

Swindon and Wiltshire Local Enterprise Partnership (SWLEP) – Joint Scrutiny Panel

Terms of Reference

General

1. These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the SWLEP Joint Scrutiny Panel (also referred to as the Panel in this document).

Background

2. Local Enterprise Partnerships (LEPs) were established as locally-derived business-led partnerships between the private and public sector that would drive local economic growth. Their role has developed considerably since 2010 and LEPs now have responsibility for around £12 billion of public funding and are the mechanism for channelling the Local Growth Fund and other funding to localities.
3. As the role of LEPs has developed, the Government has reviewed the statement of arrangements it expects to see in place within each LEP. This is set out in the National LEP Assurance Framework issued by the Department for Communities and Local Government (DCLG) and is one element of the wider assurance system around LEPs. The National Assurance Framework sets out what government expects LEPs to cover in their local assurance frameworks and the last revision was issued in November 2016. That revision strengthens the rules which LEPs must follow to ensure greater transparency and accountability on how public money is spent.
4. The outcome of a Review of Local Enterprise Partnership Governance and Transparency, led by Mary Ney, Non-Executive Director, DCLG Board, in October 2017, reinforced the importance and value of independent scrutiny.
5. In 2014 the SWLEP adopted an Assurance Framework which included provision for joint scrutiny arrangements between Wiltshire Council and Swindon Borough Council. This led to the creation of a Joint SWLEP Scrutiny Task Group containing membership from Swindon Borough and Wiltshire non-executive councillors. The objectives of the joint task group were to act as a “critical friend” and develop an overview of strategies and plans, and to provide independent scrutiny of the work of the SWLEP Board and Joint Strategic Economic Committee (JSEC).
6. In addition, the SWLEP is accountable for its governance, strategy and delivery to central government through the departments of Business Energy and Industrial Strategy and Housing, Communities and Local Government. The SWLEP has always been a leader within the LEP Network on transparency and democratic accountability.

7. The SWLEP acquired a legal personality when it incorporated as a not-for-profit company limited by guarantee on 14 January 2019. The change of status provided an opportunity to review the local scrutiny arrangements and engage both local non-executive councillors and business leaders in a new scrutiny process.
8. Following consultation of the Joint Scrutiny Task Group, at its meeting on 26 September 2019, the SWLEP Board resolved to establish a Joint Scrutiny Panel, comprising equal membership from Swindon Borough Council, Wiltshire Council and SWLEP Ltd (as further detailed in the Terms of Reference).

Purpose of the SWLEP Joint Scrutiny Panel

9. This Panel will act as a critical friend, developing an overview of strategies and plans and providing independent scrutiny of the work of the LEP Board. It is an essential element of assuring democratic accountability for the use of public funds.
10. The objective is to make constructive recommendations for how future decisions of the LEP can be effectively implemented.
11. The Panel will not have the power to delay the SWLEP's decisions but it will be able to make recommendations for improvement to the SWLEP's decision making process and will be able to make its conclusions public.

Effective scrutiny

12. The Centre for Public Scrutiny has previously identified four Effective Scrutiny Principles, in that it:
 - a. Provides critical friend challenge to decision-makers;
 - b. Enables the voice and concerns of the public and its communities;
 - c. Is carried out by independent minded governors who lead and own the scrutiny process; and
 - d. Drives improvement in public services.
13. Some key concepts for the Panel to consider are that scrutiny should:
 - a. Be independent of the SWLEP Board;
 - b. Be inclusive, structured, non-adversarial and cross-party;
 - c. Offer constructive challenge to prompt SWLEP Board reflection;
 - d. Make recommendations which are evidence based;
 - e. Be part of a wider web of accountability, which may include partners and the public;
 - f. Not unnecessarily duplicate other assurance activity;
 - g. Be appropriately challenging and use effective questioning techniques;
 - h. Ensure value for money; and
 - i. Provide high levels of assurance.

Responsibilities – Terms of Reference

14. It should be noted that the SWLEP Joint Scrutiny Panel does not fall under the banner of 'Overview and Scrutiny' as defined by the Local Government Act 2000 in that it will no longer be a body jointly formed by the two participating councils. However, the two councils will be asked to appoint non-executive councillors to the Panel and it will therefore still provide a scrutiny function led predominantly by democratically elected councillors.
15. The panel will foster and encourage an inclusive, structured, non-partisan and non-adversarial approach which is reliant on evidence rather than anecdote, to perform all scrutiny function on behalf of both Councils in respect of the SWLEP.
16. The panel will develop and approve an annual forward work programme consisting of long-term review of SWLEP programmes, but allowing enough flexibility and time for the review of other significant decisions as they arise in the year, including (but not limited to) any of the following:
 - a. Review the decision making of the SWLEP, and any sub-committees, to ensure due process has been followed and there is a transparent audit trail;
 - b. Review the delivery of SWLEP projects, with the possibility of a "deep dive" exercise on chosen projects or topics if required;
 - c. Review the implementation of the SWLEP strategies, including, but not limited to, the Local Industrial Strategy and its implementation plan and identify opportunities for improvement;
 - d. Review the output and outcomes information of the SWLEP programmes to ensure the SWLEP activities are having a beneficial impact on the economy of the SWLEP area;
 - e. Review the governance of the SWLEP to ensure that it is meeting the required standards, as set down by Central Government, and the highest standards of transparency;
 - f. Make recommendations to the SWLEP Board, and any other relevant sub-committee, on improvement to the SWLEP's decision making process. All recommendations must be realistic and achievable in order for the Panel to make an impact and to be a credible voice within the assurance framework.
 - g. To liaise with other equivalent panels over the development and dissemination of best practice with regards to scrutiny of LEPs.
17. The panel will produce an annual report for the SWLEP Board, which will also be presented to the relevant Overview and Scrutiny Committee for each of the authorities.

