

Somerset Levels & Moors Local Action – Local Development Strategy

Appendix A

Draft Terms of Reference For The Management & Administration Of The Levels & Moors Local Action Scheme

Definitions

The Accountable Body refers to Somerset County Council acting in that capacity.

LMLAG refers to the Levels & Moors Local Action Group.

The Executive Group (Exec) refers to a constituted group of representatives selected from the LMLAG that has executive powers of decision on applications for funding.

The Management Team refers to employees of Somerset County Council's Economic Development team working for the LMLAG.

Project Deliverers refers to the bodies, organisations or people submitting applications for funding, and where the project is approved, carrying out delivery of the project.

The Scheme refers to the collection of projects that together in total will deliver the forecast outputs and outcomes.

SWRDA refers to the South West of England Regional Development Agency, who provide project and administrative funds to the scheme and monitor overall performance.

Purpose

This document sets out the relationships between the parties involved in the management and administration of the Levels & Moors Local Action Scheme, and defines their responsibilities to the Scheme.

By signing this memorandum, the signatories agree to carry out the responsibilities contained within it.

The Roles

The Accountable Body contracts with SWRDA and the LMLAG for delivery of the Scheme, holds itself responsible for its successful conclusion, and undertakes to ensure that financial propriety is observed in its management and administration.

LMLAG is the responsible Partnership for the Scheme under the authority of The Accountable Body. They hold themselves responsible for the overall management and the strategic direction of the Scheme. They monitor the progress of the Scheme through reports received by them concerning individual projects and the Scheme as a whole.

The Executive Group aids swift progression of approaches for funding and makes executive decisions on such matters on behalf of the LMLAG,

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including, but not restricted to, the making of decisions in respect of applications for funding.

The LMLAG staff team is responsible for the administration of the Scheme on behalf of LMLAG. It holds itself responsible for advising the LMLAG and the Executive Group managing the Scheme on its behalf on the correct procedures to follow, and for following those procedures where they undertake them themselves.

The Duties

The Accountable Body, through the employment of the LMLAG staff team and other staff resources at its disposal, undertakes to carry out the following duties:

- ◆ It will carry out the responsibilities as set out in the SWRDA Partnership Guidance manual.
- ◆ It will issue letters offering grant to Project Deliverers in accordance with the properly made decisions of LMLAG, the Executive Group or the SWRDA.
- ◆ It will claim grant from SWRDA for the Scheme as a whole, and hold the balances securely and make payment to the Project Deliverers.

Before making such payments, it will ensure that the payments are due by scrutinising the financial claims submitted by Project Deliverers, pay out where satisfactory progress of the project has been confirmed by the Staff Team and make payments in accordance with the offer letter issued to each Project Deliverer.

- ◆ Its internal audit section will satisfy itself that the correct procedures are being carried out by all the parties involved in the Scheme including examination of a representative sample of the projects themselves. These procedures include, inter alia, the appraisal and approval or refusal of projects, the monitoring of the projects and the calculations of grants due and claim of grant from the SWRDA.
- ◆ It will account for the income and expenditure of the LMLAG and arrange an external audit of the Scheme in accordance with the requirements of SWRDA.
- ◆ It will provide other such services as agreed between the parties to this memorandum from time to time.
- ◆ It reserves the right and will exercise that right to withhold payment from any Project Deliverer where it believes that the project is not being delivered in a satisfactory way, or where it has reason to believe that the correct procedures have not been carried out.

It will advise LMLAG where it exercises that right, and will give reasons for the decision, but as it holds itself responsible for the financial propriety of the Scheme, LMLAG or any body acting under their authority cannot overturn its decision.

- ◆ It reserves the right and will exercise that right to seek information regarding any project or any procedure carried out by LMLAG, the Executive Group, the Staff Team or any Project Deliverer where it

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believes that the correct procedure has not been carried out and/or where it believes there to have been financial impropriety. It may also seek information regarding projects selected by random sampling or any other method to satisfy it that the procedures are being carried out correctly.

