

South East Midlands Local Transport Board

**Contains Confidential
or Exempt Information** No

Title of Report Update on Local Framework

Meeting Date: 25 July 2013

Responsible Officer(s) Glenn Barcham, Bedford Borough Council, Paul Cook, Central Bedfordshire Council, Keith Dove, Luton Borough Council, Brian Matthews, Milton Keynes Council, Hilary Chipping, SEMLEP.

Presented by: Keith Dove, Transportation Strategy & Regulation Manager, Luton Borough Council

**The Board is
asked to:**

1. **Approve the amendments to:**
 - i) **the purpose, governance structure and operating principles (Part 1) of the Local Framework, taking account of the comments received from the Department for Transport (DfT), and agree to the preparation of a formal Memorandum of Understanding based on these;**
 - ii) **the prioritisation section (Part 2) of the Local Framework to ensure consistency with the prioritisation process adopted by JMP; and**
 - iii) **the programme management and investment decision section (Part 3) of the Local Framework, taking account of the comments received from the DfT, but noting that this section is unlikely to be signed off until the further DfT guidance on key elements of this process is complete.**

Executive Summary

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| 1. | Following a consultation on devolving major scheme funding during the early part of 2012, the coalition government has now decided that from 1 April 2015 Government investment in major highways and transport schemes delivered by Local Highway Authorities will be funded through Local Transport Bodies (LTBs). The Department for Transport (DfT) issued |
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| | <p>Guidance on the establishment of LTBs on 23 November 2012. As set out in that Guidance, the primary role of the LTB will be to decide which transport investments should be prioritised, to review and approve business cases for each prioritised scheme, and to ensure effective delivery of the programme.</p> <p>The draft Local Framework submitted to the DfT on 28 February was included at Appendix A to the report to the Board meeting on 23 April 2013. Part 1 of the Local Framework, once finalised, will be used to develop a Memorandum of Understanding (MOU) constituting the setting up of the South East Midlands LTB for approval by Members.</p> |
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| Background | |
| 2. | <p>The background section of the report to the Board meeting on 23 April set out the background to the DfT approach to devolving funding on major transport projects to LTBs, which can be summarised as follows;</p> <ul style="list-style-type: none"> • January 2012 - DfT issues consultation paper • April 2012 - the four Councils and SEMLEP respond to consultation • August 2012- DfT request LEPs/Councils agree their preferred solution • November 2012- DfT publish final guidance setting out timetable • February 2013- the four Councils submit Local Framework to DfT <p>As noted in the update report to the last Board meeting, the DfT are now planning to approve each part of the Local Framework separately.</p> |
| 3. | <p>The only option that meets the requirements of the DfT is for the four Councils to work together to deliver the implementation of major transport schemes in their area. If any of the four Councils do not formally agree to become part of the South East Midlands Local Transport Board, then they will not be entitled to a share of the DfT funding after 1 April 2015.</p> |
| 4. | <p>Developing the Local Framework</p> <p>On 28 June the DfT wrote to the LTB (see Appendix A) approving the governance section (Part 1) of the Local Framework, subject to this section being amended to include a number of changes set out in an e-mail from the officer working group in response to a number of issues raised by the DfT. The issues raised by the DfT (<i>in italics</i>), together with a commentary including any necessary changes to the Local Framework (in bold) are set out below.</p> |

Paragraph 13 of our guidance for Local Transport Bodies sets out a minimum requirement that LTBs 'must maintain, or enable access to, publicly available registers of member interests' Can you please confirm that this will be made publicly available?

Paragraph 13 of our Local Framework sets out that the personal interests of voting Members will be covered by the Register of Interests of their respective Unitary Authorities or SEMLEP. It is proposed to add the following sentence to the end of this Paragraph:

“ These Registers of Interest are publicly available from the individual Member authorities, including on their websites.”.

Can you confirm who will act as the Accountable Body for the LTB?

At the first shadow meeting of the South East Midlands Local Transport Board on 23 April, the Board agreed to Luton Borough Council being the Accountable Body for five years starting in 2013/14.

