

Principles for

# section 151 officers in accountable bodies

working with local enterprise partnerships

# \ introduction

The partnership between local enterprise partnerships (LEPs) and local authorities is an important one. Driving economic growth in local areas is a key strategic objective and one that underpins much of the long-term funding ambitions for the country's economy. The money generated through business rates will also play a key role in the funding of local public services over the coming years.

Through the Local Growth Fund the Government has committed significant financial resources to achieve this ambition. While much of this money is well managed through effective partnership and collaborative working between LEPs and accountable bodies, additional clarity on the role of the section 151 officer<sup>1</sup> is intended to strengthen positive practices already in place.

When a local authority or combined authority acts as the accountable body for a local enterprise partnership, the role of the relevant section 151 officer in overseeing the proper administration of financial affairs is extended to include those of the local enterprise partnership.

It is important that the roles and responsibilities of all key stakeholders are transparent and clearly communicated. Accountable bodies and LEPs should ensure that there are clearly defined roles and relationships for key LEP stakeholders. These include: section 151 officer, LEP chair, LEP chief executive, the LEP board, sub-boards; and, if applicable, the interaction of other accountable body figures, such as the monitoring officer or mayor.

Working together, CIPFA and the Cities and Local Growth Unit have developed five principles which they expect the section 151 officer role for LEPs to meet when instilling good and proportionate financial governance:

- 1 Enshrining a corporate position for the section 151 officer in LEP assurance.**
- 2 Creating a formal/structured mandate for the section 151 officer.**
- 3 Embedding good governance into decision making.**
- 4 Ensuring effective review of governance.**
- 5 Appropriate skills and resourcing.**

These principles define core activities and behaviours and will be supported by specific responsibilities agreed locally between the section 151 officers, the chair and chief executive officer (CEO) of the LEP. While the organisation structure may differ the principles that govern the role of the section 151 officer will remain constant.

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<sup>1</sup> For this guidance, any reference to the section 151 officer also refers to any equivalent ie section 73 officer or section 127 officer.

# \ about the principles

These principles recognise that each LEP is independent and has the flexibility to determine the details of its governance and accountability arrangements in line with the Government's *LEP National Assurance Framework*. They recognise the LEP's have a variety of legal forms, structures and funding streams including retained schemes and LEP's in mayoral combined authorities. The design of the principles recognises these differences whilst reflecting the role of the sections 151 officer within each arrangement as the principle of accountability does not change.

These principles are to be read in conjunction with the detailed National Assurance Framework and the Best Practice Guidance document provided to LEPs. This guidance forms part of the comprehensive framework developed by government to support LEPs to deliver their objectives. In addition, the Government has undertaken and published a Ministerial Review into LEPs, the outcomes of which will be incorporated into future National LEP Assurance Framework<sup>2</sup>.

These principles are designed to assist both section 151 officers to fulfil their role and LEPs to assist the process. In some cases, the section 151 officer may delegate some of the functions set out in this document. It is important that where this is the case, a scheme of delegation is documented for clarity. However, it should be noted that whilst the section 151 officer may choose to delegate functions, they cannot delegate accountability.

These principles reflect the role of the section 151 officer and do not extend beyond that function.

Following the consultation on the role of the section 151 officer additional matters that do not fall into the scope of this document have been raised including the role of the monitoring officer. These will be considered as part of the National Assurance Framework refresh.

## Greater focus on the section 151 role

As the amount of public funding which LEPs are responsible for increases; the role of the section 151 officer gains greater prominence in the LEP assurance model.

Building on the findings of previous work<sup>3</sup> The MHCLG Non-Executive Director (Mary Ney) Review into LEP governance and transparency<sup>4</sup> recommended that additional clarity was needed on the expectations of the role of the section 151 officer and the substance of how LEPs need to work with that role.

Mary Ney's report recommended that MHCLG work with CIPFA to provide better clarity on:

- the mechanisms the section 151 officers use to fulfil their role
- their requirements in terms of access to LEP decision-making bodies
- the ability to provide written and verbal financial advice
- the role of their transactional services
- the operation of normal checks and balances in approving expenditure, management of risk of fraud and corruption
- the monitoring of programme spend against resources, treasury management and borrowing
- the role of internal audit and external auditors and provision of an audit opinion for the LEP
- the visibility of reporting arrangements to both the accountable body and the LEP
- the production of accounts and inter-relationship with the LEP's own accounts, if relevant.

While the role of the section 151 officer is critical in maintaining good governance and standards, it is insufficient to rely on this alone. As with any organisation, the establishment of an embedded culture of transparency and accountability requires direct and proactive leadership from the chair and CEO of the LEP to ensure strong adherence to good governance and clarity on standards. For example, LEP leaders are responsible for making sure that new LEP board members receive training or induction into the culture and governance of the LEP, as well as core policies such as those on declarations of interest and whistleblowing.

