

# Agenda item 5

## Hertfordshire Growth Board (HGB) – Growth Board Programmes & Growth Board Governance

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### 1 Purpose of report

- 1.1 This report is to consider the Growth Board governance arrangements and moving to a Statutory Joint Committee.

### 2 Background

- 2.1 The Hertfordshire Growth Board is currently operating to provide strategic co-ordination around growth and place leadership for the eleven councils and Local Enterprise Partnership in Hertfordshire. The Growth Board Governance is through an agreed Terms of Reference (TOR), latest version from March 2020, and a collaboration Memorandum of Understanding (MOU) (October 2019).
- 2.2 Hertfordshire Growth Board is in negotiation with HM Government to secure a Growth Deal which will require a formal governance model to provide accountability to government and good governance and transparency in the local management and use of any funds received under such an arrangement. In addition, the Growth Board model has served and is likely to continue to need to serve the aligned functions of:
  - Strategic direction, monitoring, delivery and co-ordination of current and future Growth Board strategy, programmes and implementation of any Growth Deal
  - Governance body that secures strategic collaboration and delivery across the councils and with the Local Enterprise Partnership (LEP) on place, economic performance and infrastructure matters
  - Acts as the place leadership body for Hertfordshire that provides a single voice to Government, also identifies, promotes, lobbies for Hertfordshire's interests and for funding
  - Oversight, accountability for and prioritisation of the Growth Board Growth fund
- 2.3 At a workshop in late June 2020, Leaders agreed that a statutory Joint Committee was their preferred governance model for the Growth Board in the event that Hertfordshire was successful in negotiating a Growth Deal with HM Government.
- 2.4 In the Growth and Recovery prospectus (at item 6 on this agenda) partners have proposed evolving the Growth Board into a joint (s.101 type) committee to formalise its status as a statutory joint committee. This would be the formal governance body for any deal between the Hertfordshire councils, the LEP and government. The timing of this change in status has not been confirmed but was expected to be in place not later than relevant contractual milestones in any agreed Growth Deal.
- 2.5 Giving the Growth Board formal joint committee status under s.101 would require it to be appointed and empowered under the following legislative provisions: -
  - S.101(5) and S.102(1)(b) Local Government Act 1972
  - S.9EB Local Government Act 2000
  - Part 4 Local Authorities (Arrangements for Discharge of Functions) (England) Regulations (2012)

### **3 The Growth Board and its current programmes**

- 3.1 The Hertfordshire Growth Board Partners have invested significant capital in the work that has been undertaken on the Growth Board programmes so far, through the dedication of political, officer and financial resources. The Growth Board is a unique construct for Hertfordshire and the progress that it has made is important. The programmes that have been developed and the outcomes that are being sought in place and economic terms are overwhelmingly the right ones for Hertfordshire, now and in the future.
- 3.2 Through the Growth Board work we have signalled to HM Government that there is unity and joint commitment to the Growth Board programmes across Hertfordshire and to pursuit of a Growth Deal. That messaging will need to be reinforced over coming weeks. It will also be important to focus on the timeline for this opportunity to try to secure a first Growth Deal for Hertfordshire, keeping that focus separate from other questions about the future delivery of public services in Hertfordshire.