The guidance also requires the responsibilities at Paragraph 16 to be clearly allocated by the Accountable Body, in particular the expectation that legal responsibility will lie with these bodies. Can you please confirm this will be the case with the LTB and the Accountable Body?

The bullet points in paragraph 15 of our Local Framework incorporate all except one of those in paragraph 16 of the DfT Guidance as roles of the Accountable Body. The only exception to this is whereas the fourth bullet point in paragraph 16 of the DfT Guidance indicates a function of the Accountable Body should be “maintaining the official record of LTB proceedings and holding all LTB documents”, this is covered in paragraph 20 of our Local Framework, which states that “The official record of Local Transport Board proceedings /decisions and all Local Transport Board documents shall be held on the public area of the South East Midlands LEP website”.

The DfT guidance includes a requirement for a commitment to hold LTB meetings at all key decision points. Can you please confirm the LTB will hold meetings to cover the areas set out at Paragraph 28?

Our response to the DfT was that, in accordance with paragraph 22 of our Local Framework, it is envisaged that the meeting determining funding priorities for the following year **will take place in December / January** and the meeting to monitor delivery and review Governance **will be held in May / June**. It is also suggested that the last sentence in paragraph 22 is deleted and replaced with:

“Individual scheme decisions can be made at either of these meetings or, if necessary, at additional meetings as required.”

The DfT guidance includes a requirement (paragraph 32) that LTBs 'must ensure FOI & EIR requests are dealt with in accordance with the relevant legislation. Can you confirm that the Accountable Body will hold all LTB papers and carry out its legal responsibilities as a public body in the receipt of information rights requests?

This requirement is covered in the penultimate bullet point in paragraph 24 of our Local Framework which states that the Local Transport Board will “ensure that FOI and EIR requests are dealt with in accordance with the relevant legislation either through the Accountable Body or the constituent Authorities as appropriate”.

- 5.** In relation to Part 2 of the guidance, following the provision of further information about the prioritisation process to the DfT on 3 July (as evidenced by the reports to and draft minutes of the last Board together with the JMP presentation), they confirmed by e-mail on the 12 July that the prioritisation process is acceptable to them. This will enable this meeting of the Board to take a formal decision on, and publish its definitive prioritised list.

To ensure that the Local Framework is consistent with the prioritisation process agreed by the Board at their first two meetings, the following changes are proposed to our Local Framework:

- i) Include weighting of each of 7 objectives in paragraph 27
Reason: to include the objective weightings agreed by the Board on 23 April.
- ii) Delete “and weighting to be applied to each” at end of paragraph 28
Reason: to ensure consistency with JMP’s methodology agreed by the Board on 21 June, which does not weight criteria of cost, risk, and Value for Money.

- 6.** In relation to Part 3 of the Local Framework, the table appended to the DfT letter (see Appendix A) sets out further amendments that may be required. Some of these issues will require further consideration; in particular those requiring further details of the scope of the work on scheme assessment to be undertaken by the LTB and its supporting Officer Working Group as opposed to the independent consultants undertaking the technical audit of the Programme Entry Business Case for each scheme. Indeed the balance of work undertaken by these parties cannot be accurately defined until the DfT has provided further guidance on Business Case scrutiny and Value for Money assessment which, as indicated in the update report to the previous Board meeting, will probably not be available until this Autumn.

