

HUMBER LEADERSHIP BOARD

DATE: 22nd June 2023

REPORT OF: Sharon Wroot – Executive Director Place and Resources
North East Lincolnshire Council

SUBJECT: Humber Freeport – Creation of Public Funds Sub-Committee

1. Purpose of the Paper

To update the Board in relation to progress on the developing Humber Freeport proposal and in accordance with this board's terms of reference to create a sub-committee called Public Funds Committee to act as an appropriate forum to administer public funds used to support the Humber Freeport in accordance with the proposed annexed terms of reference.

2. Recommendations

It is recommended that the Board agrees:

- To create a sub committee called Public Funds Committee in accordance with the terms of reference set out in Appendix 1, to facilitate the administration and defrayment of public funds in the support of the Humber Freeport.

3. Background

Members of the board will be familiar with the Humber Freeport proposal which has been the subject of previous reports and presentations.

An inaugural board meeting of the Humber Freeport Company (HFC) is anticipated for 19th June 2023, and it is here that initial appointments will be ratified and the company will become fully operational.

The proposed Public Funds Committee shall be responsible (with support from the Accountable Body and advice of respective local authority officers) for the administration and defrayment of all public funds, howsoever arising, used to support the furtherance of the HFC and subsequent objectives.

Given the use of public funds (capital and revenue grants, retained business rates etc) there needs to be a public facing decision-making forum led by the public sector, divorced from, and independent to, HFC, able to make informed and evidence based decisions so as to allow the defrayment of such funds.

With this board already being extant and having the required pan-Humber membership and remit, specifically including the Humber Freeport, it was thought that the Public Funds Committee would comfortably sit under it as a properly constituted sub-committee.

4 Terms of Reference

The proposed terms of reference are set out in the appendix to this report. They follow the tenets of open and public decision making.

There is a juxtaposition between the Public Funds Committee (as proposed) and the Accountable Body. The Accountable Body will have an agreement in place with HFC, following a template imposed by Department for Levelling Up, Housing and Communities (DLUHC). This (inter alia) provides for the oversight of the proper administration of financial affairs and the decision-making process of the Freeport and is accountable to DLUHC and the Government for:

- The expenditure and management of public money. This will be managed and delivered through the Local Authority's Section 151/73 function.
- Providing effective support to the Freeport governing body in delivering its purpose and supporting the overall delivery of the Freeport.
- Maintaining appropriate documentation and providing it on request.
- Ensuring the Freeport governing body operates in line with appropriate levels of transparency, propriety, and inclusivity, abiding by the Nolan principles. This includes but is not limited to the publication of Board papers and minutes and a register of member's interests to ensure any real or perceived conflicts of interest are recorded and managed appropriately.

In turn, at para 4.3 of the proposed terms of reference, the Accountable Body (acting reasonably and proportionately) is able to prescribe matters around which HFC will be required to provide assurance to the Committee prior to the Committee being required to consider whether a proposal made by HFC constitutes an adequate and proper use of Public Funds.

Such prescribed matters are likely to be around:

- Green Book compliance
- Value for Money assessment,
- Alignment with Local Plans, and
- Alignment with Freeport objectives.

Further, the terms of reference promote and encourage informal dialogue with HFC, setting an expectation of informal briefings around pipeline projects, alignment with policy and strategy and likely asks of the public sector.

It is hoped that this will foster a collegiate and supportive environment across the freeport proposition.

The Public Funds Committee shall enjoy a supporting secretariat and all papers (subject to the auspices of Schedule 12A to the Local Government Act 1972 (as amended)) shall be published, as will its decision making.

5 Next Steps

If the board finds favour with the appended terms of reference, to:

- a. direct that the proposed sub committee be created
- b. direct that such sub committee shall adopt the terms of reference as set out in the appendix.
- c. direct that upon the inaugural meeting of such sub committee, for it to formally adopt the terms of reference, as set out.

APPENDIX 1

(Proposed Terms of Reference)

