

WEP STRATEGIC PARTNERING DELIVERY MODEL**ROLE OF THE STRATEGIC PARTNERING BOARD (SPB)****1 INTRODUCTION¹**

- 1.1 The WEP Strategic Partnering Agreement (**SPA**) is the agreement entered into between the Local Authorities and Further Education Institutions (**Participants**)² and WEPCo (being the joint venture company established between the Private Sector Delivery Partner (**PSDP**) and a subsidiary of the Development Bank of Wales).
- 1.2 The purpose of the SPA is to establish a long term partnership (initial term of 10 years, which may be extended by 5 years) between WEPCo and the Participants. The SPA provides for the creation of the Strategic Partnering Board (**SPB**); this paper summarises the role of the SPB in the context of the SPA.

2 THE SPA KEY PRINCIPLES

- 2.1 The SPA commits the Participants and WEPCo to work to the following nine (9) key principles, and the SPB is the guardian vehicle of these commitments.
- 2.2 The key principles of the SPA are:
- a) to develop close working relationships between WEPCo and the Participants at all levels;
 - b) to focus on achieving the best value for money operational performance within agreed timescales;
 - c) to set in place business and cultural processes to enable the Participants and WEPCo to establish and agree challenging time and performance objectives and to meet or better them;
 - d) to recognise each other's needs, constraints, limitations, capabilities, roles and responsibilities to achieve mutually beneficial outcomes;
 - e) to identify by regular monitoring, weaknesses and strengths in the relationship between and amongst the Participants and WEPCo and to work together to overcome the weaknesses and to build on the strengths;
 - f) to commit to the early recognition and resolution of differences, conflicts and disputes between and amongst the Participants and WEPCo in a 'no surprises' environment;
 - g) to appoint within each of the Participants and WEPCo co-ordinators at senior level who will support, defend and promote the long term strategic partnership between them and its principles of operation;
 - h) to develop openness and trust in a transparent information and data sharing environment; and
 - i) in accordance with the Equality Requirements to positively promote equal opportunities and the Ethical Employment Code by combating discrimination on the grounds of race, ethnicity, religion, nationality, gender, disability, age or sexuality and promoting good relations between all sections of the community in 'everything we do' including:

¹ Capitalised terms have the meaning provided for in the Strategic Partnering Agreement unless otherwise stated.

² Note those named as a "Contracting Authority" in the OJEU notice will be entitled to sign and enter D

- a) Delivering high quality Education Sector Services and (where relevant) Community Services for end users; and
- b) Working with the local community and partners in the public, private or voluntary sectors.

3 SPB MECHANICS

3.1 SPB Structure

The SPB will comprise of:

- a) one representative from each of the Participants;
- b) one representative of WEPCo, nominated by the board of directors of WEPCo;
- c) one additional representative of Welsh Government (at Welsh Government's discretion); and
- d) a reasonable number of Stakeholder Representatives interested in or affected by Education Sector Services and/or Community Services;

3.1.1 Participant Representatives are expected to be senior representatives of the Participant, with the appropriate authority to make decisions on behalf of the Participant. They should be experienced in holding a director or similar position and have the required skills to make the decisions required to be made by the SPB. Participants will need to consider any likely conflicts of interest and ensure that conflicts of interest do not prevent the chosen representative from fulfilling their role as representative as well as any other role they hold directly in the Participant organisation.

3.1.2 The identity of a Participant's Representative in the SPB may change at any time following written notice to WEPCo and all other Participants.

3.1.3 A Participant Representative may also give written notice to WEPCo authorising others to exercise the functions and powers of that Participant at SPB meetings.

3.1.4 A Chairman will be appointed on an annual basis from amongst the Participants' Representatives. Save where agreed to the contrary by the Participants, it is intended that the post of Chairman will rotate annually amongst the Participants' Representatives in turn. The Chairman will be non-voting in his capacity as Chairman.

3.2 SPB Meetings

3.2.1 The SPB will meet regularly at least every 3 months to provide strategic input into how the partnering established by the SPA is operating, and to review financial and operating (including performance) issues.

3.2.2 Agendas for SPB meetings will be circulated on behalf of the Chairman five (5) Business Days in advance (with supporting papers) and any party wishing to raise other agenda items will notify all other members of the SPB (with supporting papers) in writing no later than three (3) Business Days in advance.

3.2.3 The SPB must have a quorum of five (5) Participants' Representatives (one of whom must be a representative from Welsh Government) and a WEPCo Representative. If a quorum is not present at any meeting of the SPB within thirty (30) minutes of that meeting's start time, the SPA requires that the meeting is adjourned to the same time and place five (5) Business Days later. For any adjourned meeting, the quorum shall be one Participant's Representative (who must be a representative of the Welsh Government) and the WEPCo Representative. Telephone conference calls or video conferences shall be valid as a meeting of the SPB.