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| | <p>Notwithstanding this, in order to address some of the points made by the DfT about Part 3, the following amendments (in bold) are proposed:</p> <p>i) Add the following sentence to the end of paragraph 46 of the Local Framework, in order to address the issue raised by the DfT about publishing Evaluation Plans. “The officer working group will assess the Evaluation Plan in accordance with DfT guidance, and place the final Evaluation Plan on the SEMLEP website.”</p> <p>ii) Add the following sentence to the end of paragraph 34 of the Local Framework in order to ensure that legal responsibility of full appraisal rests with the Promoter. “The responsibility of ensuring the Business Case and other supporting documents meets the requirements of the DfTs Transport Appraisal Guidance rests solely with the Promoter.”</p> <p>iii) Add the following words at the start of the last sentence in paragraph 32 of the Local Framework in order to address the issue raised by the DfT about senior officer sign-off of the Value for Money assessment: “The Value for Money assessment and...”</p> |
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| Issues | |
| Strategy Implications | |
| 7. | The transport schemes to be included in the prioritised list are expected to reflect the policy/strategy background priorities of the promoting local authority and the seven LTB objectives. |
| Governance & Delivery | |
| 8. | <p>The day to day work of the Board will be managed by the officer Working Group. Formal LTB administration arrangements will be undertaken by the Council chairing the meetings.</p> <p>Any scheme funding allocated via the process will be managed in accordance with the individual authority’s standing orders and processes, but also meet the requirements set out in Part 3 of the Local Framework.</p> |
| Management Responsibility | |
| 9. | Not applicable to this report. |

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| Financial Implications | |
| 10. | <p>Any Government funding allocated to the LTB's transport schemes will be managed by the Accountable Body.</p> <p>The officer working group and other officer costs of servicing the LTB is expected to be met from existing resources within each authority.</p> |
| Legal Implications | |
| 11. | <p>The LTB will operate within the Local Framework at Appendix A agreed set to be agreed at the LTBs first meeting.</p> <p>Transport schemes brought forward through the LTB process will be developed with due consideration to relevant legislation including how it impacts on equalities and the environment.</p> |
| Environmental and Health Impacts | |
| 12. | <p>The Governance process set out in the Local Framework does not per se have any environmental impacts, although any individual transport schemes brought forward as part of the LTB process will be developed with due consideration to relevant legislation including how it impacts on the environment.</p> |
| Public Sector Equality Duty (PSED) | |
| 13. | <p>The Governance process set out in the Local Framework does not per se have any equalities impacts, although any individual transport schemes brought forward as part of the LTB process will be developed with due consideration to relevant legislation including how it impacts on equalities. Each individual authority will undertake its responsibility in terms of ensuring an appropriate equality impact assessment is undertaken for individual schemes.</p> |
| | Are there any risks issues relating Public Sector Equality Duty? |
| | <i>No</i> |

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| Risk Analysis |
| Briefly analyse the major risks associated with the proposal and explain how these risks will be managed. This information may be presented in the following table. |

| Identified Risk | Likelihood | Impact | Actions to Manage Risk |
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| LTB acts outside its remit | Low | High | Development of robust assurance framework |
| Loss of support from 1 or more LTB member authorities. | Low | High | Timely information provided. Regular officer meeting to identify and respond to any tensions |

| Background Documents | Location (including url where possible) |
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| - Local Frameworks for funding major transport schemes: guidance for local transport bodies (Nov 2012) | https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15176/guidance-local-transport-bodies.pdf |

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By email

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28 June 2013

SOUTH EAST MIDLANDS LTB ASSURANCE FRAMEWORK

We are about to embark on an unprecedented transfer of funding and decision making on major capital transport schemes. This represents a historic opportunity for real local decision making.

An important step in the Department's plans is the setting up of assurance frameworks for Local Transport Bodies (LTBs). These frameworks are an important link in the chain of accountability back to Parliament and enable the Department to have confidence in the ability of LTBs to make sound decisions that will deliver value for money.

As you will know, the funding for local major transport schemes was confirmed this week as one of the funding streams that will be included in the new Single Local Growth Fund from 2015.

Details of precisely how that fund will work, and how the work of Local Transport Bodies will be integrated within it, will be set out in guidance on Local Growth Deals but our overriding aim will be to make any transition as seamless and sensible as possible.

In the meantime, however, we want to make sure that the momentum of delivery is maintained and that the devolution of major transport schemes funding proceeds as planned.

This, therefore, is the Department's formal response to your draft assurance framework submitted at the end of February. It has been agreed by Norman Baker, the local transport Minister

We intend to write again next week to confirm your funding allocation post 2015 and the details of the immediate next steps including publication of your prioritised lists in July.

