

D2N2 INFRASTRUCTURE AND INVESTMENT BOARD (IIB)

28th April 2016

Review of the Local Assurance Framework

Following the recent Audits undertaken by Central Government all LEP's have been asked to review their Local Assurance Frameworks(LAF). Whilst the D2N2's LAF was not one that had been highlighted by the Auditors, officers have reviewed the document to make sure this fully adheres to the Governments LEP Assurance Framework and to update following any changes since May 2015 when the document was written. The main changes are:

- the Terms of Reference for the IIB has been inserted, these were not complete when the LAF was first written.
- RIBA stages have been updated following changes in their Plan of Work.
- information about the Officers group has now been included
- more details have been added regarding descriptions of roles and responsibilities, making it clearer who is responsible for making decisions.

See revised Local Assurance Framework attached.



D2N2 Local Growth Fund Local Assurance Framework

1. Introduction

Local enterprise partnerships are locally-owned partnerships between the public and private sectors.

D2N2 is the Local Enterprise Partnership (LEP) for Derby, Derbyshire, Nottingham and Nottinghamshire and is one of the largest LEPs in England, covering a population of over 2 million people with an economic output of over £36 billion.

D2N2s vision is a more prosperous, better-connected and increasingly resilient and competitive economy; its ambition is to be one of the most respected LEPs, known for its professionalism and effectiveness. Its purpose is to support and encourage economic growth across the D2N2 area.

The Strategic Economic Plan presents the LEPs strategy and delivery priorities for boosting the local economy and provides the basis for determining the key funding priorities to which available resources should be directed.

This Local Assurance Framework (LAF) sets out how D2N2 will continue the process of ensuring value for money, prioritisation, appraisal, business case development and risk management for the Growth Deal programme. It identifies the roles to be taken by D2N2 and its constituent Boards, by the Accountable Body and by the promoters of projects. It also sets out the process to be followed in selecting priorities for further Growth Deals or other funding programmes if appropriate.

The Accountable Body confirms that the D2N2 LAF conforms with the LEP Assurance Framework supplied by the Department for Business Innovation and Skills on the 9th December 2014

2. D2N2 LEP Governance and Decision Making

Accountability for Public Funding

As the amount of public funding flowing through LEPs has increased, it has become necessary to strengthen the robustness, transparency and accountability of local processes. Both the National Audit Office and the Public Accounts Committee have raised concerns nationally regarding the arrangements for the co-ordination of local growth programmes, as well as the management, monitoring and evaluation of funding for local economic growth.¹

This LAF provides assurance about the way the LEP's Local Growth Fund (LGF) is allocated and managed and that robust systems are in place to ensure resources are spent with regularity, propriety and meet value for money tests.

The Accountable Body for the LGF is Derbyshire County Council which has responsibility for ensuring this Local Assurance Framework is in place, meets the standards set out by Government and that all funding decisions are made in accordance with it.

D2N2 LEP Board and Governance

The D2N2 LEP Board ("the LEP Board") is responsible for determining the economic strategy for the region and setting the priorities for funding within its remit through the collective work of private sector representatives, the current D2 (Derby and Derbyshire) and N2 (Nottingham and Nottinghamshire) Joint Committees and other public sector bodies.

The Board comprises 16 core partners as follows:

- Independent (Private Sector) Chairman
- 6 Local authority partners
- 7 Private sector representatives
- 1 HE representative
- 1 FE Representative
- In addition BIS Local has observer status (but no voting rights)

¹ Funding and Structure for Local Economic Growth, National Audit Office, December 2013 and Local government funding: assurance to Parliament, House of Commons Committee of Public Accounts, September 2014.

- BIS Local

Private sector members of the Board are appointed through an open selection process. The member representing the further education/training sector is elected by the LEP Skills Network, which is open to all relevant organisations to join. Meetings of the D2N2 Board are held in public and as such, agendas, papers and minutes are published on the website to ensure transparency and accountability. Additional governance information such as Terms of Reference and membership lists for all of the LEP's supporting boards and advisory groups are also published, alongside information on future meeting dates and schedules of when information is made available.

The LEP Board meets bi-monthly and has delegated decisions in line with the LAF to the Infrastructure and Investment Board (IIB).

The IIB is comprised of 15 members who meet monthly to deal with matters arising for the Local Growth Fund and the approval of funding. Decisions made in the meeting and for any matters raised that are outside the LAF are referred back to the LEP Board for an ultimate decision.

For the Local Growth Fund, the IIB also has responsibility for monitoring delivery and progress of relevant schemes and reporting any issues to the LEP Board. The Terms of Reference for the IIB sets out their full remit and responsibilities, see appendix 1.

LEP and Accountable Body officers work together and provide a detailed report evidencing compliance with the LAF to the IIB/LEP Board as appropriate.

In addition a D2N2 wide Officers group comprising of officers from Local Authorities, the Housing Communities Agency (HCA), BIS, Sustrans, the LEP and Accountable Body meet monthly to discuss strategic issues for the Local Growth Fund.

Transfer of Local Transport Body responsibilities

The D2N2 Local Transport Body (LTB) has operated as a joint committee of the four D2N2 top tier local authorities including representation from the LEP. On adoption of this Assurance Framework, the LTB will cease to exist and will become the Infrastructure and Investment Board. The transport projects that were covered by the LTB are now part of the LEP's Local Growth Fund (LGF) programme and will be managed in the same way as other LGF projects. The minimum requirements on value for money assessment and assurance set out in the guidance to Local

Transport Bodies have been incorporated into the LEP's approach to developing a single appraisal framework, this Assurance Framework, and the accompanying Schedule.²

Promoters of Projects

Each organisation seeking funding from the LEP must identify a Single Responsible Officer (SRO) to be accountable for delivery of the project. In relation to Local Authorities this will be the Section 151 Officer and in relation to other bodies it will be the equivalent officer such as the Group Finance Director. Where there is a conflict of interest the SRO needs to be identified and agreed with the LEP in advance of commencing the business case approval process (Section 5)

The SRO will need to:

- supply all deliverables and assurances required for value for money assessment and business case development (see Section 5)
- provide commitment to whatever project-specific monitoring and evaluation is required
- confirm that the promoter of the scheme takes responsibility for all required processes (including consultation, Freedom of Information requests etc.) associated with the project.
- confirms that the scheme is State Aid compliant
- confirm that all additional funding is in place for the development and any unanticipated contingencies.

