

**AGENDA ITEM 10**

**REPORT TO THE TEES VALLEY  
COMBINED AUTHORITY CABINET**

**23 NOVEMBER 2017**

**REPORT OF THE  
STRATEGY DIRECTOR**

**PORTFOLIO: INVESTMENT**

**INTERMEDIATE BODY STATUS FOR TEES VALLEY COMBINED AUTHORITY**

**SUMMARY**

This paper seeks agreement for Tees Valley Combined Authority to become an Intermediate Body for European Structural and Investment Funds from November 2017. It sets out the rationale for securing Intermediate Body status and provides an overview of responsibilities. Subject to Cabinet agreement, a Memorandum of Understanding will be signed between the Combined Authority and the Managing Authorities to formalise the transfer of powers.

**RECOMMENDATIONS**

It is recommended that the Combined Authority Cabinet agrees:

- i. Tees Valley becomes an Intermediate Body from November 2017;
- ii. Responsibilities and working arrangements set out in paragraphs 11-13 form the basis of a Memorandum of Understanding between the Combined Authority and the Managing Authorities (Department for Communities and Local Government and Department for Work and Pensions for ERDF and ESF respectively);
- iii. Responsibility for agreeing the Memorandum of Understanding with the Managing Authorities is delegated to the Managing Director.

## **BACKGROUND**

1. The Tees Valley Devolution Agreement (signed October 2015) included a commitment for the Combined Authority to become an Intermediate Body. This would give some control and influence over decision making in respect of the remaining 2014-2020 ESIF Programme, on the basis of strategic fit with operational programmes and local conditions. It would also allow Tees Valley to integrate and align investments with other aspects of the devolution deal, to select projects for investment, to improve performance and maximise economic impact.
2. Looking ahead, Intermediate Body status was intended to pave the way for greater control of future EU funding programmes, potentially full control as is the case in London for the 2014-2020 Programme. This would be of far greater benefit to the area, significantly increasing the ability to stimulate growth in the local economy through a co-ordinated funding approach, tailored to meet local need.
3. It was originally anticipated that IB status would relate to the 2014-2020 ESIF programme, and that greater local control could be secured for EU funding programmes post 2020. However, the EU referendum in June 2016 created uncertainty about the future of the UK ESIF Programme beyond Brexit. Progress to secure Intermediate Body status was therefore paused until more was known about the longer term approach for both the current programme and successor arrangements.

## **CURRENT POSITION – ESIF 2014-2020 AND SHARED PROSPERITY FUND**

4. In October 2016, Government announced that all ESIF funding commitments under contract before the UK leaves the EU would be honoured by HM Treasury, even if contracts went beyond the date of Brexit. More is also becoming clear about UK successor arrangements for EU funding. Government has confirmed that structural fund money which comes back to the UK following Brexit will be used to create a UK Shared Prosperity Fund. The fund will also replace the current Local Growth Fund and other funds may be put into it. This will be designed to reduce inequalities between communities, and funds are intended to help deliver sustainable, inclusive growth based on the Industrial Strategy.
5. Consultation on the design of the Shared Prosperity Fund has started and will continue into 2018. Tees Valley has been involved with initial discussions targeted at Combined Authorities, and more formal consultations are planned.
6. Tees Valley will make a case for greater local control of the Shared Prosperity Fund than was available through the ESIF Programme. Our ambition would be to see Shared Prosperity resources devolved through our Single Pot, coming without restrictions for use as capital or revenue, enabling a streamlined approach to evaluation and providing local flexibility to join up resources and deploy them in a way that can best deliver priorities in our Industrial Strategy.

## **INTERMEDIATE BODY STATUS**

7. Now that more is known about the national direction of travel, it is considered timely to secure Intermediate Body for Tees Valley Combined Authority. This would apply to remaining funds in the current programme (£83.8m, £16.6m of which relates to recently closed calls and £2.2m is currently in open calls). It will also put the

Combined Authority in a stronger position for local management and control of Shared Prosperity funds.