<sup>2</sup> Strengthening Local Enterprise Partnerships, MHCLG Policy Paper, July 2018, [www.gov.uk/government/publications/strengthened-local-enterprise-partnerships](http://www.gov.uk/government/publications/strengthened-local-enterprise-partnerships)

<sup>3</sup> Local Enterprise Partnership, National Audit Office, December 2016

<sup>4</sup> Mary Ney Review Local Enterprise Partnerships Governance and Transparency, MHCLG, October 2017

# \ principle 1

## **Enshrining a corporate position for the section 151 officer in LEP assurance**

- 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. The shared responsibility should be agreed and set out in the Local Assurance Framework, ahead of the section 151 officer writing to the accounting officer of MHCLG as required in the National Assurance Framework. The section 151 officer must also provide an Annual Assurance Statement on their work for the LEP over the last twelve months and their opinion with a specific requirement to identify any issues of concern on governance and transparency as part of the LEP's Annual Conversation with government – beyond this, they are free to delegate.
- The section 151 officer shall be supported by the LEP and the accountable body to carry out such checks as are necessary to independently ensure the proper administration of financial affairs in the LEP.
- Where the section 151 officer raises concerns or makes recommendations about changes required to ensure the proper administration of financial affairs, these shall be acted upon promptly by the LEP.
- The section 151 officer and chief executive/ chair acknowledge that proper administration of financial affairs continues throughout the year. Any improvements required should be clearly set out in the Local Assurance Framework action plan and monitored appropriately for delivery. Both have a role in identifying staff training needs to ensure compliant spend of funds and that all staff understand the governance and control arrangements.

# \ principle 2

## **Creating a formal/structured mandate for the section 151 officer**

- The LEP board, and its supporting governance structure (where there are appropriate schemes of delegation), is the strategic body responsible for taking decisions on LEP business and LEP programme activity.
- 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.
- The section 151 officer shall have the right to record an opinion if required on the financial implication and assessment of risk (such as delivery risks and cost overrun risks) in every board paper. The LEP board do not have to follow the section 151 officer's advice above, but where they decide on a course of action which goes against that advice, the board should indicate and record the rationale for not following it.
- Section 151 officers (or their delegated representatives) should also be invited to attend all board meetings and board agenda setting meetings, but shall not be entitled to vote or otherwise make LEP decisions.
- The LEP shall recognise that treasury management and borrowing is part of the role of the accountable body.
- The section 151 officer should ensure that there are the correct, established financial processes in place leading up to board decisions such that financial delegations are respected.
- Where there are concerns about systemic financial problems this shall be raised with the Cities and Local Growth Unit. The section 151 officer will work with the LEP to improve financial standards, and progress shall become a standing item in the board meetings until the section 151 officer is satisfied that the issue has been resolved.
- The 151 officer and the LEP should agree appropriate arrangements over the discharge of the functions of an audit committee.

# \ principle 3

## **Embedding good governance into decision making**

- The section 151 officer working with the LEP chief executive and chair should ensure that the LEP and accountable body has procedures in place to consider the financial implications of decisions before and during the decision making process rather than reviewing decisions afterwards.
- LEPs and the section 151 officer should agree the budget risks facing the LEP at the outset of the financial year, and review them on a frequent basis. The risk appetite should be understood by both the LEP and the section 151 officer. The LEP shall provide the risk register to the section 151 officer on each occasion that it is revised.
- At the beginning of the budget year, the section 151 officer should be entitled to comment on the adequacy of the budget plan. This should be provided by the LEP chief executive at the beginning of each financial year.
- In addition, the LEP should set out their scrutiny arrangements in their Local Assurance Framework to make sure there is strong governance in place, and appropriate scrutiny procedures to support that governance.
- If the dual role of the section 151 officer results in a potential conflict of interest impartial advice should be sought to ensure transparency.

# \ principle 4

## **Ensuring effective review of governance**

- An internal audit plan should be agreed for the year, this plan should include a risk-based audit plan of LEP activity that will provide assurance to the section 151 officer and the LEP board at appropriate points through the year. LEPs should ensure that there are arrangements for funding the internal audit activity.
- The internal auditors of the accountable body may provide assurances to both the LEP Board and the section 151 officer. Guidance on internal audit sets out the assurances to be provided and the reporting relationships to maintain audit independence.
- Following a completed audit (by either internal or external audit) where there are comments that relate to the LEP they should be reported back to the board by the Section 151 officer and chief executive or their representatives and provided to the Cities and Local Growth Unit.
- 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 should be the first mechanism to resolve disputes, if this has been unsuccessful it should be raised with the Cities and Local Growth Unit.

# \ principle 5

## **Appropriate skills and resourcing**

- The section 151 officer shall be given appropriate resources to carry out its functions in respect of the LEP, including audit where appropriate. LEPs and accountable bodies should frequently review resource needs, and consider if they are being appropriately met.
- Underpinning good governance in the LEP model is an expectation of mutual support between the LEP and its accountable body.
- There should be a culture of working that respects the section 151 officer role of ensuring appropriate procedures are in place for scrutiny and financial rigour.



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