Scheme of Delegation

The LEP operates according to the principle of subsidiarity in that decisions should be taken at the lowest appropriate level so they can be taken quickly, efficiently and robustly, supported by the necessary information, to ensure integrity and accountability. In practice, this means that decision making can take place at different levels across the governance structure, including any new groups or boards created for specific purposes.

The current scheme of delegation is for decisions to be made by the LEP Board or the Chief Executive. The LEP Board may from time to time delegate decisions to its sub boards which are outlined in the terms of reference for each board.

² Guidance for Local Transport Bodies,
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15176/guidance-local-transport-bodies.pdf

Where a decision is required on funding within the LEP's control or influence, generally the appropriate sub board(s) would make a decision which would be ratified by LEP Board.

Overview and Scrutiny

Derbyshire County Council's Overview and Scrutiny Committee (Resources) will provide an independent scrutiny function where appropriate.

Overlapping, neighbouring and other LEPs

The D2N2 LEP's geographical coverage overlaps with those of the Sheffield City Region and works closely with neighbouring LEPs including Great Manchester, Leicester and Leicestershire, Stoke-on Trent and Staffordshire, Greater Lincolnshire. Wherever possible, projects which seek support from more than one LEP will be appraised jointly with the appropriate LEP.

Each LEP has a different focus; this is often complementary although in some areas there can be an overlap. In practice, the D2N2 LEP regularly works with other LEPs on joint concerns, for example on developing policy for supporting key economic sectors and on the commissioning of research. There is regular communication across the LEPs at Chair, board member and local authority officer level to ensure collaboration and reduce duplication, particularly in relation to accessing shared funding streams.

Information on funding accessed by the local authorities, businesses and organisations located in those authority areas from LEPs other than the D2N2 LEP will be published in accordance with those LEPs' Assurance Frameworks.

Supporting delivery and implementation

The D2N2 LEP has close, ongoing relationships with the relevant delivery bodies to ensure that agreed schemes are implemented and delivered. This is accomplished in the following ways:

- Business cases and delivery plans

The process of developing and approving a business case and delivery plan for each scheme funded through the LEP is detailed in section 5 of this document and outlined in Scheme Approval Process flowchart (appendix 2). As well as demonstrating the case for releasing funding, the business case will give the LEP a reference document for ongoing monitoring reports and discussions with delivery bodies against which progress can be measured.

The Assurance Framework proposes a two-stage approval process, which the promoters are required to provide information to support the delivery of the project and its outputs and objectives.

The first stage is to be submitted by the promoter once the project has reached a certain stage in terms of delivery. This stage will require the promoter to provide an updated business case identifying that the project has progressed along in line with the stage 1 approval process.

The second and final stage is to be submitted by the promoter when the project is in a position to be delivered. The promoter is required at this stage to submit a detailed business plan outlining how the project will be delivered and providing evidence that the outputs detailed in the original submission (e.g. jobs, houses, student places etc.) can be delivered

- LEP Executive

The D2N2 LEP has a small Executive Team supported by resources and officers of the constituent local authorities, primarily through financial contributions to the staffing establishment and undertaking work in advisory or task and finish groups. Support from the private sector primarily comes through the provision of expertise and time, for example in attendance at board and group meetings. The Executive Team is organised to support the Board structure, with the Capital Projects Manager responsible for each sub board reporting to the Chief Executive.

Each project and programme funded through the LGF is managed by the Capital Project Manager within the Executive team.

The Capital Project Manager is responsible for ensuring regular ongoing communication within the delivery body/team, briefing the IIB on progress, identifying issues and risks including non-delivery, and providing support to overcome barriers.

For Local Growth Fund projects, the Capital Project Manager will provide information to support monthly update sessions with the BIS Local Relationship Manager.

The Capital Project Manager is also the named officer responsible for the overall implementation of the programme.

Monitoring and Evaluation

A monitoring plan will be agreed by the LEP and the Accountable Body for each project and programme funded by the LEP, where applicable in accordance with the overall monitoring plan for the funding stream. The requirements will be

standardised and information will be provided using a common reporting tool wherever possible, in order that this information meets the tests of data quality (i.e. robust, accurate, timely, compliant etc.) and is comparable with other projects.

The frequency of reporting and depth of information required will vary depending on the type, size and delivery timescales of the project but will be at least on a quarterly basis

Clear monitoring and reporting requirements will be specific and conditional to the funding agreement for the project and linked to the draw down of funds.

Monitoring reports will be summarised for consideration at the relevant Infrastructure Investment Board (IIB). In line with good practice and to support effective and robust decision making, monitoring reports to the boards will typically summarise good progress and areas of good practice. The report will also highlight risks to the delivery of the programme.

The IIB will also be able to invite delivery bodies in for a discussion if required.

The LEP Board will receive a headline report on a quarterly basis which provides an overview of progress across all approved projects and all projects awaiting approval of the IIB. The report will adopt a “traffic light” system, which will highlight key milestones and any incidents of under-performance.

Monitoring reports will be presented to funding bodies in the relevant format, and summary information will be published on the LEP’s website. Progress summaries at the programme level will also be produced as required by funders. In the case of annual summaries, these will be published alongside the LEP’s Annual Review.

