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**REPORT TO THE NORTH WALES ECONOMIC AMBITION BOARD**  
**20 March, 2020**

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**TITLE:** *Governance Agreement 2*

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**1. PURPOSE OF THE REPORT**

- 1.1. The purpose of the report is to present the Board with and up dated GA2 Plan and report on the outcomes of the Governance Workshop.

**2. DECISION SOUGHT**

- 2.1. Approve the report.
- 2.2. Approve the revised Governance Agreement 2 Project Plan.

**3. REASONS FOR THE DECISION**

- 3.1. The agreement of the underlying partnership and governance framework is key to agreeing a comprehensive Governance Agreement 2 (“GA 2”). The report sets out the key outcomes of the Governance Workshop as a basis for progressing this work.

**4. BACKGROUND AND RELEVANT CONSIDERATIONS**

- 4.1. The proposed GA2 project plan was reported to the NWEAB in May of 2019. This set out the anticipated steps for preparation of the document in preparation for signature of the final growth deal. A draft amended plan identifying the steps which have been taken and the next actions is attached to this report as **Appendix 1**. In summary, we are now in a position where the draft document prepared by our specialist advisors Pinsents has been out for comments by Partner organisations. Although we have some responses some remain outstanding.
- 4.2. GA2 is a document which primarily codifies the relationship and commitment of the parties, their responsibilities and accountability as well as establishing the supporting governance framework. I have attached a summary of the contents of GA2 as **Appendix 2** and it can be broadly split into three elements:
1. Governance
  2. Partner Relationship
  3. Legal and Technical matters
- 4.3. The work to date has enabled development of a draft GA2 which takes many elements of GA1. It also reflects the key change from GA1 to GA2 namely from supporting the bid and approval process to being an agreement around delivery of the Growth Deal and Growth Vision. It may also provide the basis for further and wider Joint Working in due course.

4.4. A multi-disciplinary workshop was held on the 14<sup>th</sup> February, 2020 to explore key governance issues around the preparation of the GA2. It provided an opportunity to identify and understand the issues which need to be agreed or resolved between the Partners. These resolutions will then inform the completion of an agreed GA2. The following is a summary of the Key Matters which were identified and possible responses.

**5. KEY MATTERS**

<b>Question / Comment</b>	<b>Proposed Response</b>
<p><b>5.1. GOVERNANCE STRUCTURE</b></p> <p>GA1 set out a structure of possible sub-committees. This involves 5 sub-committees in total which creates a potentially significant governance structure in proportion to the current role of the NWEAB. Any governance structure will also have fit within the necessary Programme and Project Governance structures around the Growth Deal. A Transport Sub-Board has been established but no further formal Sub-Boards have as yet been established. It was considered that the NWEAB needed flexibility to create a structure which supported and promoted its functions.</p>	<p><b>The form of governance sub structures should be wholly delegated to the Economic Ambition Board in GA2.</b></p>
<p><b>5.2. BOARD MEMBERSHIP</b></p> <p>The current membership was seen as being balanced and inclusive may need to consider how other groups e.g. voluntary sector interact with NWEAB.</p>	<p><b>To review procedure rules as part of GA2 development.</b></p>
<p><b>5.3. ACCOUNTABILITY NWEAB (Partnership)</b></p> <p>Are the issues reserved to Partner bodies the right ones?</p> <p>Generally the Matters Reserved to Partners were seen as appropriate. The parameters and flexibility for the NWEAB around key decisions such as variation of Programmes and Projects needed to be defined.</p> <p>The matters reserved to Partners in GA1 include in particular:</p> <ul style="list-style-type: none"> <li>• Approval of GA2;</li> <li>• Approval and adoption of any Business Plans;</li> <li>• Agreeing any increase to a Party's affordability envelope;</li> <li>• Approval of any increase to the Parties' Contribution;</li> <li>• Approval of the Annual Budget pursuant to Clause 11.4 (Annual Budget);</li> </ul> <p>Approval of additional expenditure over and above the approved Annual Budget</p>	<p><b>GA2 establishes the concept of an “Overarching Business Plan” which is a Reserved Matter. The scope of the delegation and flexibility for the NWEAB within would be defined in that document.</b></p> <p><b>The proposed Overarching Business Plan needs to be confirmed as a task for the Overall Work Programme as it will be a key document in taking forward the Final Growth Agreement and GA2 for decision.</b></p>

