements will be completed to underpin the work of the Board and the wider sub regional structure. The first in relation to the role, remit and terms of reference of the Board and Groups and the second to establish the working relationship between the City and County Councils and to enable the City Council to host the supporting unit and discharge the accountable body function for the purpose. Delegated authority is sought from the Cabinet for the Chief Executive to finalise these legal agreements.

### **Equal Opportunities Implications**

The development of a new framework for raising the economic health of the County and City areas is intended to be of benefit to all sections of the community. The EDC will be encouraged to undertake an equality impact assessment.

### **Background papers**

Prosperous Places: Taking forward the Review of Sub-National Economic Development and Regeneration: BERR - March 2008

Reports to the Cabinet on 29<sup>th</sup> July and 14<sup>th</sup> November 2008 and to the Scrutiny Commission on 23<sup>rd</sup> July 2008