3. Transparency

Transparency Code

It is the Government's expectation that "the public should see that the LEP is applying similar standards of transparency as other public sector organisations over decisions it makes over public funding". (LEP Assurance Framework: Working Draft, 03 October). With the most recent iteration of the Local Government Transparency Code³, it is noted that LEPs, whatever their legal status, require a public sector (local authority) Accountable Body to channel public funds. As such, the Code does not apply to LEPs. However, Government advice adds that "local authorities need to publish data about spending transactions and so will need to publish data about the monies they pass to or spend on behalf of a Local Enterprise Partnership".⁴

It should be noted the Transparency Code states that "Government has not seen any evidence that publishing details about contracts entered into by local authorities would prejudice procurement exercises or the interests of commercial organisations, or breach commercial confidentiality unless specific confidentiality clauses are included in contracts".⁵

In addition, it is noted the provisions of the Local Government Transparency Code apply to economic prosperity boards, combined authorities and integrated transport authorities and that the LEP Assurance Framework, Working Draft (03 October), expects that "within reason, we would expect LEPs to adhere to the Local Government Transparency Code".

Approach to transparent decision-making

The D2N2 LEP is committed to transparency in its decision-making and activities, but also recognises that for it to operate effectively there are some circumstances in which it must maintain confidentiality, particularly where commercial sensitivities are involved.

The papers, decisions, minutes and future meeting dates of the LEP Board and the LEP's sub boards are published on the website, along with their terms of reference and current membership.

Registers of interests covering decision-makers and a gifts and hospitality register will follow Derbyshire County Council's existing policies.

³ Local Government Transparency Code, DCLG, October 2014

⁴ Local Government Transparency Code, Frequently asked questions, DCLG, October 2014

⁵ Local Government Transparency Code, DCLG, October 2014 par. 15

Policies for conflicts of interest and complaints will follow the Accountable Body's policies and can be found on its website. The policies apply to the LEP Executive, members of the LEP Board, Infrastructure and Investment Board and all other sub groups. Members of the LEP Board, sub boards and associated groups are also required to "Declare an Interest" on any agenda item where a decision may cause a direct material impact, financial or otherwise, either personally or to the organisation or institution they are representing.

The D2N2 LEP adheres, through its Accountable Body, to the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR). The D2N2 LEP's Executive Team responds to requests under the Acts, taking advice from the LEP's Accountable Body where necessary.

Where a request relates to a specific programme, which another Accountable Body manages, their own procedures will normally apply and the LEP's Executive team will assist.

In addition, the D2N2 LEP and its Accountable Body will adhere to their duties under the Public Sector Equality Duty⁶ and will have regard to these requirements when apportioning funding.

Local engagement

The D2N2 LEP uses multiple channels to engage effectively with local stakeholders (public, private and the general public), both on a continuing basis and to inform specific pieces of work (such as the development of economic strategy). Any local business, resident and organisation are able to get involved.

Examples of the LEP's current engagement activities include:

- The D2N2 briefing are open event held at venues around the D2N2 area several times a year where attendees can hear from LEP Board members about the LEP's work, ask questions and take part in discussion.
- The D2N2 LEP Provider Network, a quarterly meeting targeted at skills and training providers to discuss the LEP's work and provide intelligence on issues affecting the sector.
- A sector group for each of the LEP's priority sectors, directing sector development strategy and providing intelligence on issues affecting local business.

⁶ Public Sector Equality Duty, as section 149 of the Equality Act 2010
<http://www.legislation.gov.uk/ukpga/2010/15/section/149>

- Regular meetings with banks and accountancy firms to discuss access to finance.
- A wide range of working groups to support the sub boards' work.
- Regular newsletter, social media and dedicated website updates.
- LEP Board members and members of the Executive team regularly speak at local events, such as those organised by business membership organisations.
- The local media regularly cover the LEP's work and have supported calls for projects and information, such as during consultation on developing economic strategy.

Proposing and prioritising projects

The D2N2 LEP is committed to maximising its impact by finding or commissioning, enabling, developing and funding the best projects. Openness and competition are at the heart of this approach. The D2N2 LEP's Strategic Economic Plan, together with the economic development plans and capital programmes of the constituent local authorities provide the context, rationale and up-to-date evidence base for project and programme development.

Calls for potential projects to fund are published on the LEP's website and circulated using the communication channels above. An application form and guidance, which vary between programmes, are published with clear deadlines and contact information. The LEP encourages early discussion about project ideas so it can help organisations decide which funding route is most suitable, and avoid them undertaking unnecessary work. The contact for these discussions is the Capital Project Manager.

The decision-making process and criteria for each call is included in the guidance. This will often include at the appropriate stage review by a panel with relevant specialist knowledge and/or an external organisation (for example a specialist consultancy or the Skills Funding Agency) to ensure decisions are fair and robust.

The primary aim of the LEP is economic growth, but this must also contribute to wider sustainable development objectives and be consistent with EU funding requirements. To this end, the LEP's prioritisation, appraisal and evaluation processes build in social and environmental impacts and indirect benefits. The LEP is looking to pilot models that enable the social return on investment and local

multiplier benefits to be quantified both in developing and appraising the business case and in evaluating the impact of its interventions.

The LEP will consider how projects might improve the economic, social and environmental well being of the D2N2 area, and how equality issues might be considered, and how such improvements might be secured in the procurement process itself. Social value seeks to ensure that the collective benefit of a community is considered when contracts are awarded and this is an essential part of the D2N2 LEP's ethos.

4. Accountability

Accountable Body arrangements

The Accountable Body for the D2N2 LEP is Derbyshire County Council.

The Accountable Body, through the Section 151 Officer, (or in the case of a Combined Authority a Section 73 Officer) is accountable for the proper use and administration of funding, all of which falls under the annual audit of the Derbyshire County Council's accounts, and for ensuring that decisions are made in accordance with this Assurance Framework or any other framework which may instead apply. These responsibilities include:

- Ensuring the decisions and activities of the LEP conform with legal requirements with regard to equalities, social value, environment, State Aid, procurement etc.;
- ensuring (through the Section 151 Officer) that the funds are used appropriately;
- ensuring that this Assurance Framework (or any other which may instead apply) is implemented and adhered to;
- maintaining the official record of LEP proceedings and holding copies of all relevant LEP documents relating to any funding streams the Accountable Body is responsible for;
- ensuring LEP decisions at formal meeting are recorded.
- Responsibility for the decisions of the LEP in approving projects (for example if subjected to legal challenge);
- ensuring there are arrangements for local audit of funding allocated by LEPs at least equivalent to those in place for Local Authority spend.

