

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Hampshire Economic Board
Date:	27 April 2010
Title:	Proposed Response to the Consultation on Draft Statutory Guidance for Economic Prosperity Boards and Combined Authorities
Reference:	1520
Report From:	Director of Economic Development

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1. Executive Summary

- 1.1. The purpose of this paper is to provide information about the Consultation on Draft Statutory Guidance for Economic Prosperity Boards (EPBs) and Combined Authorities, highlight the potential impact on the County Council and make recommendations for a Hampshire County Council response.
- 1.2. The draft statutory guidance describes the main features of EPBs and combined authorities, processes for their creation through governance review, preparing and publishing a scheme, and processes for amending or dissolving an existing EPB or combined authority.
- 1.3. A draft response to the consultation is included at *Appendix C*. There are no specific consultation questions, only a general invitation to comment on the draft statutory guidance.
- 1.4. The full consultation document is available at:
<http://www.communities.gov.uk/documents/citiesandregions/pdf/1457197.pdf>.
 The deadline for responses is 29 April 2010.

2. Background

- 2.1. The *Local Democracy, Economic Development and Construction Act* (LDEDCA) 2009 provides for the establishment of EPBs and combined authorities. Combined authorities are an amalgamation of an EPB with an Integrated Transport Authority (ITA).

3. About Economic Prosperity Boards and Integrated Transport Authorities

- 3.1. EPBs are new voluntary sub-regional, executive decision-making bodies designed to support the effective delivery of sustainable economic development and regeneration and, in the case of combined authorities, transport. The Act does not provide a definition of economic development although Government recommends that it should include housing, spatial planning, employment, skills and enterprise.
- 3.2. EPBs and combined authorities are intended to operate within – and be consistent with – the wider framework of national policies, regional strategies and local Sustainable Community Strategies. They are corporate bodies with legal status to act across their combined area and can be given local authority functions (powers and duties) that relate to economic development, regeneration and transport if a combined authority.
- 3.3. The intended functions of EPBs and combined authorities are to provide stable strategic decision-making on economic development issues across the whole of a functional economic sub-region. This includes investment in sustainable economic growth, the development of a low carbon economy, improving economic performance and tackling worklessness, particularly in deprived areas, and promoting business growth through, for example, investment in infrastructure or land use.
- 3.4. ITAs can be created by sub-regional groups of local authorities, can review their own structures and governance and can be delegated transport powers by the local authorities involved. The majority of members of the ITA must be elected Members from the constituent local authorities, and there must be at least one elected representative from each representative authority. ITAs can incorporate areas of district councils, rather than necessarily whole counties. In metropolitan areas where there are already separate, precepting, Passenger Transport Authorities, these would be part of the ITA.
- 3.5. An ITA is not empowered to make decisions relating to local road pricing unless specifically delegated to it by the authorities. It does, however, have the power to borrow and levy constituent councils.

4. Proposed conditions for establishing an EPB or combined authority

4.1. Funding:

- (i) EPBs do not have any tax raising or borrowing powers and will not have the power to issue a levy to constituent authorities. Combined authorities will be able to borrow and levy constituent councils but for transport purposes only.

4.2. Geographical:

- (i) an EPB must cover the whole of two or more local government areas but can include parts of others. For example, in a two-tier area it will be possible for an EPB to cover the area of one or more districts without including the whole of the county's area. In two-tier areas, district and county councils levels may, but do not both need, to be represented on the EPB. The area must be contiguous (not 'doughnut' shaped) and can fall across regional boundaries.
- (ii) different district councils in a county area could be part of different EPBs or combined authorities. EPBs must not, however, overlap or co-exist within the same geographical area. In such cases, the County Council could be a constituent authority of more than one EPB.

4.3. Governance:

- (i) Government is clear that the decision to enter into an EPB or combined authority should be the function of the Full Council and not the Executive;
- (ii) a majority of members of an EPB must be elected Members of constituent local authorities. There are no requirements or limits on the number of members;
- (iii) non-local authority members may also be members of an EPB and they may or may not be granted voting rights;
- (iv) it is not necessary for either an EPB or an ITA to be in existence before a combined authority is established. It should be noted, however, that the process for dissolving an ITA is governed by requirements in the *Local Transport Act 2008* and would need to be followed.

5. Proposed process for establishing an EPB

5.1. Conducting a review:

- (i) a review will assess existing governance arrangements for the delivery of economic development and regeneration (including transport is recommended) in an area, and take a view as to whether there is scope to improve effectiveness, efficiency and economic outcomes. In effect, a review would build the business case for establishing an EPB;
- (ii) the review would be informed by any sub-regional economic data, the Local Economic Assessment and the CAA as well as any "stakeholder" data. In addition to local data, the EPB's intended policies would need to be consistent with the Regional Strategy, as the long term, strategic framework for the region;
- (iii) a review area would be expected to cover a functional economic market area. There is no given definition of what this may look like;

5.2. Drawing up a scheme:

- (i) if the review recommends that an EPB or combined authority would be beneficial for the area, then the affected authorities may choose to prepare a scheme; there is no statutory requirement to prepare a scheme, regardless of the outcome of the review;
- (ii) a scheme would detail the proposed constitutional and operating arrangements such as area and functional jurisdiction, membership, voting, scrutiny, remuneration, funding, and a forward plan of activities such as managing an existing MAA. Some form of consultation on the scheme is recommended as evidence of views being taken into account. Affected authorities must give their approval to the final scheme before it is sent to the Secretary of State. Regulations will specify if it is the Full Council or Executive which would decide this.