- ◆ It will maintain, in a format approved by SWRDA, a register of assets funded or part-funded by monies received from the Scheme.

LMLAG undertakes to carry out the following duties:

- ◆ They will meet regularly, normally twice per annum, to consider, inter alia, the overall management and direction of the Scheme.
- ◆ Strategy will be considered and reviewed at regular intervals.
- ◆ They will authorise and oversee the preparation of the annual delivery plan by the Staff Team and authorise members of LMLAG to become signatories to it.
- ◆ They will maintain a register of interests of its members, which will be open to inspection by any other member of LMLAG and The Accountable Body.
- ◆ They will provide rules relating to the correct procedure to be followed where any member has or may have a pecuniary or non-pecuniary interest in a project or any matter where LMLAG makes a resolution.
- ◆ They will receive project and Scheme reports from the Management Team, will consider the reports and take corrective action where required to ensure that the Scheme is not put at risk. They may instruct the staff Team and the Executive Group to carry out such corrective action on their behalf where this falls within their respective remits.
- ◆ They will consider the Scheme at a strategic level and take the necessary action to ensure that the strategies of the Scheme are brought to a successful conclusion.
- ◆ Neither they, nor any body or person having delegated authority under their control will overturn the technical advice received from the Staff Team regarding the proper operation of the Scheme.

Where they believe the Staff Team to be incorrect in the advice being given, they will seek clarification from The Accountable Body or SWRDA, who may overrule the Staff Team.

This does not apply to advice regarding decisions made on projects except where the decision would be in contravention of the SWRDA Partnership Guidance Manual or the Delivery Plan.

The Executive Group undertakes to carry out the following duties:

- ◆ It will meet regularly normally once in each quarter to contribute to the development and implementation of the Delivery Plan of the LMLAG. A quorum of 4 voting members will constitute a meeting.
- ◆ It will consider project proposals and strategic reviews and advise the Staff Team whether the applications warrant a full application being invited, or whether a recommendation should be made for immediate

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rejection. These considerations may be carried out electronically rather than at meetings, but any rejections have to be discussed at the next meeting.

- ◆ It will receive project applications from the Staff Team, consider the applications and appraisal reports, and make decisions in respect of applications requiring up to £100,000 of Local Action funding. All of this will be done in accordance with the SWRDA Guidance Manual and the Delivery Plan.
- ◆ Any project requiring more than £100,000 of Local Action funding, or if it is of a novel or contentious nature, and which the Executive Group wishes to approve, will be passed to SWRDA with a recommendation.
- ◆ It will report to the LMLAG on the progress of the Delivery Plan

The Staff Team undertakes to carry out the following duties:

- ◆ They will advise LMLAG and the Executive Group on the correct procedure to be followed in their administration of the Scheme.
- ◆ They will advise and recommend to LMLAG and the Executive the correct procedure to be followed in the approval or refusal of project applications, and will attend meetings of all such bodies.
- ◆ They will provide the Accountable Body with relevant information obtained from Project Deliverers and which concerns assets that are or should be recorded in the asset register.
- ◆ They will appraise project applications in accordance with the SWRDA Partnership Guidance Manual (or advice received from SWRDA) and present a summary of their findings and recommendation to the appropriate body (bodies) for a decision to be made.
- ◆ They will maintain a database containing details of project applications and, where the project is approved for funding, details of performance. The database will be capable of recording information and summarising it to assess Scheme performance.
- ◆ They will prepare grant offer letters for signature by The Accountable Body in accordance with the decisions made by the appropriate body. These offer letters will represent contracts with the Project Deliverers and will require delivery of the project in return for funding.
- ◆ They will monitor approved projects, obtaining data from them, scrutinising and verifying the data on a selected basis and reporting to LMLAG and the Exec any information gathered of which it believes they should be aware.