In addition, the LEP and the Accountable Body have agreed timescales and operating practices to support the effective implementation of decisions. This will also include a process for monitoring delivery and specification of what information is required from scheme promoters and delivery agents.

Awards of funding will be accompanied by a written agreement between the Accountable Body and the delivery agent setting out the split of responsibilities and specifying provisions for the protection of public funds, such as arrangements to suspend or claw back funding in the event of non-delivery or mismanagement.

The use of resources are subject to the usual local authority checks and balances – including the financial duties and rules which require councils to act prudently in spending, which are overseen and checked by the Section 151 Officer.

While it may put in place procedures and promote proper practice, and monitor and report on the effectiveness of these, the Accountable Body is not responsible for any deficiencies in the administration of public monies among funding recipients and partner bodies. In the event of any shortcomings coming to light it will seek to safeguard, and recover where appropriate, the relevant monies through either the LEP mechanisms or its own channels as it considers most suitable in the circumstances.

The Accountable Body would only refuse a decision of the LEP Board (and the IIB) if it was:

- Not procedurally valid, or
- Illegal, or
- would lead to the available budget being exceeded.

If a situation did occur whereby the Accountable Body had significant concerns about a decision the LEP had taken, or proposed to take, then an urgent meeting with 5 working days would be convened by the Section 151 Officer of the Accountable Body with key stakeholders from both the LEP and the Accountable Body.

An annual audit of the D2N2 LEP is carried out by the Accountable Body's internal audit team and reported to the LEP Board.

Managing conflicts of interests

There will be a clear separation between scheme promoters (i.e. Derbyshire County Council led schemes) and those advising on decision-making (the Accountable Body role), to ensure the LEP is acting on impartial advice on the merits of potentially competing business cases.

The Accountable Body (through the LEP) will appoint an independent support team to work with the Capital Project Manager to progress and approve projects. The support team will consist of a dedicated project manager/programme manager, a finance officer and a legal officer.

Funding agreements

Awards of funding by the LEP will be accompanied by a written agreement between the Accountable Body and the delivery agent setting out the split of responsibilities

and specifying provisions for the protection of public funds, such as arrangements to suspend or claw back funding in the event of non-delivery or mismanagement.

As a minimum, these agreements will include:

- Details of the project and outputs to be delivered in a specified timescale
- Arrangements for payment (up front or in arrears, quarterly or other)
- Arrangements to suspend or claw back funding in the event of non-delivery or mismanagement
- Monitoring requirements, including the metrics and frequency of reporting
- Publicity obligations and arrangements

The agreement will be signed by the Section 151 Office (or equivalent) of the delivery organisation and by the Accountable Body on behalf of the D2N2 LEP.

Monitoring delivery

Monitoring of projects once approved will be against a suite of metrics appropriate to the project, using a standard set of definitions (subject to the funding stream). Monitoring requirements and arrangements will be included in funding agreements and as far as possible, will use a common reporting framework. At a programme level, a monitoring plan for each programme will set out the minimum requirements of projects and the reporting channels, including through the LEP board structure and to any external funding partners.

A project may be subject to full evaluation following completion. This will not apply to all projects and will be agreed prior to commencement of the project.

Management Costs

The Capital Project Manager will liaise and manage the entire Growth Deal programme and will work with promoters in delivering the project.

The LEP reserves the right to charge an annual administration fee to each project which may be deducted from the final award.

5. Business Case Development and Value for Money

Rationale for projects

The D2N2 LEP's Strategic Economic Plan sets out the LEP's key priorities and objectives for growth. A prerequisite for any scheme is demonstrating how it contributes to the delivery of one or more SEP objectives. However, schemes must go further in demonstrating why they are needed. This could include, for example, evidence of market failure or evidence of a new growth opportunity.

The requirements will be detailed in the guidance for each call and may be varied by the LEP over time to ensure the portfolio of projects is spread widely enough amongst the LEP's objectives.

Projects are encouraged to use standard methodologies to calculate wider impacts, rather than their own, so that information is robust and comparable. The LEP's project documentation provides for this by automatically completing common calculations based on widely-used unit values.

Where applicable, value for money and other requirements will be aligned with existing guidance and practices for common co-funders (e.g. Department for Transport local majors, Environment Agency Flood Defence Grant in Aid).

To support the LEP's decision-making, economic data and economic intelligence are regularly reviewed, as is progress against the LEP's priorities. This provides context to support decisions on projects and information on where gaps may need to be filled. Research commissioned by the LEP is published on its website (unless it is commercially confidential) and links are provided to the latest economic data.

Identifying and developing projects

The LEP's approach to identifying potential projects to fund includes a mixture of:

- Open calls for projects, or commissioning, in which all eligible organisations are invited to put forward projects that would contribute towards delivering some or all of the SEP objectives;
- Targeted calls for organisations to deliver, or partner in the delivery of, a project of a specific type or specification;
- Strategic project and programme development "in-house" following consultation with stakeholders, with the nomination of an appropriate Accountable Body.

All open and targeted calls are publicised on the LEP's website with guidance to applicants and details of the appraisal and decision-making process, and circulated through the LEP's communication channels.

Projects may be sought in response to a specific opportunity, or to build up the pipeline of projects the LEP wishes to see developed with a view to potentially providing resources in the future. The amount of information required from the promoter of the project will vary accordingly.

The Single Assessment Framework (SAF) will be used to ensure all proposals are assessed on their individual merits, in most cases on a competitive basis, to ensure that the best projects are selected which support the LEP's priorities.

The LEP encourages organisations to have an informal discussion with the Executive (which may also take advice from the Accountable Body, its boards or others) to determine whether or not their project would be suitable for current or future funding opportunities. This reduces time and cost for both the LEP and external organisations by cutting down on unnecessary work in developing and assessing proposals, encourages good relationships with potential partners, and helps the LEP to gain intelligence on projects that may be coming forward. Promoters of projects are strongly advised to take up this offer, but it is not mandatory to do so.