SWLEP Joint Scrutiny Panel membership

18. Membership: The panel will have a membership of nine, made up of:
 - a. Three business leaders who are members of SWLEP Ltd but are not represented on the Board of the company;
 - b. Three non-executive councillors from Swindon Borough Council;
 - c. Three non-executive councillors from Wiltshire Council;

19. Appointment: subject to agreement by the two local authorities, the relevant Overview and Scrutiny Committee for each will appoint its respective three non-executive councillors, and the SWLEP will appoint its three “non-SWLEP board” members.

20. Term of office: each Local Authority member will be appointed for a whole municipal year, and consideration should be given to local election patterns where appropriate. Business members will be appointed for an initial period of three years from the date of joining the Panel.

21. Chair: to be elected from each membership group on an annual rotating basis, at the panel’s discretion.

The panel will elect its Chair at its first meeting for the remainder of that calendar year and the calendar year to follow if less than 6 months after the first meeting. After that a chair will be appointed at the first meeting of the panel after the start of the calendar year and for the duration of that calendar year.

22. The Chair has the following duties:
 - a) To set the Agendas for meetings, having regard to the advice of support officers;
 - b) To develop a draft Annual Work Programme, having regard to the advice of support officers;
 - c) To facilitate the smooth running of each meeting;
 - d) To ensure that Members of the Panel have an equal voice and an opportunity to discuss and debate items of interest;
 - e) To ascertain the sense of the meeting and ensure realistic recommendations are developed;
 - f) To resolve any dispute in meetings through the exercise of his/her powers;
 - g) To lead the Panel in its role as critical friend; and
 - h) To be a champion for the scrutiny role.
 - i) To present the panel’s annual report to relevant committees, or delegate representation to another member of the panel where required.

23. Quorum: the meeting will require three members representing more than one membership group to be present to be quorate.

24. Attendance: members of the panel are expected to attend no less than 50% of the meetings of the panel. Issues with attendance will be reported to the SWLEP Board and the relevant Overview and Scrutiny Committee.

Meetings of the SWLEP Joint Scrutiny Panel

25. The Joint Scrutiny Panel will meet no less than four times a year and no more than six times a year, unless an additional meeting is either requested or approved by the SWLEP Board to undertake a specific scrutiny exercise.
26. Meetings will be set on a pattern, day and time, to suit members of the panel and will be reviewed on a yearly basis; or following significant membership changes.

Witnesses

27. The Joint Scrutiny Panel will be able to request attendance from Project Managers, members of the SWLEP Board (and any sub-committees) as well as key partners' representatives for SWLEP projects.
28. The panel would first seek advice from the SWLEP's Chief Executive, to ensure that relevant witnesses are approached.

Agendas and minutes for the SWLEP Joint Scrutiny Panel

29. Agendas and minutes for the SWLEP Joint Scrutiny Panel will be supported by Wiltshire Council's Overview and Scrutiny team and accessible on the SWLEP website.
30. Agendas and minutes will also be circulated directly to the members of the panel and any witness presenting evidence at the meeting.

Confidentiality

31. Agendas and minutes from the meetings, can be shared externally unless expressly stated as confidential or in draft form.
32. Members of the Panel are required to respect confidentiality of specific topics discussed at the meeting as requested by other members or witnesses.

Reporting and Monitoring

33. The Joint Scrutiny Panel reports directly to the SWLEP Board. The SWLEP board will monitor the efficiency of the Joint Scrutiny Panel, including through its annual report.
34. The Panel's annual report will also be presented to the relevant Overview and Scrutiny Committee for both local authorities.

Review of the Joint Scrutiny Panel

35. At a minimum the terms of reference will be reviewed annually to ensure that they remain aligned with government policy around accountability and transparency.
36. These may be reviewed sooner, either at the SWLEP Board or Panel's request, should there be significant changes to government policy or if the Terms of References set are preventing the Joint Scrutiny Panel from fulfilling its purpose.
37. Any proposed changes to the Terms of Reference will also be presented to both local authorities' relevant Overview and Scrutiny Committee for consideration.

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