8. The following functions will become the responsibility of the Combined Authority under Intermediate Body arrangements:
  - Developing local strategic fit content for call design
  - Carrying out assessment and appraisal of local strategic fit for outline and full applications
  - Deciding on local strategic fit content for project calls (seeking advice from the ESIF sub-committee to inform decision making)
  - Providing advice on the timing of calls to the Head of the Local Growth Delivery Team
  - Assessing outline and full application for local strategic fit and deciding which to approve (seeking advice from the ESIF sub-committee to inform decision making)
  - Providing advice to the Managing Authorities on Value for Money and Deliverability selection criteria
  - Having regular review meetings with the Local Growth Delivery Team to discuss performance information and agree actions as appropriate.
9. All of these tasks fit with existing roles and responsibilities of Combined Authority staff. The Combined Authority intends to access Technical Assistance resource to support delivery of Intermediate Body status. It is intended that this resource is used to cover relevant aspects of current staff roles. In taking on the new responsibilities, the Combined Authority will be required to demonstrate a clear separation of functions between staff undertaking Intermediate Body tasks, and those involved in bidding for European funds.
10. The Combined Authority submitted a bid for Intermediate Body status in September 2017. This set out:
  - A description of the Combined Authority and its suitability to be an Intermediate Body
  - Management and control systems of the Combined Authority
  - Organisational governance and staff capacity to deliver Intermediate Body functions (including separation of functions and managing conflicts of interest)
  - Ways of working - data and risk management.
11. DCLG has completed their consideration of the proposal. They are satisfied that the Combined Authority has demonstrated an appropriate management and control environment is in place, and that it can now be designated as an Intermediate Body for the purposes of implementing ERDF in the Tees Valley LEP area. A Memorandum of Understanding has been signed by DCLG as the Managing Authority for ERDF. We are awaiting confirmation from DWP that we can move to IB designation for ESF. It is recommended that Cabinet delegates responsibility to the Combined Authority Managing Director to sign the ERDF Memorandum on behalf of the Authority, and also to sign the ESF Memorandum once it is in place.

## **FINANCIAL IMPLICATIONS**

12. IB status would mean that the Combined Authority is liable for any financial corrections imposed as a result of an “irregularity” or “systemic irregularity” due to an act or omission of the Combined Authority which relates to a delegated task. The value of any financial correction would be no more than the amount of defrayed

expenditure directly attributable to the identified irregularity or systemic irregularity. Financial liabilities will be underwritten by the Combined Authority.

13. Robust processes and practices are in place to ensure the risk of irregularities is minimised, including performance monitoring of projects, supported by a data sharing agreement between the Combined Authority and the Managing Authority. Each contract awarded is done so on an individual basis, and therefore irregularities on one contract would have no impact on others. Strong governance arrangements are also in place, recognised by government through the Single Pot Investment Framework, which is used to monitor all investments. Whenever grants are awarded to delivery bodies, strong contracts will also be put into place to transfer the risk onto the deliverer, thereby and reducing the risk to the Combined Authority. Risk of financial liability would only apply to the Combined Authority in the issuing of contracts to delivery bodies.

## LEGAL IMPLICATIONS

14. The Memorandum of Understanding signed between the Combined Authority and the Managing Authorities will set out the ERDF and ESF tasks that will be delegated to Tees Valley Combined Authority as an Intermediate Body for the purposes of Article 123(6) of Regulation (EU) No 1303/2013, and will constitute a formal written record of that arrangement, as required under Article 123(6).

## RISK ASSESSMENT

15. The following risk assessment has taken place, and will form part of the submission pack to the Managing Authorities.

<b>Responsibility / Liability</b>	<b>Risk</b>	<b>Mitigating action</b>
Undertaking the scope of activities associated with Intermediate Body status	Lack of staff capacity	Intention to draw down Technical Assistance resource to support staff roles (equivalent of 1 FTE for ERDF and ESF at Grade K - £39,867 with on costs)  Confirmation of existing staff capabilities, reflected in job descriptions
Irregularity in operating arrangements	Conflict of interest between staff undertaking IB functions, and those potentially bidding for ESIF funds	Sensitive posts identified and ways of working clearly set out in working arrangements
Irregularity in operating arrangements	Errors in determining the strategic fit of a project	Decisions to be made in line with SEP and ESIF Strategy  Auditable records kept of decision making
Performance monitoring	A delay in access to performance information, particularly for high priority, high risk projects, or those that are under performing	Data sharing agreement and ways of working between the Combined Authority and Managing Authority to be agreed from the outset

<p>Financial liability – for the value of any financial corrections as a result of irregularity / systemic irregularity arising from any act or omission of the Intermediate Body which relates to a delegated task.</p>	<p>Irregularities from inefficient working practices</p>	<p>Robust processes and working practices in place to ensure the risk of irregularities is minimised, including performance monitoring of projects supported by a data sharing agreement between Combined Authority and the Managing Authority.</p> <p>Strong governance arrangements are also in place, recognised by government through the Single Pot Assurance Framework, which is used to monitor all investments.</p> <p>Whenever grants are awarded to delivery bodies, strong contracts will be put into place to transfer the risk onto the deliverer, thereby and reducing the risk to TVCA.</p>
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## CONSULTATION

16. Becoming an Intermediate Body was agreed to in the Tees Valley Devolution Deal, therefore no consultation has taken place, as this was a policy to which the Combined Authority was already committed.
17. Discussion with relevant staff and the Managing Authorities have shaped the detail of the proposal pack.

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