This monitoring will include the verification of reported outputs, outcomes, milestone achievements, holdings of assets and other matters considered necessary for the correct administration of the project and Scheme.

- ◆ Claim forms received from Project Deliverers will be checked and signed off by the Staff Team, to confirm that satisfactory progress has been made to justify payment of the claim. Where such confirmation cannot be given, a report to the Executive and if need be to LMLAG and those bodies will decide on a course of action.

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- ◆ They will report any financial irregularity or suspected financial irregularity to The Accountable Body.
- ◆ They will liaise with the Project Deliverers to enable further monitoring, including where appropriate, site visits, and obtaining confirmation of reported outcomes/outputs from the projects.
- ◆ They will maintain a manual setting out internal procedures and processes to ensure that the staff is adequately trained to carry out the work, and that the correct action to be carried out by its staff is clear and unambiguous.
- ◆ They will provide the Executive Group, the LMLAG, and The Accountable Body with any reasonably requested information regarding the projects and the Scheme.
- ◆ They will provide access to its project files and database, where requested, to The Accountable Body.
- ◆ They will co-operate with any audits by or of the Accountable Body where these relate to the Delivery Plan and with any audits of the Scheme itself.
- ◆ They will complete as far as it is able the Key Indicator reports and outputs reports for submission to SWRDA by the Accountable Body.
- ◆ They will provide other such reports requested by SWRDA.
- ◆ They will, under the direction of Executive Group and The Accountable Body and with the assistance of the LMLAG, produce the annual Delivery Plan for submission to SWRDA, including liaising on the plan with SWRDA during its preparation.
- ◆ They will represent LMLAG and the Accountable Body at SWRDA meetings.
- ◆ They will advise Project Deliverers on Scheme and project requirements where requested in the preparation and submission of project applications.
- ◆ To ensure that there is no conflict of interest in the approval of a project or in the monitoring of projects:
 - Whilst they may give general advice, they will not give specific advice to Project Deliverers on the development of projects nor will it assist with the development of projects.
 - They will not advise how much funding should or can be requested for a project.
 - They will not advise Project Deliverers whether a project would be approved, but will advise on general policy decisions where requested.
 - Where any project application is received from within Somerset County Council, members of staff who are or who have been involved in any way with the development of the project will not be involved in the appraisal process, nor in its monitoring, other than to provide information where requested. Any improper attempt by the employer or any of its staff to influence in an improper way the Executive Group in their duties regarding the project will be reported to LMLAG, The

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Accountable Body, and, where either of those feels appropriate, to SWRDA.

- ◆ They will keep Project Deliverers advised of the progress of their application throughout the appraisal and decision-making process of their project, and advise in writing the decision made.
- ◆ They will ensure that staff will maintain appropriate standards.
- ◆ They will agree procedures with LMLAG relating to its attendance at and contribution to their meetings and meetings of delegated bodies under their control.
- ◆ Their staff will maintain a register of interests that will be open to inspection by LMLAG and The Accountable Body.
- ◆ No member of staff will be involved in the administration of any project in which an interest is held, whether pecuniary or non-pecuniary. Nor, as far as possible, will inspection of the relevant part of the database or project file relating to that project be allowed for that member of staff.
- ◆ They will use their best endeavours to facilitate the successful conclusion of the Scheme, and will advise the Executive Group and/or the LMLAG of any risks to the Scheme. However, they will not hold themselves responsible for the successful conclusion of the Scheme, since this is outside of their control.

To signify their agreement to this memorandum, the parties to it have authorised the signatories below to sign the document on their behalf.

For and on behalf of Somerset County Council

For and on behalf of Levels & Moors Local Action Group

For and on behalf of the Executive Group

For and on behalf of the Staff Team

Draft Constitution Levels & Moors Local Action Group

1 Establishment and Constitution

There shall be constituted a Levels & Moors Local Action Group (The LMLAG) consisting of voting members, including the Partnership's Chairman.

