

## **CABINET**

**4 FEBRUARY 2020**

### **SOUTH EAST LOCAL ENTERPRISE PARTNERSHIP (SELEP) FUTURE BOARD STRUCTURE**

Portfolio Holder:	Councillor Rodney Chambers OBE, Portfolio Holder for Inward Investment, Strategic Regeneration and Partnerships
Report from:	Richard Hicks, Director Regeneration, Culture, Environment and Transformation, and Deputy Chief Executive
Author:	Joanne Cable, Strategy, Economic Development and LGF Programme Manager

#### **Summary**

Medway Council is a member of the South East Local Enterprise Partnership (SELEP). The Government has set out reforms that necessitate changes to SELEP's governance and membership by April 2020.

This paper builds on the 19 November Cabinet paper of the same title, and seeks Cabinet approval of the new Articles of Association for SELEP Ltd, and the new Framework Agreement for Accountability Board. It seeks approval to formally appoint a Director to SELEP Ltd, and a representative to Accountability Board.

#### **1. Budget and Policy Framework**

- 1.1 The decisions in this report are within the Council's policy and budget framework, and are for Cabinet determination. In particular, the Council's continued membership of SELEP will assist with the Council's priority of maximising regeneration and growth, as set out in the Council Strategy.

#### **2. Background**

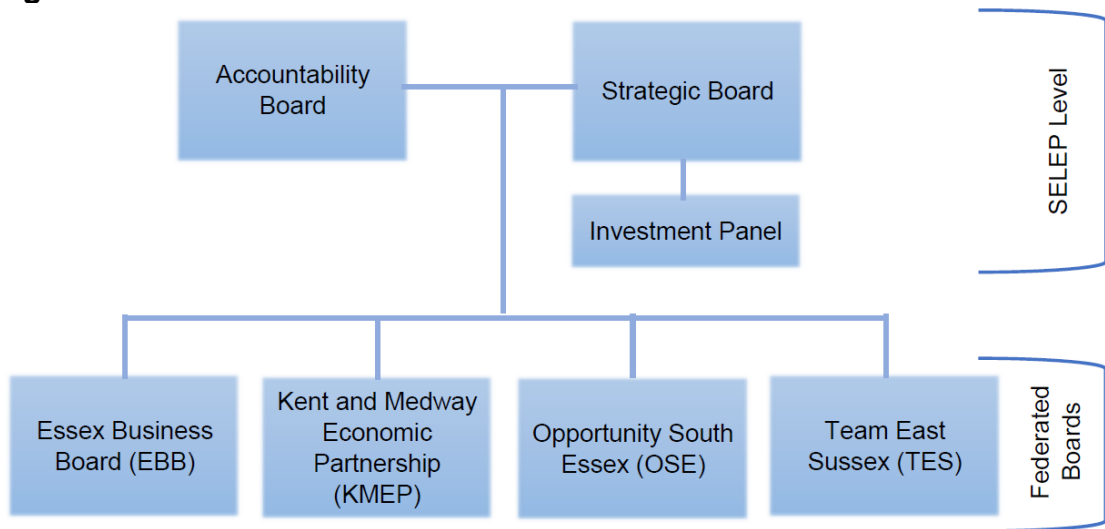
##### **2.1 History and Current Governance Arrangements:**

- 2.1.1 Local Enterprise Partnerships (LEPs) bring together leaders from local authorities, business, and higher and further education. Their role is to drive sustainable economic growth and create the conditions to increase private sector jobs in their communities. The first LEPs were established by government in April 2011.

2.1.2 LEPs were established as non-statutory bodies. Local areas were given discretion about the composition of LEPs, provided they were chaired by a business representative and with at least half their membership from the private sector.