If for any reason you think you will have difficulty in meeting the July deadline please contact the Department urgently, so that we may consider whether more time can be allowed. I should stress that we expect such cases to be very much the exception.

Part 1 – Membership, governance and working arrangements

I am pleased to confirm that you now satisfy all the requirements on the governance arrangements and structures for LTBs as set out in Part 1 of our guidance document.

The Department has therefore signed off Part 1 of your framework as set out in your draft dated February 2013, on the understanding that it incorporates the amendments set out in your emails of 8th May.

Part 2- Scheme prioritisation

We appreciate you have already undertaken considerable work in developing your initial scheme programme. As we stressed in our guidance, prioritisation should be evidence based, robust and based on clear objectives.

We are content with the material we have seen so far but we will need to see some more information on the initial data collection stage and the scoring methodology before we are in a position to consider approval of this part of your framework. **You should not take formal decisions on, or publish your definitive prioritised list until this part of your framework has been approved**, and we will endeavour to do that as soon as possible. Given the tightness of time, I have asked colleagues here to contact you next week to see how we can work together to achieve this outcome quickly.

The prioritisation of schemes is a very important step. We have looked carefully at all LTBs' proposals for how this is to be done as we want to make sure that your decisions are grounded in rigour and sound evidence and that you are taking a fresh look at the urgent priorities of today and the future. We are sure that you will seize the opportunity to inject some innovative new thinking into this process, for example to look at corridor based solutions across modes, including low carbon and non-road solutions. We very much encourage cross boundary working with neighbouring LTBs and would like to reaffirm the expectation, set out in our previous guidance, that you will exercise caution when considering schemes that were previously rejected on value for money grounds.

Part 3 – Scheme Assessment and Investment Decisions

We recognise that our requirements for scheme assessment and decision making, particularly on value for money, are complex and it is important that we help you to get these right. We are not yet in a position to approve Part 3 of your framework but will liaise further with you over the coming weeks and months.

As a start, we have attached our assessment of your framework against our value for money requirements to enable you to identify what further information you should include in your framework (note we have also provided some advisory comments attached at Annex B that it would be helpful for you to consider). In some cases, e.g. if there are only 1 or 2 areas that need to be addressed, then we would hope that these could be resolved through correspondence in the next month or so. For

assurance frameworks where a significant number of areas are identified that require amendment, e.g. 4 or more, we would encourage you to discuss these with us before embarking on further work, although we would be happy to discuss the details of the assessment in any event. We would hope to resolve all outstanding issues by the autumn and we will work with you to achieve this aim. We will continue to do what we can to help LTBs get up to speed on business case scrutiny and value for money and we are already running workshops and will provide further guidance in this area in due course.

Finalising the frameworks for publication

For the parts of your assurance framework that we have signed-off, you need to provide the Department with a version of what is intended to be published as the final signed-off version, incorporating the changes that you have already confirmed you will make, and including any additional material supplied, which should be embedded within, or attached to, your published assurance framework.

We recognise of course that many LTBs have already published their frameworks in draft but you should make clear on your websites which parts are the final signed-off versions and which are not.

The Department's approval of any part of your framework is, of course, conditional upon the approved draft being formally agreed by all LTB member organisations. If that has not already been done can you please arrange for that to happen and advise the Department accordingly. If that process raises any substantive issues that might delay sign off please let us know immediately.

All subsequent changes to your framework will need to be submitted to the Department for approval.

Publication of scheme lists in July 2013

As you know, we asked for LTBs to finalise and publish their prioritised scheme lists by the end of July. Although we have not prescribed the format in which you should publish your information it would help the Department if you could submit to us the details of your prioritised schemes using the attached spreadsheet.

The submission of this information to the Department is for information only, to assist with financial profiling and understanding the use to which the funding will be put. I would stress that once Part 2 of your framework has been signed off you do not need to seek Departmental approval for the publication of your prioritised scheme list, nor for the selection of schemes within it.