Because of the workload involved and to facilitate a competitive process, the LEP will only allow formal project submissions (Expression of Interest, Outline Business Case or Full Business Case) to be made during specified windows of time. These will be advertised on the LEP's website and through its communications channels, but the scope may be limited to certain types or size of project.

Value for Money

The LEP and the Accountable Body will need to assure themselves that projects are deliverable and represent 'good' value for money. It is the promoter's responsibility to provide sufficient independent evidence that the project delivers at least a 'good' value for money score in line with HM Treasury Green Book principles. The LEP and the Accountable Body will use appropriate external advisers to consider the VFM and make recommendations to the promoters and ultimately to the IIB and LEP board.

The process varies according to the type of project and the nature of the resources being sought

Transport schemes, defined as those which are reliant upon ‘transport’ outcomes (such as time savings) to demonstrate value for money, are required to follow WebTAG guidance. For the avoidance of doubt, the provision of infrastructure such as a road which is intended to produce non-transport outcomes such as job creation may be assessed against these outcomes (see below). However, where this infrastructure would also impact upon existing users of transport networks the LEP and AB may require WebTAG-compliant analysis to determine the degree to which these impacts affect the overall case for the project.

Skills projects should make reference to the SFA Capital Investment Appraisal Guidance which provides methodology to calculate Net Present Value for a project.

For projects which are regeneration or housing led, promoters will need to provide a clear statement of the objectives of the project and evidence that there is market demand for the scheme. This should be expressed as projected take-up but, must be supported by evidence that the market will actually take this up within the projected time. This evidence can comprise correspondence, notes of meetings and any independent assessment of demand or advice from specialist consultants.

This will certainly need to go beyond demonstrating a policy fit – for example, that the scheme will meet a D2N2s Growth Plan objective or that the site is allocated within a Borough local plan. If updated or additional research needs to be undertaken to provide a robust evidence case, promoters should outline the scope/scale of this and any plans that are in place/timescales to acquire the necessary evidence, which would then be completed at Stage 2

Any project ‘retained’ by Government under the terms of a Growth Deal will be required to comply with whatever conditions this imposes. The LEP and AB will advise the promoter of whichever residual elements of the LEPs own process will need to be completed in parallel.

Approval Process

The promoter is required to provide a detailed business case setting the rationale for the Growth Deal investment funding and how the project aligns with the LEPs Growth Plan objectives.

The approval process is in two stages, which requires the promoter to provide a detailed business case at each stage identifying how the project has progressed and providing assurance and evidence that the outputs identified in the original submission can and are to be delivered.

The LEP will liaise with the promoter throughout the process, ultimately taking a recommendation to the IIB and the LEP board (when applicable) for approval and release of the funds.

The Accountable Body will issue an offer letter to the promoter detailing how and when the grant will be paid and the conditions of the grant and any claw back.

The LEP will monitor the project and its delivery against the agreed final business plan.

Process

Stage 1

Stage 1 approval is to provide assurance for all parties (promoter, LEP, AB and Government) that the project is progressing and all risks to delivery are being managed.

A detailed Business Case is required from the promoter outlining the current status of the project.

In order to submit the Stage 1 Business Case the following requirements need to have been met:

1. Full design and specification to RIBA Work Stage 3 (if applicable) (appendix 3)
2. Planning application submitted (if required)
3. Match funding identified – details are required outlining where the additional funds are coming from and confirmation that the funds will be available
4. Outputs and Programme identified (describing any changes from initial submission) - details are required of how the promoter will substantiate the outputs identified in the original submission what evidence is being sought to support the final business case
5. Internal approvals met – These will include council approval, board approval, financial /budget approval
6. Public Consultation events held and results known (if applicable)
7. All land purchases identified and under instruction/in legal. This will include details on obtaining vacant possession if the land is occupied.
8. Procurement process initiated. Details in regards to how the works will be tendered and the timescale for receiving a detailed price for the works.

PROMOTERS ARE REQUIRED TO:

Prepare an updated business case outlining how the project will be delivered and providing evidence that the outputs detailed in the original submission (e.g. jobs, houses, student places etc.) can be delivered. This may require the promoter providing supporting evidence on demand and needs within the area.

- The Business plan must be submitted by the Section 151 Officer or the Finance Director.
- Promoters are required to provide a Value for Money Assessment at the final stage and details of how this assessment will be carried out will be required along with a timescale. The assessment should be carried out using suitably qualified/experienced staff or consultants.
- Promoter to specify any Conflict of Interests and how these will be managed
- Promoter to provide assurance that the project is State Aid compliance. Any risk of claw-back lies with the promoter.

The updated business case is to be submitted to the Chief Executive Officer of the LEP. The Chief Executive Officer of the LEP will be responsible for approving business case.

Between Stages 1 and 2 the LEPs Capital Programme Manager will write to the promoter to set out requirements and advice for the completion of Stage 2 processes

The LEPs Capital Project Manager will also work with promoters to enable the deliver of the final business..

Stage 2 Final Submissions and Approval

A final stage 2 Green Book compliant Business Case is to be submitted to the Chief Executive Officer of the LEP with a further second copy to be supplied which the LEP will forward to the Accountable Body. The Business Case will be reviewed by both the LEP and the Accountable Body to ensure its compliance with the Assurance Framework.

The detailed Green Book compliant Business Case is required to set out how the project will be delivered, how the business case objectives and outcomes will be delivered and how risks will be managed.

The final Business Plan will require the following supporting information:

1. A Value for Money assessment carried out in accordance with the Local Assurance Framework and concluding that the project overall provides at least a good value for money score
2. Evidence supporting the need for the project and the how the outputs in the Business Case will be delivered/guaranteed. This will also include evidence identifying when the outputs will be delivered.
3. A statement confirming that the funds are in place and that adequate safeguards have been taken in regards to any cost over-runs. Examples of this could be confirmation that contingency has been secured for the project and/or that all risk have been passed to the contractor/developer.
4. A statement confirming that the project is State Aid compliant.