2.1.3 SELEP is currently constituted as an informal partnership. It comprises three separate boards/panels, with four federated boards, as shown in Figure 1 below:

**Figure 1:**



2.1.4 SELEP Strategic Board sets the vision for the partnership, and is responsible for formulating and agreeing strategy. It has an advocacy role to call on government and other partners to invest in and prioritise the region. One of the Strategic Board’s responsibilities is agreeing which investment priorities should form a pipeline of projects for future funding. It delegates this responsibility to the Investment Panel.

2.1.5 Currently Strategic Board has 28 members. Eight members represent Kent and Medway specifically, including the leaders (or appointed Cabinet members) of Medway Council, Kent County Council, and two district councils, as well as four business representatives (including Kent Invicta Chamber of Commerce, and the Chair of KMEP).

2.1.6 SELEP Accountability Board provides checks-and-balances. While the Investment Panel proposes which projects should receive funding, the money is only released once Accountability Board has reviewed each project’s business case and voted in its favour. Accountability Board’s voting members are the six county and unitary council leaders, or their appointed Cabinet representatives.

2.1.7 The Accountability Board operates under a Joint Committee Agreement, which was signed on 13 November 2015 by each of the six county and unitary councils. This was approved by the Cabinet on 14 April 2015.

2.1.8 Councillor Chambers has represented Medway Council on both Boards since their inception in 2015.

## 2.2 The LEP Review:

- 2.2.1 In July 2018, central government published ‘*Strengthened Local Enterprise Partnerships*’<sup>1</sup>, outlining a series of reforms to the leadership, governance, accountability, financial reporting and geographical boundaries of LEPs.
- 2.2.2 General reform requirements for all LEPs are summarised in the 19 November Cabinet report of the same title.
- 2.2.3 Of specific relevance to this report are the legal obligations related to accountability and transparency, as follows:
- LEPs must become companies with a separate legal personality. This will allow LEPs ‘*to enter into legal commitments to take on further responsibilities in the future*’.
  - The main board of each LEP must have no more than 20 members. There is the option to co-opt up to five additional board members with specialised knowledge for a maximum of one year.
- 2.2.4 To determine how its current membership should be reduced from 28 members, the SELEP Strategic Board established a working sub-group to consider future Board composition.
- 2.2.5 This sub-group was complemented by a second group considering SELEP’s future legal personality.
- 2.2.6 Councillor Chambers, and Jo James (Kent Invicta Chamber of Commerce) represented Kent and Medway on the future board composition sub-group.
- 2.2.7 Councillor Chambers and Douglas Horner (KMEP business member) represented Kent and Medway on the future legal personality sub-group.

## 2.3 Decisions and Agreements:

- 2.3.1 At the 4 October SELEP Strategic Board meeting, it was agreed that 20 director, plus five co-opted director positions will be allocated as per Table 1 (over) and that the 20 March 2020 meeting would be the first meeting of the SELEP Ltd.
- 2.3.2 On 19 November 2019, Cabinet reaffirmed its ongoing commitment to, and involvement in, SELEP and gave its support in principle for the proposals for new governance arrangements, including:
- the establishment of a new legal personality
  - the refresh of the Joint Committee agreement, and
  - the nomination of a Cabinet representative as Company Director.
- It agreed that the related suite of governance documentation should be submitted to Cabinet for full consideration and approval in due course (decision numbers 134/2019 and 135/2019).
- 2.3.3 SELEP intend to put a Service Level Agreement in place between Accountability Board and SELEP Ltd in 20/21, that sets out the operational details of how they will work together.

