

### **Plymouth and South Devon Freeport: Report of Task and Finish Group Supplemental Paper from the Head of Legal Services and Monitoring Officer**

#### **1.0 Background - designation**

1.1 Section 113 of the Finance Act 2021 allows the Secretary of State to make regulations designating freeports as special tax sites. For these purposes, a freeport is an area which is identified as such in a document published by, or with the consent of, the Treasury for the purposes of section 113 (and not withdrawn). The Plymouth and South Devon Freeport area (“the Freeport”) was identified with the consent of the Treasury on 12 May 2022 and designated as a special tax site by the Designation of Freeport Tax Sites (Plymouth and South Devon Freeport) Regulations 2022. The Freeport therefore will exist until Treasury consent is withdrawn and/or Parliament revokes the Regulations.

#### **2.0 Governance**

2.1 As part of the process leading to the Freeport being designated the three authorities, Plymouth City Council, Devon County Council, and the Council, were required to show that they had appropriate governance arrangements in place so that the Government could be confident of capacity to deliver and appropriate measures of accountability and transparency are in place for the effective management of public funds. After taking external legal advice, the authorities settled upon a company structure that was underpinned by an agreement between the three authorities as the founding members and the company (“the Members’ Agreement”) (see <https://pasdfreeport.com/governance/>).

2.2 The Freeport Company is a company limited by guarantee and the three authorities are each a person with significant control in that each holds between 25% and 50% of the voting rights in the company. The objects of the Freeport Company are “the promotion and delivery of programmes and initiatives which are capable of establishing and maintaining the [Freeport] and/or anything ancillary to or related to the [Freeport].”

2.3 Under the terms of the Members Agreement, the three authorities agree to remain members for a minimum initial period of five years. The initial period will expire on 20 May 2027. Each member has the right to appoint a director. Cllr John Birch is the Council’s appointed director.

#### **3.0 Operation**

3.1 In terms of the operation of the Freeport Company, the Board is required to prepare an Annual Delivery Plan for the approval of the members. The plan is to include:

- set out the context of the Freeport strategy and vision.
- business objectives, key performance indicators, resourcing plan and financial plan over a rolling three-year timetable.
- measures to support implementation of our Innovation Strategy, Trade and Investment Strategy and Skills plan highlighting opportunities for and/ or implementation of any secured additional public funding and initiatives.

## **Addendum 1**

- any proposals to utilise surplus retained business rates to deliver the Annual Delivery Plan and appropriate business cases.
- evidence of compliance with Department for Levelling Up, Homes and Communities requirements on monitoring and evaluation.
- outcomes of the annual audit of the security measures in place, any breaches, and remedies.
- Risks Strategy.
- Recruitment plans and proposals as appropriate, and staff remuneration in accordance with the Full Business Case.

3.2 Generally, decisions are to be made by the Freeport Company Board. However, there are important safeguards for the three authorities in that specified matters are reserved to them (“Reserved Matters”). Reserved Matters require the consent of the three authorities (unless the authority is an interested party or otherwise prevented from voting or giving consent). Reserved Matters are set out in Schedule 3 of the Members Agreement.

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