In order to submit to Stage 2 the following requirements need to have been met.

1. Full design and specification to RIBA Stage 4 (if applicable) (Appendix 3
2. A detailed Business case submitted by the Section 151 officer, Finance Director or Chief Executive Officer.
3. Confirmation that all Planning consents and other consents in relation to the delivery of the project have been granted. The promoter is also required to confirm that all pre-commencement conditions have been met along with details regarding how and when the remaining planning conditions will be discharged.
4. A statement from the promoter confirming how project aligns with the LEPS sustainability and local procurement framework (if applicable)
5. Confirmation that all funding is approved and in place to deliver the project along with written confirmation from the other funders confirming the funds are agreed and available.
6. Confirmation that a delivery contract is in place (JCT or equivalent) and confirmation of how cost/programme overruns to be managed. The LEP will require promoters to either confirm that any cost over-runs are the risk of the developer or additional funds have been set aside.
7. All land assets purchased and vacant possession obtained (if applicable)
8. A Green Book compliant business case to be submitted along with a Value for Money report carried out by a suitably qualified and experience professional with at least a Benefit Cost Ratio of 2:1. The LEP and the

Accountable body will seek confirmation on the conclusions of the report from external consultants.

The LEP and the Accountable body will progress the projects to the IIB as follows:

1. The LEP Capital Project Manager and the Accountable Body support team will appraise the business cases.
2. The VFM business case will be reviewed by an appropriately qualified external firm of consultants
3. The Capital Project Manager will feedback any concerns/shortfalls and request additional information if required.
4. Once the submission has been approved by the Chief Executive of D2N2 and the Accountable Body, the Accountable Body will draft a report to the IIB and this report will be presented at the next available IIB.
5. Promoters may be required to attend the IIB and present the business case if requested.
6. IIB Board will approve, reject or request additional information.
7. In exceptional circumstances the IIB may refer a recommendation to the LEP Board. These circumstances may be where the outputs of the project differ from those in the original submission.
8. DCC to issue a grant offer letter detailing all conditions and the timing of payments. The offer letter will require promoters to sign up to the delivery of the project and the outputs, which may be subject to claw back.
9. DCC and LEP to monitor and carry out an audit processes on the delivery of the project and the outputs.

Part Delivery of the Projects

It is accepted that certain projects may be delivered in phases and that not all of the requirements for the stage 1 and stage 2 approvals would be met at the time of when the project is commenced.

In these exceptional circumstances the LEP requires a full detailed Business Case to be submitted in line with the above approval process. The promoter is required to provide a detailed programme to support the project identifying the phases of

delivery for the project and when the outstanding requirements will be satisfied. This could be for example if some of the funding is to be provided by land sales or if the project is subject to multiple planning applications and where some of the applications will not be submitted until after commencement.

The promoter is required to identify the risks in the detailed business case for the delivery of the wider project and the potential outputs delivered at each stage if the additional approvals/funding is not forthcoming.

The Accountable Body will reserve the right to claw back any funds in the event that the project is not fully delivered in line with the original submission.

Delivery and Post-Construction Evaluation

D2N2 reserves the right to recover or withhold all or part of the funding supplied for a project in these circumstances:

- The project is not delivered within agreed dates
- The project delivered differs from that specified
- The outcomes demonstrated through post-delivery evaluation fall short of those on which the value for money assessment and business case were based
- The outputs identified in the Business Case are not delivered.

Final offer letters to promoters will set out for each project, based upon its own programme and outcomes, the thresholds at which the Infrastructure and Investment Board will be asked to consider recovery or withholding of funding. These thresholds will be applied consistently (for example a percentage of the forecast jobs actually delivered by a specified date). The Infrastructure and Investment Board will take local circumstances into account in taking decisions over whether funding should be withheld or recovered.

Appendix 1-IIB Terms of Reference



D2N2 Infrastructure and Investment Board

Terms of Reference

Introduction

The D2N2 LEP Board is responsible for determining the economic strategy for the region and setting the priorities for funding within its remit through the collective work of private sector representatives, the current D2 (Derby and Derbyshire) and N2 (Nottingham and Nottinghamshire) Joint Committees and other public sector bodies.

The D2N2 LEP has a small Executive Team supported by resources and officers of the constituent local authorities, primarily through financial contributions to the staffing establishment and undertaking work in advisory or task and finish groups. Support from the private sector primarily comes through the provision of expertise and time, for example in attendance at board and group meetings. The Executive Team is organised to support the Board structure, with the Capital Projects Manager responsible for each sub board reporting to the Chief Executive.

Each project and programme funded through the LEP is managed by the Chief Executive of D2N2 and the Capital Project Manager within the Executive team.

This document sets out the governance arrangements for the D2N2 Local Enterprise Partnership's Infrastructure and Investment Board. The Board is responsible for overseeing the administration of the LEP's Local Growth Fund on behalf of the D2N2 LEP Board.

The D2N2 Infrastructure and Investment Board is a public-private partnership formed by the voting members specified in clause 3.

Terms of reference

1. Board Name

D2N2 Infrastructure and Investment Board (“the Board”)

2. Purpose

To oversee on behalf of the D2N2 LEP Board (“the LEP Board”) the administration of the Local Growth Fund for schemes to delivery bodies across the administrative areas of Derby, Derbyshire, Nottingham and Nottinghamshire.