---

<sup>1</sup> Strengthened LEPs is available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728058/Strengthened\\_Local\\_Enterprise\\_Partnerships.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728058/Strengthened_Local_Enterprise_Partnerships.pdf)

**Table 1:**

No.	Indicative membership (2-yr terms, 2+2+2 max)	Comments	Public Sector	Private Sector
1	Chair – business			x
2	Deputy Chair – business	Replaces three Vice Chairs		x
3	East Sussex CC Leader or Cabinet Member	HMG allows Cabinet level representation	x	
4	Essex CC Leader or Cabinet Member		x	
5	Kent CC Leader or Cabinet Member		x	
6	Medway Council Leader or Cabinet Member		x	
7	Southend-on-Sea Borough Council Leader or Cabinet Member		x	
8	Thurrock Council Leader or Cabinet Member		x	
9	Essex Federated Board Business Chair			x
10	Essex Federated Board business representative			x
11	Opportunity South Essex Board Business Chair			x
12	Opportunity South Essex business representative			x
13	Kent & Medway Economic Partnership Business Chair			x
14	Kent & Medway Economic Partnership business representative			x
15	Team East Sussex Business Chair			x
16	Team East Sussex business representative			x
17	Business representative – KMEP			x
18	Business representative – KMEP			x
19	Business representative – KMEP			x
20	Business representative – Team East Sussex:			x
<b>Sub Total – Main Board</b>			<b>6</b>	<b>14</b>
<b>Proportions</b>			<b>30%</b>	<b>70%</b>
<b>Co-opted positions (refreshed yearly)</b>				
21	Local Planning Authority Leader or Cabinet Member	From Essex CC area	x	
22	Local Planning Authority Leader or Cabinet Member	From Kent CC area	x	
23	Further Education representative	College Principal elected by SELEP's SAG		x
24	Higher Education representative	Agreed with the SELEP U9 group of universities		x
25	Third Sector representative	Agreed by SELEP Social Enterprise Working Group		x
<b>Sub Total – Co opts</b>			<b>2</b>	<b>3</b>
<b>Proportions</b>			<b>40%</b>	<b>60%</b>
<b>GRAND TOTAL</b>			<b>8</b>	<b>17</b>

### **3. Options**

3.1 There are two principal options:

3.1.1 Option 1: Cabinet agrees that Medway Council will become a member of SELEP Ltd, with Articles of Association as shown at Appendix 1, and agrees to sign the Framework Agreement for Accountability Board in the form at Appendix 2. Should this be the case, Cabinet would then appoint Councillor Chambers as Medway Council's initial member of the Board of SELEP Ltd (with the Leader or appropriate Cabinet Member as his alternate) and agree that Councillor Chambers will continue to be Medway Council's member of Accountability Board (with the Leader or appropriate Cabinet Member as his principal substitute).

3.1.2 Option 2: Medway Council declines to participate in SELEP under the new arrangements, and consequently does not nominate a Cabinet representative, nor endorse the governance documentation.

3.2 The 19 November 2019 Cabinet meeting rejected the option presented under 3.1.3 (decision numbers 134/2019 and 135/2019). Accordingly, option 1 is the recommended way forward.

### **4. Advice and analysis**

4.1 The Articles of Association and Framework Agreement were considered by the Chief Monitoring Officers of each SELEP local authority on 11/12 November 2019, and by Strategic Board on 6 December 2019. They were approved via Strategic Board's electronic procedure on 6 January 2020.

4.2 The recommended approach has been developed in consultation with the Ministry of Communities, Housing and Local Government (MHCLG), and the Department for Business, Energy and Industrial Strategy (BEIS) who are happy with the proposals.

4.3 A Diversity Impact Assessment has not been carried out, since this report does not recommend policy or service changes.

4.4 The change in form for SELEP does not reflect a change in function, so there are no wider sustainability implications

4.5 In line with a request from the Business Support Overview and Scrutiny Committee in July 2019, work is underway to consider how scrutiny of SELEP can be incorporated into the Medway Overview and Scrutiny arrangements.