2 Objectives of The LMLAG

The core objectives are:

- Addressing economic under performance.
- Improving provision and access to services as a means of tackling disadvantage.
- Harnessing wider economic value from sustainable environmental quality.
- Developing local governance and delivery capacity in rural areas.

3 Functions of The LMLAG

The functions of The LMLAG are, within the objectives outlined above, to determine strategy for the Local Action Scheme under its influence and control.

The LMLAG will delegate detailed decision-making to an Executive Group (Exec) in order to facilitate delivery against the strategy. Those decisions will include the determination of applications for funding. Any approval agreed by the Exec will be reported to the next LMLAG meeting.

4 Appointment of Representative Members

Voting members will be representatives of named bodies and organisations. They will include representatives nominated from all the organisations. Any changes to the membership agreed by The LMLAG, will result in the Membership being updated and distributed to all partners once a year.

Each shall have a named substitute; both may attend. If two representatives from the same organisation attend, only the principal, named, representative will be entitled to vote.

Each representative so appointed shall hold office until the next annual meeting of The LMLAG. In addition The LMLAG may co-opt additional representatives at any time during the year.

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5 Meetings

The LMLAG shall normally hold 1 or 2 meetings in every year, for the transaction of general business and may hold such other meetings as they shall find necessary or convenient. The LMLAG annual meeting shall usually be held in autumn and in any case within 15 months of the previous one.

To constitute a meeting of The LMLAG, there must be present no less than twelve representatives of the different organisations. Every decision at a meeting of the LMLAG shall require a majority of the votes of those present and voting on that question and in the case of an equality of votes on any question, the person presiding at the meeting shall have a second or casting vote.

A full record of those present at the meeting and of the representatives sending in apologies of absence shall be recorded in the minutes. The minutes of every meeting of The LMLAG shall be drawn up by the Staff team and shall be approved by The LMLAG and when approved, signed by the Chairman at the next meeting.

Each member of The LMLAG shall be permitted to

- Send to the Secretary not less than 14 days prior to the date of the meeting a statement of any matter that they may wish to insert in the agenda.
- Receive copies of the agenda and accompanying papers 7 days prior to the date of the meeting, unless there is some particular urgency when a lesser period may be given, which in any event shall not be less than 3 days. Items may normally be tabled for information purposes only.

Each member of The LMLAG must complete a register of interests, which shall be kept by the Staff Team with the minutes, when accepting membership of The LMLAG and declare interests should they occur during discussion. Those declaring an interest may be asked to leave the room and shall take no part in the discussion or the voting thereon. However The LMLAG if appropriate can invite the interested party to provide factual information before the discussion begins. As a minimum the register must be updated at the annual meeting of The LMLAG.

6 Appointment of Chairman and Vice-Chairman

The LMLAG shall appoint at its first meeting and thereafter at the annual meeting a Chairman and Vice-Chairman for the ensuing year.

7 Special Meetings

Any twelve members of The LMLAG can call for a special meeting of The LMLAG. Such requisition, made to the Staff Team, must set forth the nature of the matter requiring consideration and the notices summoning such meetings shall contain details of the matter to be discussed. The meeting must take place within 30 days of its notification.

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8 Resolution of Disputes

The Chairman shall be responsible for ensuring that disputes are resolved amicably and shall if required be authorised to establish a sub-committee, which may include other representatives, to investigate and determine a way ahead. The terms of reference of any such sub-committee will be agreed in advance.

9 Supporting arrangements

The LMLAG may be serviced or advised by whatever steering groups, sub groups and other delegated arrangements are deemed proper by The LMLAG for the carrying out of its duties and responsibilities.

10 Amendments to Constitution

The constitution shall be open to review at any time but any amendment of the constitution shall not be affected unless carried by a three quarters majority of members present that are entitled to vote and voting. Such amendment is to be provided to members of The LMLAG at least 21 days before the meeting.