3. Membership

Voting members	Observers
<ul style="list-style-type: none"> • Derby City Council (two members) • Derbyshire County Council (two members) • Nottingham City Council (two members) • Nottinghamshire County Council (two members) • Derbyshire district and borough councils (two members) • Nottinghamshire district and borough councils (two members) • Derby, Derbyshire, Nottingham and Nottinghamshire Local Enterprise Partnership (Chair plus nominated private sector representative) • Further Education (one member) 	<p>Nominees of:</p> <ul style="list-style-type: none"> • Sheffield City Region Local Enterprise Partnership
	<p>Occasional invitations to contribute:</p> <ul style="list-style-type: none"> • Highways England • Network Rail • Homes and Communities Agency • DFT • BIS

Principal Advisors to the Board (non-voting): TBC
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The Board, as set out above, comprises fifteen voting members. The Board may co-opt additional members to represent other sectors; such co-opted members will not have voting rights. Conditions of appointment are:

- i. Local Authorities (upper tier/unitary): membership rests with the position which the member holds within the Authority rather than with the individual, so councillors will be replaced if they change office. It is for each authority to determine which postholders are to act as its representatives.
- ii. Local Planning Authorities (district/borough) within Derbyshire and Nottinghamshire: it is for the constituency of planning authorities within each County to determine its own arrangements for selecting a representative, who is expected to sit for a minimum term of one year and a maximum of three years. It is also for the constituent authorities to determine how their joint interests should be represented and how those districts and boroughs not directly represented should be engaged in the decision-making process.
- iii. D2N2 LEP: representatives are expected to sit for a minimum term of one year and a maximum of three years.
- iv. Any co-opted member - would be reviewed annually by the Board with a maximum term of three years.
- v. In each case, substitutes may attend meetings where the nominated member is unable to do so, but should be able to provide written confirmation that they do so with the approval of the organisation represented.
- vi. Each member will be required to participate in decision-making in the best interests of the Board whether or not these are consistent with those of their own organisation.

The Board will review its constitution after six meetings of the Board or every two years, whichever is the sooner.

4. Conflicts of Interest

Members of the Board are required to declare on appointment that they will act in the best interests of the LEP area, not for their organisational or geographic interests.

The rules for declaring personal interests will be those that apply to councillors of Derbyshire County Council. A publicly-available register of Board Members' interests will be maintained.

5. Gifts and Hospitality

The Code of Conduct for Elected Members of Derbyshire County Council shall apply to the Board. Officers shall, whether engaged in promotion of their own authority's interests or those of the Board, be bound by the relevant code of conduct of their own employing organisation.

6. Accountable Body

Derbyshire County Council shall be the Accountable Body to the LEP's Local Growth Fund, which will be responsible for the following:

- ensuring that decisions are made in line with the LEP Assurance Framework.
- ensuring that promoters confirm their projects conform with any requirements with regard to equalities, social value, environment, State Aid, procurement etc.;
- ensuring (through the Section 151 Officer) that the funds are used appropriately;
- maintaining the official record of IIB's proceedings and holding copies of all relevant IIB documents relating to any funding streams the Accountable Body is responsible for;
- ensuring IIB decisions at formal meetings are recorded.
- responsibility for the decisions of the IIB in approving projects (for example if subject to challenge);
- ensuring there are arrangements for local audit of funding allocated by the IIB at least equivalent to those in place for Local Authority expenditure.

The Director of Finance, Derbyshire County Council (S151 officer) will ensure that all funds are administered in accordance with the Assurance Framework.

7. Audit and Scrutiny

The Board undertakes to seek and to act upon the findings of an internal audit of its activity on at least an annual basis. The findings of each audit will be considered by a Board meeting, and any remedial action required recorded within the minutes of that meeting.

The aim of each audit will be to verify that the Board is operating effectively within the terms of its agreed Assurance Framework.

8. Strategic Objectives and Purpose (Terms of Reference)

The Board is responsible for:

- approving investment of the Local Growth Funding on behalf of the D2N2 LEP Board that will provide significant investment in innovation, business, skills, and employment in a common agenda for training, education, economic growth and jobs that will integrate effectively within the LEP's wider strategic plans;

The Board shall:

- take decisions on behalf of the D2N2 LEP Board for:
 - individual scheme approval
 - release of funding, including scrutiny of individual scheme business cases.
- monitor progress of scheme delivery and spend.
- Recommend to the LEP Board a programme to respond to changed circumstance (scheme slippage, scheme alteration, cost increases etc).

9. Approvals process for project applications:

The Board has adopted an approvals process in respect of project applications as set out in appendix 1.

10. Support and Administration

Derbyshire County Council will provide support arrangements for secretariat and administrative services, specified in its Service Level Agreement with the LEP.

The four authorities (Derbyshire, Nottinghamshire, Derby and Nottingham) will provide sufficient support to undertake the workload of the Board, taking into account any opinions of the Accountable Body or the Auditor. There will be named people who have specific roles with respect to the Board. These roles will usually be part of their other duties, except when the workloads are such that some full-time or single purpose part-time roles are appropriate.

The Board will form task and finish groups when required, which may comprise Board members and/or supporting officers.

11. Working Arrangements, Transparency and Local Engagement

Meetings will be convened in accordance with the provisions of the Local Government Act 1972, the Local Government and Housing Act 1989 and other relevant legislation.

There will be at least two meetings each year and thereafter to meet the business needs. Specifically the Board will meet:

- (a) to determine the initial decision on the composition of the scheme programme;
- (b) to make individual scheme investment decisions.

A chair and vice-chair for the Board will be elected on an annual basis.

Meetings will be deemed quorate when a minimum of five voting members or their substitutes are in attendance. Each voting member carries a vote of equal weight. Where the voting members present are equally divided the chair will carry a casting vote. Where the elected chair is not present the vice-chair will exercise this function. No business requiring voting shall take place without either the chair or vice-chair being present.

The Board will publish agendas and minutes . Materials will be hosted on the Derbyshire County Council website but each member organisation will provide a direct link to this from its own.

It is for individual member organisations to ensure that any schemes submitted to the Board for funding have been subject to the appropriate procedures to provide the public and stakeholders with the opportunity for input before decisions are made. The Board will not take responsibility for dealing with correspondence, petitions, lobbying, consultation etc, all of which are to be handled by the promoter of the scheme in accordance with its own procedures.

FOI and EIR requests will be dealt with in accordance with the relevant legislation.

The Board will use Derbyshire County Council's complaints procedure.