### **5. Risk management**

5.1 The risks associated with the implementation of the LEP Review are detailed in the table below.

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk rating</b>
Fewer democratically elected representatives will be SELEP directors	<p>The membership ratio set by government will impact district council leader representation.</p> <p>The loss of district council leaders' local economic development, planning, housing, environmental and community knowledge could have a significant impact on the effectiveness of the LEP.</p>	<p>Continued use of federated boards, with full representation from district council leaders.</p> <p>The new SELEP Ltd Articles of Association reflect the federated board structure, and delegate certain decision-making to the federated board level.</p>	D2
LEP review requirements are not implemented in line with government expectations	<p>Multiple, complex changes are to be made, some of which have impacts on partner organisations. Fundamental change brings an inherent risk. If the LEP review requirements are not implemented, there is a high risk that government funding for 2020/21 (potentially including Local Growth Funding) could be withheld.</p>	<p>Additional staff have been recruited by SELEP to add resource, and action plans are in place to minimise this risk.</p> <p>All local authority areas are due to consider similar reports to the same deadline.</p>	B1
Potential resignations from Board members unhappy with the revised membership model.	<p>This could reduce the capacity of SELEP to fulfil its core functions.</p>	<p>The sub-working group has focused on limiting the liability of individual members.</p> <p>The federated boards have a wide field of potential new members to draw on.</p>	D3

## **6. Financial implications**

- 6.1 This report has limited financial implications, since the revenue costs of SELEP membership are modest and not proposed to change (£13,040 p.a.).
- 6.2 Should, however, the Cabinet decide to withdraw from SELEP, this would remove Medway Council's access to Local Growth Fund grant funding and, and Growing Places Fund loan funding, which has been worth almost £50m to Medway since 2015. This would have implications for the LGF projects still to complete. This is considered a highly unlikely outcome.

## **7. Legal implications**

- 7.1 SELEP has obtained Counsel's advice on liabilities of directors of the company. Counsel has advised that since the company has no assets the risks are low and most liabilities will be covered by Directors' and Officers' insurance which the company intends to procure.

7.2 Section 1 of the Localism Act 2011 gives the Council a “general power of competence” to do anything individuals may generally do. In this instance that would include setting up a company jointly with other local authorities. Advice can be given to any Councillors or Officers who become Directors, regarding their duties under company law and about conflicts of interest.

## **8. Recommendations**

8.1 The Cabinet is recommended to:

- agree that Medway Council will become a member of SELEP Ltd, with Articles of Association as shown at Appendix 1,
- agree to sign the Framework Agreement in the form at Appendix 2.
- agree that Councillor Rodney Chambers OBE will be Medway Council's initial member of the Board of SELEP Ltd (with the Leader, or appropriate Cabinet Member, as his alternate), and
- agree that Councillor Rodney Chambers OBE will continue to be the Council's member of Accountability Board (with the Leader, or appropriate Cabinet Member, as his principal substitute).

## **9. Suggested reasons for decision(s)**

9.1 The alternative option (departing from SELEP) would jeopardise future funding for Medway, and significantly limit Medway Council's ability to prioritise its strategic aims within regional and national agendas.

### **Lead officer contact**

Joanne Cable  
Strategy, Economic Development and Local Growth Fund Programme Manger  
Gun Wharf  
01634 331176  
[joanne.cable@medway.gov.uk](mailto:joanne.cable@medway.gov.uk)

### **Appendices**

Appendix 1 – SELEP Ltd Articles of Association  
Appendix 2 – SELEP Accountability Board Framework Agreement

### **Background papers**

Local Assurance Framework: <https://www.southeastlep.com/good-governance/assurance-framework/>

National Assurance Framework:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/768356/National\\_Local\\_Growth\\_Assurance\\_Framework.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/768356/National_Local_Growth_Assurance_Framework.pdf)

Record of Cabinet Decisions, Tuesday 19 November 2019:  
<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=50156>

Strengthened Local Enterprise Partnerships:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728058/Strenghened\\_Local\\_Enterprise\\_Partnerships.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728058/Strenghened_Local_Enterprise_Partnerships.pdf)

South East Local Enterprise Partnership (SELEP) Future Board Structure – Cabinet Report, 19 November 2019:

<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=49729>