- 3.2.4 The Participants must arrange for a person to take minutes of all SPB meetings and circulate the same to all representatives and the Chairman within five (5) Business Days after the relevant meeting.
- 3.2.5 All members of the SPB are obliged to use reasonable endeavours to ensure their regular attendance at all meetings and each Participant will, unless unavoidable, ensure that its representative on the SPB is appropriately empowered to agree matters on its behalf.
- 3.2.6 Each Participant is required to use reasonable endeavours to ensure that its representative on the SPB conducts himself in accordance with the partnering principles contained in the SPA and in a manner intended to ensure that the SPB complies with its obligations and carries out its functions in a timely manner.
- 3.2.7 Decisions will be taken by a majority vote. WEPCo and Stakeholder Representatives will not have a vote at SPB meetings. A decision that affects a Participant will only bind it if that Participant's representative has voted in favour of it.

4 PARTNERING SERVICES

- 4.1 The SPB will serve as a forum for the open exchange of ideas, and will enable the Participants to discuss their forthcoming accommodation and service delivery requirements to ensure an integrated co-ordinated and practical approach to fulfilling such requirements.

4.2 The Strategic Delivery Plan

The Strategic Delivery Plan (**SDP**) will set out objectives based on Participants' local delivery plans and will be developed annually between the Participants and WEPCo. The SPB will be required to approve:

- 4.2.1 the initial SDP put forward in accordance with Section 1 of Schedule 11 (*Initial SDP*); and
- 4.2.2 any amendments made to the SDP in accordance with Section 2 of Schedule 11 (*Updated SDP*).

4.3 The Management System

The SPB shall be required to approve the following systems established by WEPCo:

- 4.3.1 a quality management system for the purpose of ensuring and demonstrating that all aspects of the Partnering Services and all other matters for which WEPCo is responsible under the SPA are carried out fully in conformity with the relevant provisions of SPA and WEPCo's quality management policies and objectives;
- 4.3.2 an appropriate system for implementing WEPCo's occupational health and safety (**OH&S**) policies and objectives to enable it to control its OH&S risks and improve its OH&S performance over time; and
- 4.3.3 an appropriate system for achieving and demonstrating sound environmental performance by controlling the impacts of WEPCo's activities, products and services on the environment, consistent with its environmental policy and objectives.

4.4 The Partnering Services Costs Rates

- 4.4.1 WEPCo is required to provide report of the Partnering Services rates and prices by reference to:
 - a) other relevant local and national trends;
 - b) the rates and prices actually paid by WEPCo for similar services (where WEPCo has used Good Industry Practice to secure best value in respect of those services);

and taking account of value for money objectives set out in the Key Performance Indicators and the outcomes of the Partnering Services Supply Chain Refresh.

- 4.4.2 The SPB shall decide whether to approve any proposal of an increase or decrease of, or no change to the rates.

5 MANAGING WEPCO PERFORMANCE

- 5.1 The SPB will act as the primary mechanism for managing WEPCo's performance.
- 5.2 WEPCo will be required to regularly monitor and report to the SPB on its performance (and its Partnering Subcontractors) under the SPA, of the Project Service Providers and the Supply Chain Members under Project Agreements.
- 5.3 Within twenty (20) Business Days of each Review Date, WEPCo will issue to the SPB the WEPCo Performance Report, which will detail a review of whether each of the Key Performance Indicators has been met.
- 5.4 In less than one (1) month of the Review Date in that year, the SPB will hold a formal Annual Review of the operation of the SPA and WEPCo's performance in the context of the targets and objectives in the SDP and the Key Performance Indicators. As part of this review, the SPB (excluding for such purposes WEPCo's representative) will review WEPCo's progress against the partnership objectives in the SPA and the WEPCo Performance Report and the SPB and WEPCo shall agree any key findings from such review together with the implications relating to WEPCo's future activities.
- 5.5 The SPB shall be entitled to require information and/or clarification from WEPCo in relation to the WEPCo Performance Report including as to whether or not the Track Record Test has been passed and, whether any Significant Performance Failure has occurred.