<p>of the Accountable Body held on behalf of the Parties set out in Clause 11.4 (Annual Budget);</p> <ul style="list-style-type: none"> <li>• Amendments to the terms of this Agreement;</li> <li>• Creation of a local authority trading company under Local Government Act 2003.</li> </ul>	
<p><b>5.4. SCRUTINY</b></p> <p>How could regional scrutiny best work? How should call in powers be managed?</p> <p>The preferred scrutiny model was based on the existing regional Local Authority Scrutiny Committees. They were seen as key to the “backbench” relationship and communication. There was scope for creating a framework which would facilitate effective scrutiny by all Partner bodies.</p>	<p><b>To develop a Local Authority Scrutiny framework based on the six statutory current Scrutiny Committees.</b></p>
<p><b>5.5. BUSINESS DELIVERY BOARD</b></p> <p>Is the role of the Business Delivery Board clear? What should be its role in GA2 for the Growth Deal delivery stage?</p> <p>The Business Delivery Board was seen as key to the private sector relationship with the NWEAB. The governance structure is essentially in place but the development of its role and its status within the processes of the PO and NWEAB needs to be meaningfully developed.</p>	<p><b>The terms of the Business Delivery Board to be included in GA2 but with delegated authority for the NWEAB to amend as required.</b></p>
<p><b>5.6. EXECUTIVE GROUP</b></p> <p>Do the current arrangements between the Executive Group and the NWEAB work for you, e.g. the Executive Group being a clearing house for Board reports? Are the Executive support arrangements clear and working well?</p> <p>Generally the arrangements appear appropriate but there is a need to ensure that GA2 reflects the current developed practice and inter relationship with the Programme Office going forward.</p>	<p><b>The Executive Group should review the current terms of reference with a view to informing the drafting of GA2.</b></p>
<p><b>5.7. LOCK IN PERIOD</b></p> <p>Are you content with a ‘Lock in’ Period up until the first Gateway Review, with a need for 12 months’ notice?</p> <p>The concept of a lock in period was accepted but subsequent withdrawal from the Partnership would also require provisions for protecting Partners against the financial consequences.</p>	<p><b>The draft GA2 is based on this approach but detailed work needs to be done on establishing the parameters and liabilities.</b></p>

<p><b>5.8. WIDER REGIONAL WORKING</b></p> <p>How should we work with the ‘consultative groups’ and ‘stakeholder groups’ such as the Regional Skills Partnership and Tourism Partnership?</p>	<p><b>There is a need to identify the regional and other bodies who are potential consultative bodies and how and in which conditions do they support and inform the work of the NWEAB.</b></p>
<p><b>5.9. FINANCE</b></p> <p>Are the current annual partner contributions sufficient and sustainable?</p> <p>The annual contributions were set at a minimum level. If they need to be increased will we need a funding mechanism e.g. (1) equal contributions or (2) proportionate contributions? There is also a need to understand the “Supplementary Contribution and its status. Current contribution and apportionment of liabilities based on GA1 core contributions which disregards “Supplementary Contribution”. The current contributions were considered currently sufficient and GA1 allows for a maximum 5% annual increase. However the issue of indexation of future contributions needs to be addressed.</p> <p>We will need an options appraisal on the apportionment of the borrowing costs. What should we take into account e.g. shared borrowing risk?</p> <p>There are a number of complex inter-related issues around contributions to e.g. borrowing costs, proportions and commercialisation which need to be developed. There are both financial and legal issues to be addressed. These are also matters which will inform the preparation of GA2 but will also be relevant to Programmes and Projects.</p>	<p><b>Matter for Finance Officers to review and report on in accordance with the work programme.</b></p> <p><b>Programme Office, Finance and Legal Officers to review and report on options in accordance with the work Programme.</b></p>
<p><b>5.10. STAKEHOLDER ENGAGEMENT</b></p> <p>The progress towards the Final Growth Deal Agreement and GA2 is a parallel process which lead to decisions by Partner Organisations .It is important that communication with decision makers is maintained throughout the process leading up to the Final Growth Deal Agreement and GA2. There needs to be an understanding of the level of earlier clarity/certainty needed on some positions particularly around commercialisation for Business Case development.</p>	<p><b>An updated work programme needs agreed and be put in place dealing with the decision making routes.</b></p>

## **6. CONCLUSION**

6.1. The report seeks to highlight the major issues which will form the bulk of the work in formulating GA2. Other matters were also highlighted and will be addressed as part of the development of GA2.

- Managing Conflicts of interest in programme and project governance;
- Monitoring the Development of Corporate Joint-Committees and possible implications.

## **7. FINANCIAL IMPLICATIONS**

7.1. There are no specific financial implications.

## **8. LEGAL IMPLICATIONS**

8.1. The report deals with the preparation of a legal governance agreement which will have legal implications. These will be subject to specialist advice and input as they are developed.

## **9. STAFFING IMPLICATIONS**

9.1. None at this stage.

## **10. IMPACT ON EQUALITIES**

10.1. None at this stage.

## **11. CONSULTATIONS UNDERTAKEN**

11.1. The contents of this report was discussed by the Executive Support Group on 6<sup>th</sup> March, 2020.

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### **APPENDICES:**

<b>Appendix 1</b>	Revised timetable for preparation of GA2
<b>Appendix 2</b>	Summary of the contents of GA2

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### **STATUTORY OFFICERS RESPONSE:**

**i. Monitoring Officer – Host Authority:**

Author of the report.