Public Funds Committee

Draft : 12.06.2023

HUMBER LEADERSHIP BOARD

TERMS OF REFERENCE FOR THE HUMBER FREEPORT PUBLIC FUNDS COMMITTEE

1. DEFINITIONS.

1.1 The following definitions shall apply in these Terms of Reference:

Accountable Body	North East Lincolnshire Council, or such other organisation as the Local Authorities agree.
Business Day	Any day (other than a Saturday, Sunday or public holiday in England) when banks in London are open for business, and 'Business Days' shall be construed accordingly.
Company	Humber Freeport Company Limited (CN13470809).
Freeport	The Humber Freeport designated from time to time by His Majesty's Government.
Freeport Objectives	To establish Freeports as national hubs for global trading and investment across the United Kingdom, promoting regeneration and job creation for local people and creating hotbeds of innovation.
Local Authorities	Each of the Accountable Body, North Lincolnshire Council, Kingston Upon Hull City Council and East Riding of Yorkshire Council, and 'Local Authority' shall be construed accordingly.
Public Funds	Any sums generated from the application of reliefs from Business Rates available to hereditaments on a Tax Site operated by the Freeport (excluding the land within the Hull East Tax Site at Alexandra Dock) together with any uplift in Business Rates generated from hereditaments on a Freeport Tax Site, subject to the arrangements for pooling such sums as established in the Rate Collection Agreements between each Local Authority together with any revenue grants, s31 grants or loans or other facilities for operating expenditure, seed capital grants, other capital grants or loans in each case made available by any Local Authority for the purpose of furthering the Freeport Objectives. The above is not

exhaustive and any public funds howsoever arising, from any public sector authority, body or governmental department shall be deemed to be included.

Representative A person duly nominated by a Local Authority to represent them on the Committee.

2. BACKGROUND AND CONSTITUTION

- 2.1 The Public Funds Committee (**Committee**) has been established by the Humber Leadership Board (**HLB**) in furtherance of (without limitation) the objectives set out in paragraph 1.1.1 of HLB's terms of reference which include the requirement of the members of the HLB to co-operate and collaborate on cross Humber Estuary working in relation to a number of matters, including the Freeport.
- 2.2 The purposes for which the Committee has been established is to regulate the manner and process by which the utilisation of Public Funds shall be considered and, if appropriate, determined, and to ensure that expenditure of the Company is consistent with the aims and ambitions of the submitted business case..
- 2.3 The Committee has the delegated authority of the HLB in respect of the functions and powers set out in these terms of reference and shall have the authority of the members of the HLB to function in accordance with and implement them.
- 2.4 Each Local Authority has nominated a Representative for the purpose of carrying out the functions of the Committee.

3. ROLE

The role of the Committee is to give oversight and regulation to each Local Authority, of the use of Public Funds and the oversight and approval of expenditure of the Company.

4. DUTIES AND DISCRETIONARY POWER

- 4.1 The Committee shall have oversight of, and its consent (or otherwise) shall be required to the extent that the Company wishes to expend, any monies arising out of Public Funds.
- 4.2 Any decision reached by the Committee as to the use of Public Funds is at the sole discretion of the Committee and the Committee shall not be obliged or required to accept any request by the Company to change or reconsider any matter on which a decision has properly been made.
- 4.3 The Accountable Body (acting reasonably and proportionately) shall be entitled to prescribe matters around which the Company will be required to provide assurance to the Committee prior to the Committee being required to consider whether a proposal made by the Company constitutes an adequate and proper use of Public Funds. In particular the Committee shall be required to consider any properly submitted proposal for the use of Public Funds that is received by the Accountable Body not less than seven working days before the date of a meeting of the Committee so as to give time for any such proposal to be included in the working papers to be submitted prior to the meeting.

4.4 The Consent of the Committee shall be the approval of a written proposal and regulation for expenditure out of Public Funds. Where consent is given this shall be communicated to the Company by the Secretariat of the HLB within 10 Business Days. of the date of the meeting at which the relevant consent was given.

4.5 The Committee reasonably expects and welcomes informal dialogue and engagement with the Company as a preparatory step to any decision.

5. MEMBERSHIP

5.1 At all times the Committee shall comprise four members being one Representative of each of the Local Authorities. A Representative may not be the same person who represents the Local Authority on the HLB itself, or is a director of the Company.

5.2 Appointments to the Committee shall be for the period that an individual remains the nominated Representative of that Local Authority and shall (without prejudice to paragraph 5.4 below) terminate upon such individual ceasing to be so nominated.

5.3 If a Local Authority replaces a Representative they shall inform the Secretariat of the HLB in writing that they have done so and of the identity of the new Representative as soon as reasonably practical thereafter.

5.4 Where a Representative is not able to attend a meeting of the Committee that member must nominate a substitute from the relevant Local Authority to attend in their place. This substitute will have the same powers and voting rights as the nominated member.

5.5 The chair of the Committee shall rotate every 12 months from among its members and shall be held by rotation by a Representative of Kingston Upon Hull City Council, thereafter North Lincolnshire Council, thereafter East Riding of Yorkshire Council and thereafter North East Lincolnshire Council. For the avoidance of doubt a Representative of the same Local Authority may not hold the chairmanship for more than 12 months in any four year period.

5.6 The chair of the Committee shall have no casting vote. In the absence of the Committee chair and/or an appointed deputy, the remaining members present at a Committee meeting shall elect one Representative present to chair the meeting.