6 APPROVAL PROCESS OF NEW PROJECTS

- 6.1 In respect of New Projects, the SPB will work with WEPCo and Participants to:
- 6.1.1 identify, analyse and discuss the Participants' collective and individual accommodation requirements;
 - 6.1.2 assist in the development of local delivery plans and review their applicability to the provision of Education Sector Services and Community Services in the Region;
 - 6.1.3 develop further the SDP, in particular to further refine the proposals contained in the SDP;
 - 6.1.4 decide the basis upon which New Projects are prioritised;
 - 6.1.5 identify and appraise available options for meeting the Participants' accommodation requirements and recommend (on the basis of best available value for money) which New Projects to progress;
 - 6.1.6 advise how best to bundle accommodation requirements within a New Project to ensure that the New Project is Affordable, offers value for money and provides a solution with an appropriate level of flexibility;
 - 6.1.7 take into consideration the views of relevant stakeholders in relation to the SDP and actual or potential New Projects;
 - 6.1.8 develop the Participants' requirements in relation to New Projects (which will be developed further during the Stage 2 Approval process) to enable it to form the basis for the agreement of the relevant Project Agreement;

- 6.1.9 analyse and discuss the range of potential funding options for New Projects including the feasibility of third party funding such as sponsorship when considering and developing a New Project;
- 6.1.10 assist in the preparation of outline business cases and obtaining all necessary approvals; and
- 6.1.11 for any New Project in respect of which such Participant(s) has/have indicated an intention to submit a New Project Request, agree:
 - a) the appropriate Comparator for purposes of determining any adjustments to the Project Development Fee Cap pursuant to paragraph 2 of Schedule 4 (Partnering Services Costs) in respect of such Comparator; and
 - b) each part of the Project Development Fee Cap for each stage.
- 6.2 Where the potential Relevant Participant(s) and WEPCo are unable to agree the matters referred to in paragraph 6.1.11 above within a period of three (3) months, the SPB shall determine such matters.
- 6.3 The SPB should be provided with copies of both the Stage 1 and Stage 2 Submissions and will provide a forum for discussion of whether the submissions meet the Approval Criteria. Approval of the New Projects is ultimately decided by the Relevant Participant(s).

7 EXTENDING THE SPA TERM

- 7.1 The term of the SPA may be extended for an additional five (5) years after the Initial ten year term. The SPB will meet twelve (12) months before the Initial Expiry Date to review:
 - 7.1.1 the performance of the Parties under the SPA and, in particular, the performance of WEPCo in delivering the Partnering Services to the performance standards set out in Clause **Error! Reference source not found.** (*Services Obligations*);
 - 7.1.2 the Education Sector Services and Community Services needs of the population within the Region; and
 - 7.1.3 whether it would be beneficial to the provision of all or any of the Education Sector Services and/or Community Services in the Region to extend this Agreement for a further five (5) year period from the Initial Expiry Date.
- 7.2 It will then be decided by WEPCo and one or more of the Participants whether to extend the term of the SPA by five (5) years from the Initial Expiry Date.

8 DISPOSAL OF PROPERTIES AND/OR SHARES

- 8.1 SPB approval will be required in respect of any action, which would result in a loss of control (direct or indirect) by WEPCo of any Subsidiary of WEPCo, which is a Project Service Provider. The SPB is obliged to act reasonably and without undue delay, taking into account any proposals put forward. If the SPB does not approve the proposed action, WEPCo must use all reasonable endeavours to procure that its Subsidiary and/or the relevant Project Service Provider shall not proceed with that proposed action.
- 8.2 It will be deemed to constitute a material breach of the SPA by WEPCo if:
 - 8.2.1 any Project Service Provider takes any action under its Project Agreement, which under the terms of such agreement, requires the SPB's consent without such consent having first been obtained, or
 - 8.2.2 WEPCo or any Subsidiary of WEPCo takes any action, which requires the SPB's consent or agreement under the SPA without such consent or agreement having first been obtained.

9 INSURANCE

- 9.1 Where a Project Service Provider for a MIM Project has notified a Project Agreement Counterparty of a risk becoming an Uninsurable Risk (pursuant to the provisions of the relevant Project Agreement), the Participants and WEPCo must ensure that a meeting of the SPB is held as soon as is reasonably practicable (and in any event within seven (7) Business Days of receipt by the Project Agreement Counterparty of such notice).
- 9.2 At that meeting the SPB will consider the situation and the parties will work together to use all their respective reasonable endeavours to obtain an agreed position from the SPB in relation to the risk becoming an Uninsurable Risk within twenty (20) Business Days of the Project Service Provider notifying the Project Agreement Counterparty as described above.

10 CONCLUSION

The SPB will be the central forum in which the Participants can work together with WEPCo, Welsh Government and Stakeholder Representatives to ensure that the key principles of the SPA are met. The SPB's role will be to approve the SDP; ensure any New Project proposals are consistent with the SDP; monitor WEPCo's performance against agreed KPIs; approve any extension to the SPA term; and approve any proposed disposal of interest in share capital resulting in a loss of control by WEPCo (or subsidiary).