**ii. Statutory Finance Officer (the Host Authority’s Section 151 Officer):**

“I have contributed to financial aspects in this revised Governance Agreement 2 Project Plan, both at the Governance Workshop and thereafter, and I support the proposal for the Board to approve the Plan.”

APPENDIX 1

Revised timetable for preparation of GA2

Action	Start Date	End Date	Lead	Status
Initial conference with Pinsents	13/05/2019	13/05/2019	Legal	
Circulate Initial Issues list and Questionnaire with initial draft GA1	23/08/2019	14/06/2019	Legal	
<del>Commission specific work streams/steer from Finance Exec Group and Partners</del>	20th May 2019	To be determined as part of an agreed timetabled work stream based on overall Work Programme.	Legal and relevant specialism	
<del>Review responses and prepare initial working draft GA2</del>	17/06/2019	30/06/2019	Legal	
<del>Report to Exec Group / Workshop</del>	05/07/2019	05/07/2019	Legal	
Hold Workshop with Pinsents to review responses	23/10/2019	23/10/2019		
Prepare revised second Draft GA2	Prepared and Circulated 28/11/2020	Closing Date for Responses 07/02/20	Legal	
Report on progress to Exec Group 6/2/2020		06/02/2020	Legal	
Governance Worksop on Key Issues		14/02/2020		
Report on Progress to the NWEAB		20/03/2020	Legal	
Agree Partner Contributions basis and proportional liabilities and indemnities	06/03/2020	12/06/2020 (NWEAB)	Partners Finance Officers	
Identify Options for apportionment notional borrowing costs to cover negative cash flow	06/03/2020	31/07/2020	Programme Office	
Identify Commercialisation Options for Programmes and Projects	06/03/2020	12/06/2020 (NWEAB)		
Overarching Business Plan	06/03/2020	This will be determined by development of the wider project and maturity of information and consensus on key elements which will feed into the document	Programme Office	
Draft Model for Scrutiny	20/03/2020	31/05/2020	Legal and Democratic Services	

<b>Report to Scrutiny and Partners on proposed models</b>		September/October 2020	Legal and Democratic Services	
<b>Secure Agreement on final draft</b>	This will be determined by development of the wider project and maturity of information and consensus on key elements which will feed into the agreement.		Legal	
<b>Prepare final draft for confirmation and approvals.</b>	This will have to be in accordance with overall Work Programme		Legal	
<b>Complete Agreement</b>	In parallel with approvals process for Growth Deal.		Legal	

## APPENDIX 2

### GA2 Overview

No	GA2 Heading	
1	DEFINITIONS AND INTERPRETATION	
2	COMMENCEMENT, DURATION AND TERMINATION	
3	PRINCIPLES AND KEY OBJECTIVES	SCHEDULE 1 - DELEGATIONS POLICY
4	GOVERNANCE	SCHEDULE 2 - TERMS OF REFERENCE
5	DECISION MAKING	PART 1 - JOINT-COMMITTEE TERMS OF REFERENCE
6	THE HOST AUTHORITY	PART 2 - EXECUTIVE TEAM / EXECUTIVE GROUP'S TERMS OF REFERENCE
7	DUTIES OF THE HOST AUTHORITY	PART 3 - PROGRAMME OFFICES TERMS OF REFERENCE
8	DUTIES OF THE OTHER PARTIES	PART 4 – SUB-COMMITTEE TERMS OF REFERENCE
9	JOINT COMMITTEE	SCHEDULE 6 - CODE OF CONDUCT FOR NWEAB ADVISERS
10	EXECUTIVE TEAM / EXECUTIVE GROUP	
11	PROGRAMME OFFICE	
12	SCRUTINY	
13	BUSINESS PLAN	SCHEDULE 4 - HEADS OF EXPENDITURE
14	APPROVAL PROCESS	SCHEDULE 5 - ACCOUNTING PERIODS
15	COMMITMENT OF THE PARTIES AND CONTRIBUTIONS	SCHEDULE 7 - LIABILITY REPORT
16	DRAWDOWN OF THE GROWTH DEAL	
17	MITIGATION	SCHEDULE 8 - GROWTH VISION
18	LIABILITY OF THE PARTIES	SCHEDULE 9 - IMPLEMENTATION PLAN
19	WITHDRAWAL	SCHEDULE 10 - OVERARCHING BUSINESS PLAN
20	[CONSEQUENCES OF TERMINATION	SCHEDULE 11 - APPROVED BUSINESS PLANS
		SCHEDULE 12 - GROWTH DEAL
21	INTELLECTUAL PROPERTY	
22	CONFIDENTIALITY AND ANNOUNCEMENTS	
23	CONTRACTS (THIRD PARTY RIGHTS)	
24	DISPUTE RESOLUTION	
25	DATA PROTECTION	
26	FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION	
27	NOTICES	
28	GOVERNING LAW	
29	ASSIGNMENT	



30	WAIVER	
31	ENTIRE AGREEMENT	
32	COUNTERPARTS	
33	RELATIONSHIP OF PARTIES	
34	STATUTORY RESPONSIBILITIES	