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| SUBJECT: | Bucks-wide Delivery Vehicle for BTVLEP |
| REPORT OF: | Cabinet Leader Prepared by - Head of Legal and Democratic Services |

1. Purpose of Report

- 1.1 To seek approval for the Council to participate in a new Bucks-wide organisation to support the Board of Buckinghamshire and Thames Valley Local Enterprise Partnership (BTVLEP) in the delivery of its objectives.

2. Links to Council Policy Objectives

- 2.1 This matter contributes to the Council's aim of a thriving local economy and life long enterprise, as well as a sustainable and clean environment.

3. Background

- 3.1 BTVLEP is an informal organisation and contracts through its members rather than as a separate legal entity. The BTVLEP Board has identified the need for the support of an incorporated body to deliver its objectives by receiving and applying funding and contracting with third parties. It is therefore proposing that Buckinghamshire Advantage (BA), a company limited by guarantee, is established as a County-wide delivery vehicle owned and directed by the partner organisations of BTVLEP.
- 3.2 It is proposed to create BA through a restructuring of Aylesbury Vale Advantage Limited (AVA). This is a company limited by guarantee currently owned by Bucks County Council and Aylesbury Vale District Council and created in 2005 with the object of promoting development and regeneration in the Aylesbury Vale area. It has a track record of successful delivery of projects in support of local authorities
- 3.3 Buckinghamshire Advantage can be created by changing the name, governance structure and membership of AVA, while AVA's existing assets, revenues and funds can be ring fenced for Aylesbury Vale area projects. Further details of the proposal are discussed below.

4. Discussion

4.1 Membership

The members of BA would be the County Council, the four District Councils and Buckinghamshire Business First (BBF). Each member, effectively the "shareholders" in the company, would nominate a representative to vote at meetings of the company. It is envisaged the

local authority nominees would be the Cabinet Leaders of each council, as they already sit on the Board of BTVLEP.

4.2 Governance

It is proposed there will be between 6 and 12 directors of the Company. Each member will be entitled to appoint and remove 1 director. Appointees are expected to have the requisite knowledge, understanding and experience of the matters to be dealt with by the Board. It is envisaged that the Chief Executives of the member authorities would be the directors as they are already closely involved with the BTVLEP Board.

- 4.3 In addition the members will be jointly entitled to appoint up to 5 directors drawn from the business and private sector community. Private sector directors will be appointed for an initial period of 3 years extendable for a further 3 years with approval of all members. Each member will also be entitled to appoint a representative to attend meetings as an observer in a non-voting capacity. The Chairman would be elected by the Board.

- 4.4 Members acting by their nominees (envisaged to be the respective Cabinet Leaders) would jointly approve:-

- BA's Strategic Delivery Plan, annual Business Plan and budget
- Statutory accounts
- Other material matters outside the scope of the Strategic Delivery Plan and Business Plans

Detailed implementation of BA's business plan will be delegated to the Board of Directors. The Managing Director will be responsible for BA's day to day operations and for providing the administrative support to the Board of Directors, and for meetings of the nominees.

- 4.5 The new constitutional and governance documents for BA have been prepared by external lawyers for approval by the members and provide for:-

- The new objects of BA
- The right of members of the company to appoint and remove representative directors
- The approval and management mechanisms for the structure as referred to above
- Appropriate protocols for dealing with conflicts of interest
- The ring fencing of the legacy AVA assets mentioned above

A legal report prepared by the external solicitors summarising the proposed arrangements is attached as Appendix 1 for members information.

4.5 Timescales

It is proposed that a Shadow Board is comprising local authority and BBF nominated representatives, along with the current Chief Executive of

BTVLEP, in order to co-operate to advance the objectives of BA before its formal launch. It is hoped this can take place in December 2013 once member authorities have completed their respective approval processes.

- 4.6 In order to meet the above timescales it will be necessary to delegate the final approval of the Company's Memorandum and Articles of Association, together with any necessary interparty agreements and the approval of a memorandum of understanding to officers. It is proposed this delegation is given to the Chief Executive in consultation with the Cabinet Leader and Head of Legal and Democratic Services.

5. Risks and financial implications

- 5.1 The creation of a separate company to deliver BTVLEP projects reduces the risk to partner councils who would otherwise have to take lead responsibility. However it will be important to ensure the Council nominees are protected from any personal liability and for the Company to have appropriate directors' liability insurance.
- 5.2 The proposed documents do provide for the Company to indemnify each member against any liabilities incurred in the lawful performance of the members' duties. The Company will also purchase and maintain insurance cover for members and directors. However, to ensure that member and director nominees are fully protected against the risk of personal liability it is recommended that the Council grants an indemnity under the Local Authority (Indemnities for Members and Officers) Order 2004 in respect of carrying out their lawful duties for BA and that officer directorship to be recorded in their terms and conditions of employment.
- 5.3 As BA will have a majority local authority ownership its activities will need to be reflected in the relevant authority accounts in accordance with accounting requirements.
- 5.4 A similar report will be presented to Cabinet at CDC.

6. Recommendations

- 6.1 That the Council becomes a member of Buckinghamshire Advantage Limited subject to satisfactory completion of the necessary constitutional, governance and legal documentation
- 6.2 That the Cabinet Leader represents the Council at meetings of Buckinghamshire Advantage Limited and on any Shadow Board
- 6.3 That the Chief Executive be nominated as a Council representative on the Board of Directors, with the Director of Services as an alternate
- 6.4 That pursuant to the Local Authority (Indemnities for Members and Officers) Order 2004, the Council agrees to indemnify members and officers representing the Council on Buckinghamshire Advantage

- Limited against any personal liability incurred when carrying out their duties except in the cases of fraud or criminal acts
- 6.5 That the Chief Executive in consultation with Cabinet Leader and Head of Legal and Democratic Services be authorised to approve and enter into the Members Agreement for Buckinghamshire Advantage Limited and agree the Company's Memorandum and Articles of Association and any other interparty agreements or legal documents required for the formation of the company.

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| Background Papers: | BTVLEP meeting notes and associated reports |