5.3. Approval by the Secretary of State:

- (i) the Secretary of State will consider the scheme once it is received, will consult and, pending agreement, will place a draft order before Parliament. Local government is advised to leave at least nine months from publishing the scheme before the new body is established. Shadow arrangements may, however, operate during this time;
- (ii) minor changes can be made after the EPB is operational, but significant changes, such as area change or decision to abolish an EPB, require the permission of the Secretary of State and may require another review process to be carried out.

6. Potential impact on the County Council

- 6.1. The scale of potential impact of this guidance depends on whether or not the County Council wishes to pursue or support the creation of one or more EPBs or combined authorities in Hampshire. Existing sub-regional groupings within Hampshire may wish to come together to create an EPB or combined authority at that level. This may require the County Council to consider its position even if it is not pro-active in initiating a procedure.
- 6.2. The Council might have a different view on the establishment of an EPB to the establishment of a combined authority, which includes transport and precepting powers.
- 6.3. EPBs and combined authorities do not come with any inherent additional money or powers, therefore potentially limiting their appeal. However, Government could favour areas that established such arrangements (as it has growth areas and growth points) with both funding and freedoms and flexibilities.

6.4. The County Council would be unlikely to agree to an EPB for all or part of Hampshire where the County Council is not represented. Political views at both upper and lower tier levels are likely to have significant bearing here.

7. Draft response

7.1. A draft response is proposed at *Appendix C*.

7.2. The deadline for returning responses to Government is 29 April 2010.

8. Recommendations

8.1. That the Board considers and comments on the draft response at *Appendix C*.

8.2. That authority is delegated to the Chairman of the Hampshire Economic Board, to finalise the response for return to Government.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

None

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. None directly relevant at this stage in national policy formation.

2. Impact on Crime and Disorder:

2.1. None directly relevant at this stage in national policy formation.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

None directly relevant at this stage in national policy formation.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

None directly relevant at this stage in national policy formation.

Proposed Hampshire County Council response to the Consultation on draft 'Statutory Guidance for Economic Prosperity Boards and Combined Authorities.'

Hampshire County Council welcomes the opportunity to comment on this statutory guidance and submits the following comments.

Creation of an EPB in two-tier areas

The draft statutory guidance requires clarification on the role of County Councils in the creation of an EPB.

The document states that, if an EPB is composed of districts and unitaries, containing part but not all of a county, then while the county will be a constituent authority, it need not be a representative authority (ie it will not be entitled by right to be a voting member of the EPB).

The document also states that an EPB could not come into being without the consent of all the affected authorities. This would include the consent of the county council. Therefore if a county council felt that it needed to be a representative authority, and this was not being offered, it could effectively veto the proposal.

It is inconceivable that a County Council, with its strategic responsibilities, transport powers and impact on the local economy as a major business, might not be represented if an area was designated, even covering a single district. The *Local Democracy, Economic Development and Construction Act* (LDEDC Act) 2009 placed a new statutory duty on upper tier councils to carry out an economic assessment for their area, to inform interventions by all partners supporting the economy. Also, in 2 tier areas the County Council is the statutory Highway Authority. The absence of the County Council is therefore inconsistent with the establishment of a Combined Authority, and even for an Economic Prosperity Board, its scope would need to be curtailed, particularly in regard to the delivery of infrastructure needed to deliver housing and employment growth.

It is considered County Council representation should be made a mandatory requirement for establishing an EPB or a Combined Authority in two-tier areas. If this is not supported, the guidance should clarify that in 2 tier areas, where an EPB does not include its County Council, its scope would be restricted to matters which do not include County Council functions and the decisions of the County Council would not be sub-ordinate to those of the EPB.

Funding and powers

The guidance is silent on this matter, and the County Council would wish it made clear that there will be no covert 'coercion' of partners to enter into EPBs by making access to funding or powers conditional on having particular governance arrangements in place. County and District Councils are the legitimate local democratic organisations and should be able to respond to the interests of their

residents and businesses as they see fit, taking into account local relationships and opportunities. The Secretary of State chose not to take powers to initiate a review, if s/he believed economic development was being significantly hampered by existing informal arrangements between democratically elected councils and other economic partners. It would be unacceptable if covert pressure was applied to achieve an ESB or Combined Authority and it would be preferable if Government published its own report if arrangements were considered unsatisfactory in a locality

Publication of a scheme

It would be helpful if the guidance was clearer on whether the publication of a scheme is necessary. At 4.4, the document says that it is not required, implying a scheme could be drawn up and submitted but not publicised. We suspect that all that is meant is that there is no necessity to proceed with a scheme, even if the outcome of the preceding review is that the establishment of an EPB is the best outcome.

As a secondary point, the guidance says that public consultation on the scheme is not mandatory. Given that powers and spending may be being transferred from democratically elected organisations, it would appear to be in the interests of transparency that full details of the proposed arrangements should be made public and a summary of local views included with the submission to the Secretary of State.