12. Expenses and Allowances

The Board will not under normal circumstances make any payments to cover the costs of attendance, which must be borne by the parent organisation of the attendee. Where it does choose to do so this will be for reasons, and within financial limits, agreed by the Board.

Appendix 1-to terms of reference

Approval process in respect of project applications:

1. Promoters are requested to provide and agree with the LEP the date on when a Stage 1 and Stage 2 submission will be submitted for approval prior to the start of the financial year.
2. Promoters are requested to submit a valid Stage 1 application no later than July of the financial year in which funding is to be released. Failure to submit will render a project High Risk
3. A Stage 2 application (business case) is to be submitted in line with the programmed date agreed with the LEP; however this is to be no later than November 30th of the year in which funding is to be released. Failure to submit a business case in line with the programme will render the project High Risk.
4. Where a project is seen as High Risk the IIB will write to the promoter setting out the risks and requesting a written response outlining how the risks will be mitigated.

If the IIB are not satisfied with the response then the IIB can remove the project from the programme.

5. In the event that a project has, in the opinion of the IIB or the LEP Board, significantly changed (by 10% or more) from what was originally proposed (i.e.: spend profile, outputs and outcomes, or delivery) the IIB will write to the promoter requesting a written response detailing why the project has changed.

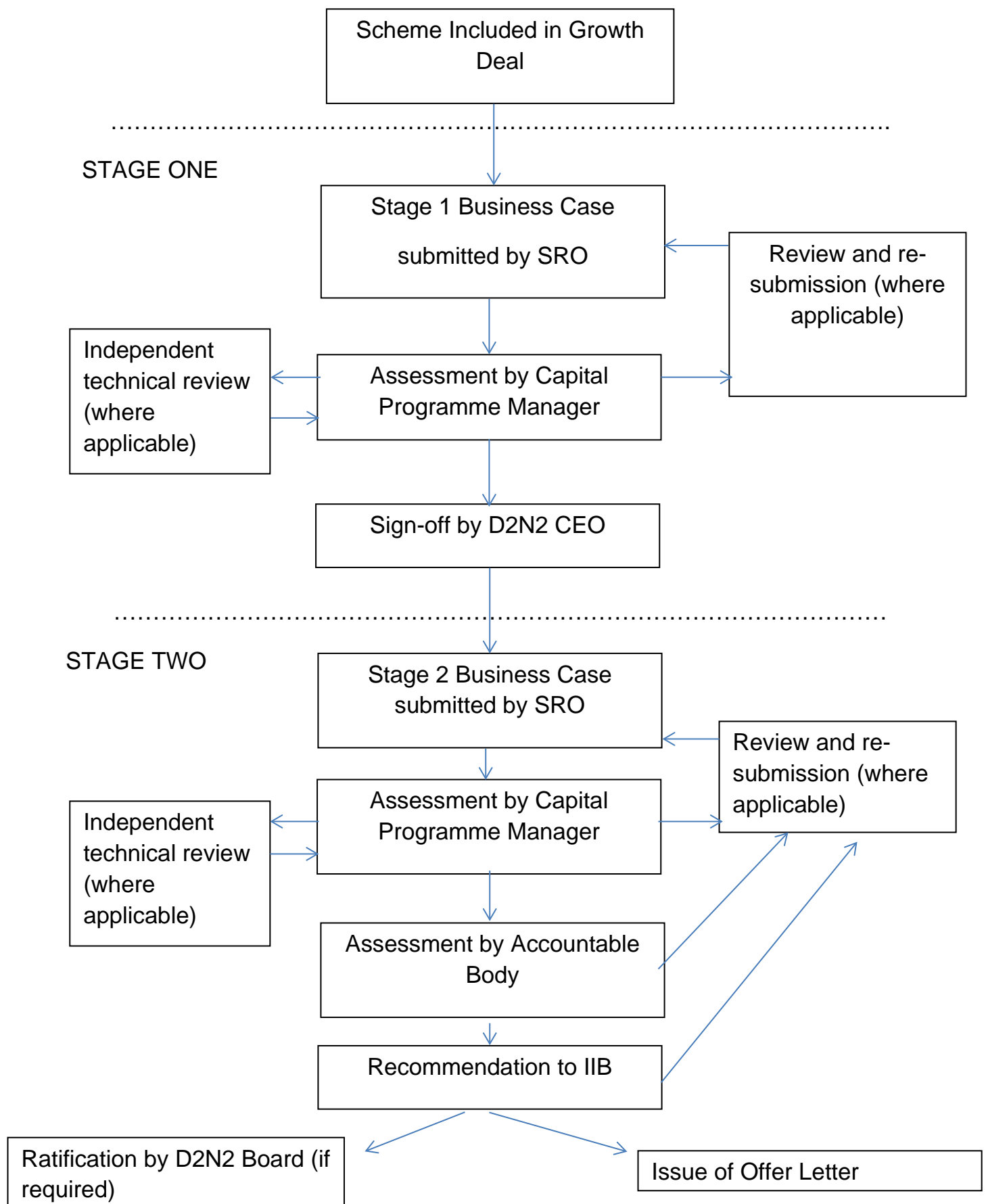
Following receipt of the response the IIB may decide to proceed with the amended project, may request that the project revert back to what was originally approved, release only part of the funding or delete the project from the programme.

6. If a project has not commenced within 3 months of the IIB meeting at which the project was approved, the project will be reported as a High Risk project. In this instance the IIB will write to the promoter requesting a written response detailing why the project has been delayed. If the IIB are not satisfied with the response, the IIB can remove the project from the programme.

7. The IIB will be provided with quarterly performance reports by the project monitoring officer. If it is reported that a project is delayed (commencement/completion/outputs/outcomes) by 12 months or more then the project will be reported as a High Risk project. In this instance the IIB will write to the promoter requesting a written response detailing why the project was delayed.

If the IIB are not satisfied with the response then the IIB can request that the funds already paid are repaid to the LEP or decide not release any future years funding.

Appendix 2: Scheme Approval Process



Appendix 3 RIBA Work Stages