### **4 Establishing a statutory joint committee as the Governance for the Growth Board**

- 4.1 Notwithstanding the above comments. Given recent announcements by Ministers about future structures in two tier local government, the merits of establishing the Growth Board as a statutory joint committee sooner need to be considered.
- 4.2 Other areas have moved to this governance model before or after receiving some form of City or Growth Deal funding, Oxfordshire and Greater Norwich are two examples:  
<https://www.greaternorwichgrowth.org.uk/>  
<https://www.oxfordshiregrowthboard.org/>
- 4.3 There are advantages for Growth Board partners in signalling the strong local commitment to the Growth Board work, its delivery programmes and co-ordinating role now and in the future (going above the commitments set out in the existing MOU) including:
- Early establishment of the formal governance structure for the Growth Deal and current Growth Board programmes will make it easier for that work to be kept separate from and continue to make progress whilst discussions about the implications of the forthcoming white paper take place
  - Helps maintain government and investor confidence in the visible alignment of business, political and civic support to delivery commitments in Hertfordshire
  - Would aid openness and transparency in decision making for Leaders and councils whilst the Growth Deal negotiations move forward over the next 6 months
  - Provides a governance vehicle that would not compromise, advantage or disadvantage any future devolution position or option but would allow Hertfordshire to pursue a Growth Deal within the current window of opportunity
- 4.4 Setting up the Growth Board as a statutory joint committee will in most cases require formal Executive (or Mayoral Executive or Committee) and Council approval in councils and Board approval for the LEP (as a co-opted member of the joint committee). There would be Legal and administrative time needed to support making this change.
- 4.5 If Leaders were comfortable with moving to a statutory joint committee at this stage then the Hertfordshire Monitoring Officers (MO) Group (which represents all the local authority partners) could be asked to develop the Terms of Reference for the joint committee including preparation of a common committee report for all councils to use in taking this through their democratic processes.

- 4.6 Principals of good governance require that there should be some form of scrutiny of the decision-making process within the Joint Committee and this can be provided for either via each of the partner councils' individual Overview & Scrutiny process or jointly via an aligned scrutiny process. The timing for scrutiny functions being established could however be aligned to the start of implementation of any Growth Deal. The MO Group could also be asked to advise on these arrangements at the same time as the joint committee work.
- 4.7 The following sets out the key legal provisions relating to the establishment of a joint committee for the Growth Board. Appendix A includes more detail.

## **5 The Establishment of a Joint Committee**

- 5.1 The 11 Hertfordshire Local Authorities (LA's) are empowered to establish a joint committee to which they may delegate functions and powers of their LA's to exercise on behalf of those founding authorities. The Joint Committee would primarily have responsibility for overseeing delivery of the Growth Board programmes and any Growth Deal with HM Government. The founding LA's have discretion as to the number of members, their term of office and subject to legislative requirements, the standing orders that govern the joint committee's operation, but the model proposed is that each LA is represented by the Leader or Chairperson in the case of Hertfordshire Local Enterprise Partnership. Voting would be one per LA/LEP as now.

## **6 Procedural Requirements for a Decision to Establish the Joint Committee**

- 6.1 In a Leader Cabinet model LA, the decision to approve the establishment of a Joint Committee (JC) must have the approval of both Full Council and the Executive of the authority. In councils with alternative governance models, such as Mayoral Cabinet or Committee models, there will be some technical differences in the requirements placed on the LA's in relation to the appointment of their members, none of which are insurmountable.
- 6.2 On the assumption that the JC will undertake both 'Executive' and non-Executive functions the following rule applies: -
- Where the LA only appoints one member to the JC that appointee may, but need not be, a member of the Executive of the authority. Or
  - Where the LA appoints more than one of its members to the JC, at least one of them must be a member of the Executive of the appointing LA.

## **7 Recommendations**

- 7.1 That Leaders/LEP Chair support:
- Moving the Growth Board to a statutory joint committee this autumn
  - The Hertfordshire Monitoring Officers Group being asked to prepare Terms of Reference, common committee reports and advise on the steps needed to implement the joint committee and future scrutiny arrangements.
  - All councils and the LEP taking the necessary decisions through their individual processes to be able to implement this change within the desired timescale.