5.7 The secretariat supporting the HLB, shall act as the secretariat of the Committee and provide all necessary support to the Committee, including the recording of Committee minutes, communication of any relevant matters to the Company and ensuring that the Committee receives information and papers in a timely manner to enable full and proper consideration of the relevant issues.

6. ATTENDANCE AT MEETINGS

6.1 The Committee shall meet at least six times a year. Meetings shall be held on the first Thursday of January, March, May, July, September and November unless any such day is not a Business Day in which case the meeting shall be held on the following Thursday . The Company may request extra meetings of the Committee by giving not less than 15 Business Days' notice to the Accountable Body.

- 6.2 Outside of the formal meeting programme, the Committee chair (and to a lesser extent, other Committee members) shall maintain a dialogue with the Accountable Body and other key executive officers involved in the governance of the Company, including the chief executive and the finance director.
- 6.3 The Committee or any of its members may engage with and obtain information from the Company in connection with any matter or proposal due to come before the Committee at a forthcoming meeting. Nothing in these terms of reference shall prevent an informal meeting of the Committee.
- 6.4 Only Committee members have the right to attend and vote at Committee meetings. However, other individuals which can for the avoidance of doubt involve representatives of the Company or a Local Authority may be invited to attend all or part of any meetings as and when appropriate and necessary. The Committee shall have the discretion to decide who, other than the Committee members, shall attend and address Committee meetings.
- 6.5 The S151 Officer (or Deputy 151 Officer) of the Accountable Body will be invited to all Committee meetings but has no vote.
- 6.6 The secretariat of the Committee shall ascertain, at the beginning of each meeting, the existence of any conflicts of interest and minute them accordingly it being agreed and acknowledged that a Local Authority having a Representative on the Committee shall not in itself be deemed a conflict.
- 6.7 Unless required otherwise by any law or governmental directive or recommendation in force from time to time meetings of the Committee shall be conducted when the members are physically present together. Nothing shall prevent a non-member invitee to the meeting from attending remotely and by such means as shall be reasonably agreed in advance of the meeting.

7. NOTICE OF MEETINGS

- 7.1 Meetings of the Committee shall be held on the dates set out in paragraph 6.1 above and on any other date at the request of not less than three quarters of the Representatives.
- 7.2 Unless at least three quarters of the Representatives agree otherwise, notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be forwarded to each member of the Committee and any other person required to attend no later than five Business Days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees as appropriate, at the same time, but Committee papers may be forwarded at shorter notice with the approval of the Committee chair.
- 7.3 Each Representative shall nominate an e-mail address to which notices, agendas and supporting papers can be sent in electronic form.

8. QUORUM

- 8.1 The quorum necessary for the transaction of business at a Committee meeting shall be four Representatives present (subject to paragraph 6.7) in person. If any Representative cannot attend a meeting it is an inherent responsibility of each Local Authority to ensure that a substitute is nominated

in accordance with paragraph 5.4 of these Terms of Reference. Each Local Authority and the Accountable Body acknowledge that the attendance of their Representative is vital for both the Committee and the Company to be able to function and carry out their respective objectives efficiently.

- 8.2 A duly convened Committee meeting at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.

9. VOTING ARRANGEMENTS

- 9.1 Each Representative shall have one vote which may be cast on matters considered at the meeting. A matter to be considered at a meeting of the Committee requires only the approval of a simple majority. In the case of an equality of votes the matter shall be deemed not to have been carried.

10. MINUTES OF MEETINGS

- 10.1 The secretariat of the HLB shall minute the proceedings and resolutions of all Committee meetings, including the names of those present and in attendance.
- 10.2 Draft minutes of Committee meetings shall be agreed with the Committee chair and then be circulated promptly to each Representative and to the Company.

11. GENERAL MATTERS

- 11.1 In carrying out their duties as a Representative, each Representative must give due consideration to all applicable laws and regulations, in particular the Local Authority Code of Conduct, the Nolan Principles, any other code of conduct applicable to the relevant Representative in their capacity as an elected member of a Local Authority.
- 11.2 It is acknowledged that these terms of reference are vital to the ability of the Company to invest Public Funds in furtherance of its objectives. Accordingly, it is agreed by each Local Authority that these terms of reference will not be amended or varied in such a way that is materially detrimental to the Freeport Objectives, without the prior consent of the Company which shall not be unreasonably withheld.
- 11.3 Meetings shall be conducted consistently with the requirements of:
- (a) s102(2) of the Local Government Act 1972
 - (b) Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
 - (c) s.9 of the Local Government Act 2000
 - (d) Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

and in an open and transparent manner with the press and public entitled to attend save where exempt information under the auspices of Schedule 12A Local Government Act 1972 is being considered where, by proper proposal and resolution the Committee shall move into closed session.