Local engagement and transparency

I am sure you would agree with the importance of local engagement and transparency in the activities of LTBs at all stages. We recognise that we set a tight timetable for the prioritisation work and that that has not allowed time for a formal consultation stage. We would therefore ask you, once you have published your prioritised lists, to ensure there is a process to allow proper public comment on the

prioritisation process and outcome. **The Department's sign off of your part 2 is conditional upon such a process being undertaken.**

More widely, we trust that you will conduct your business with the full transparency that you have committed to in your assurance framework, and will make adequate provision for public involvement and engagement, including opening your meetings to the public and holding them in reasonably accessible locations.

I should also take this opportunity once again to emphasise the importance of evaluation. It is in all our interests to ensure that high quality evaluation is carried out in order to provide the evidence base for further spending rounds.

Finally, I would be grateful if you would also confirm, if you have not already done so, your LTBs website address and public contact points.

If you have any queries with the content of this letter please contact Lee Sambrook on 0207 944 6136

I would like to thank you for your patience with the process but I know you will appreciate it is important that we have robust arrangements to ensure high quality and effective decision making arrangements are in place for all LTBs across the country.

Yours sincerely

A handwritten signature in black ink that reads "Steph. J. Fidler". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Stephen Fidler
Head of Local Transport Funding, Growth & Delivery Division

Assurance Framework: South East Midlands

| Req no | Para ref | Requirement | Rating | Comments | Issue to be addressed |
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| 16c | 69 | LTB assessment of scheme appraisals | G | <p>The AF states an intention to procure independent consultants for scrutiny (using HA framework), and there will be separation of the team leading on scrutiny and promotion of the scheme (see para 36).</p> <p>The scope of the assessment isn't clear.</p> <p>The method of dealing with recommendation from independent scrutiny not clear.</p> | <p>Helpful for the AF to be clear about the scope of the scrutiny.</p> <p>Helpful for the AF to be clear about what mechanisms will be in place for dealing with recommendations from the assessment process.</p> |
| 16d | 69 | QA of business cases | G | <p>Not clear how this is done (apart from use of framework to procure)</p> | <p>Helpful for the AF to include a clear statement covering:</p> <p>Governance arrangements for commissioning, monitoring and signing off scrutiny.</p> <p>Process for checking / seeking second opinion on conclusions / recommendations from scrutiny.</p> |
| 17b | 70 | sign off by named officer responsible | R | <p>Stated in AF that sign off will be responsibility of LTB (para 18.5) – but no further details.</p> | <p>The AF should indicate the role of the officer responsible for signing off the statement.</p> <p>Officer should be of appropriate seniority.</p> <p>Need to set out process for dealing with any potential conflicts of interest.</p> <p>Helpful to explain how the sign-off process will operate and be recorded.</p> |
| 18b | 75 | Circumstances when lower vfm allowed | G | <p>The circumstances for lower VfM are discussed in the AF (para 38) – although no detail of any further checks and balances.</p> | <p>Helpful for the AF to include details of what checks will be undertaken (and by whom) to ensure that the criteria for funding lower VfM schemes have been met and the evidence on which this is based is robust and relevant. It should also be clear how the</p> |

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| | | | | | <p>LTB will deal with any inconsistency between this evidence and the economic case including how they will consider robustness when determining the weight attached to different pieces of evidence.</p> <p>May also wish to consider some enhanced process of review for such schemes.</p> |
| 19b | 77 | Ensuring that evaluation is published and reviewed | G | It is stated that results will be published – not clear if this is the case for Evaluation Plans as well as Evaluation Reports. | Helpful for the AF to commit to publication of Evaluation Plans (as well as reports). |

Note: All Assurance Frameworks should ensure that core Value for Money assessments align with DfT procedures. Detailed guidance on Value for Money assessments will be released in the Summer/Autumn to fully clarify the process

Rating:

G – Advisory

R – Needs to be addressed through issue of revised Assurance Framework