## Appendix A - Table of References to Relevant Legislation

<b>S.101(5) Local Govt. Act 1972</b>	Power enabling two or more LA's to discharge any of their functions jointly and also to arrange for those functions to be discharged by a joint committee of theirs or by an officer of one of them.
<b>S.101(2) Local Govt Act 1972</b>	Provides that joint committees may arrange for discharge of their functions by a sub-committee or officer and sub-committees may arrange for discharge, by an officer of functions delegated to the sub-committee.
<b>S.101(5A) &amp; S.101(5B) Loc Govt Act 1972</b>	Have the effect of enabling LA's to discharge Executive functions via a joint committee established under S.101(5).
<b>S.102(1) Local Govt. Act 1972</b>	Empowers two or more local authorities to appoint a joint committee of those authorities.
<b>S.102(2) Local Govt. Act 1972</b>	Provides that the number of members of the joint committee, their term of office and area within which the committee may exercise its authority is to be fixed by the appointing authorities.
<b>S.102(3) Local Govt. Act 1972</b>	Power to include appointment of co-optees who aren't elected members.
<b>S.9EB (1) Local Govt. Act 2000</b>	Power enabling the SoS to make regulations in connection with the discharge of Executive Functions via S.101(5) Joint Committee.
<b>Reg 4 Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</b>	Provides that, in the context of Leader Cabinet model LA, the following have the power to make arrangements for the discharge of Executive Functions via a Joint Committee: - <ul style="list-style-type: none"> <li>- The Leader</li> <li>- The Executive</li> <li>- An Executive Member</li> <li>- A committee of the Executive.</li> </ul>
<b>Reg 9(1) Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</b>	Requires that any arrangements for the discharge of an Exec function via a Joint Committee must be made in accordance with Part 4 of the regulations.
<b>Reg 9(2) Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</b>	Requires that any such arrangements are to be made with the person in the other authority(ies) who is empowered to do so i.e. Leader etc. or with Full Council.
<b>Reg 11(2) Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</b>	Provides that such arrangements may provide for the discharge of a number of functions by one joint committee on behalf of multiple LA's
<b>Reg 11(7) Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.</b>	Where arrangements are made for discharge of functions by a Joint Committee and one or more but not all of the functions to be discharged by that Joint Committee in relation to an authority, are Executive Functions, the appointment of the Committee is to be made under S.102(1)(b) LGA 1972 and the number of members, their term of office and area, are to be fixed under S.102(2) of the LGA 1972 in relation to the authority, by the authority with the agreement of the Executive of the Authority.

<p><b>Reg 11(8)</b>  <b>Local Authorities</b>  <b>(Arrangements for the Discharge of Functions)</b>  <b>(England) Regulations 2012.</b></p>	<p>Provides that a Joint Committee appointed under this regulation may appoint a sub-committee or an officer to discharge any of its functions, (subject to power of veto by the relevant council leader).</p>
<p><b>Reg 11(9)</b>  <b>Local Authorities</b>  <b>(Arrangements for the Discharge of Functions)</b>  <b>(England) Regulations 2012.</b></p>	<p>Provides that a sub-Committee appointed under this regulation may arrange for an officer to discharge any of its functions, (subject to power of veto by the JC or a relevant council executive leader).</p>
<p><b>Reg 12(1)</b>  <b>Local Authorities</b>  <b>(Arrangements for the Discharge of Functions)</b>  <b>(England) Regulations 2012.</b></p>	<p>Provides that Co-optees may be appointed</p>
<p><b>Reg 12(4)</b>  <b>Local Authorities</b>  <b>(Arrangements for the Discharge of Functions)</b>  <b>(England) Regulations 2012.</b></p>	<p>Concerns arrangements where the Joint Committee one or more but not all of the functions to be exercised in relation to an authority is the responsibility of an authority, where only one member of the authority is to be appointed that member may but need not be a member of the Executive of that authority.</p> <p>Where there is more than one appointment for the authority, at least one of those appointments must be an Executive Member.</p>
<p><b>S.15</b>  <b>Local Govt &amp; Housing Act 1989</b></p>	<p>Duty on LA's/Committees to ensure that seats on Committees and Sub-Committees are allocated to political groups in accordance with the principles set out in S.15(5).</p>
<p><b>Schedule 1</b>  <b>L G &amp; H Act 1989</b></p>	<p>Schedule 1 defines the bodies to which the political proportionality requirements apply when making appointments and other qualifying circumstances.</p> <p>S.1 provides that the proportionality rules don't apply where the number of seats on the body to which the LA may make appointments is less than three i.e. (1 or 2).</p> <p>S.2 contains a list of relevant bodies to which the proportionality rules apply, and this includes joint committees appointed under S.102(1)(b) LGA 1972. (S.2(h)).</p>
<p><b>S.17(1)</b>  <b>L G &amp; H Act 1989</b></p>	<p>Provides an exemption to this where the appointing council or Committee resolves to suspend the requirements and none of the members of the council/committee votes against.</p>