Western Somerset Local Action Group

Draft Management Arrangements

1. Establishment

There shall be established under the authority of the Levels & Moors Local Action Group (LMLAG) an Executive Group to make executive decisions and act on its behalf. The Executive will consist of representatives of the organisations listed on the LMLAG. The Staff team of the accountable body as the secretariat will serve the Executive.

2. Objectives and Functions

The objectives outlined below are all within the context of those of the Local Action Programme, are within the strategy set by the LMLAG, and are all subject to the current Local Action Guidelines and regulations, as defined by SWRDA:

- To develop and approve the annual Delivery Plan of the LMLAG.
- To consider and decide upon funding up to the delegated decision-making thresholds for projects seeking a Local Action investment
- To receive reports on and review Scheme and project performance.
- To report to the LMLAG at each of its meetings on the overall progress of the scheme.
- To develop and implement a forward strategy for the Scheme as a whole.

3. Representation

The LMLAG has agreed that representation needs to be able to reflect the membership of it and thus need to be flexible. The Executive shall consist of no fewer than 12 and no more than 14 representatives, and the make-up of the Executive will comprise the following:

- At least 50% will be representatives of local agencies, groups, organisations or businesses active within the area– none of which shall be considered to be ‘public sector’
- No more than 50% of the representatives to be from public sector agencies or organisations.

The current list of representative bodies and organisations is indicated in a separate Appendix. The LMLAG may authorise additional organisations to be represented on the Executive at any time; may remove them or may refuse to accept nominated representatives. Where possible a named substitute, nominated in writing should be put forward.

Each named representative or substitute may exercise one vote on each issue at meetings. Both the named representative and substitute of an

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organisation or body may attend the same meetings, but in this case, only the named representative may vote.

Members shall hold office as a representative of the organisation that has nominated them, regardless of any other interests that the member may have. The organisation may remove the member from this capacity at any time, and replace with an alternative member.

Should any member miss 3 consecutive meetings without sending a substitute, The Executive will consider whether a report should be made to LMLAG with a recommendation for removal.

4. Meetings

The Executive will normally meet every quarter, but may meet more frequently. A Chair will be appointed from within the group and may be replaced at any time. The position will be decided by simple majority, and need not be held by a voting member of the Executive, but where it is not; the Chair will not acquire the right to vote.

To constitute a meeting of the Executive, at least 5 voting members must be present. Every question at a meeting of the Executive shall be decided by a majority of votes cast by the members present. In the case of an equality of votes on any question, the issue shall be re-debated and a further vote taken.

Officers of SWRDA, and of the accountable body for the scheme, may attend the Executive, but do not have a right to vote on any issue except on the approval or correction of minutes.

A full record of those present at the meeting, and of members sending in apologies of absence, shall be recorded in the minutes. The minutes of every meeting of the Executive shall be drawn up by the secretariat and shall be approved by the Executive, and when approved, signed by the Chair.

Any member or officer of the Executive shall be permitted to send to the secretariat, to arrive 14 days prior to the date of the meeting, a statement of any matter that they wish to insert on the agenda. To enable the decisions to be made as quickly as possible, any member may raise on the day any urgent matters, provided that the majority of those present, and voting, consent.

The agenda for each meeting shall be sent to the nominated representatives 7 calendar days prior to the date of the meeting.

Each member, when accepting membership of the Executive Group, must complete a register of interests, which shall be kept by the secretariat with the minutes. Members must declare interests should they occur during discussion. Those declaring an interest shall take no part in the discussion, unless information is requested from a member having no declarable interest, when factual information can be provided. The member having the declarable interest shall take no part in the vote.

The register shall be updated annually at the time of the Annual Meeting, although members should record interests as they arise.

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5. Amendments to Management Arrangements

These arrangements shall be open to review at any time, but any recommendations to amend them needs to be carried by a two-thirds majority of those present and voting. Amendments shall be subject to agreement by the LMLAG Board (either at a meeting or in writing), which will have received 21 days notice of such proposed amendment.