

MEMORANDUM OF UNDERSTANDING

Between

The Secretary of State for Levelling Up, Housing and Communities

-and-

Leicestershire County Council

As the Accountable Body for East Midlands Freeport

-and-

East Midlands Freeport Limited

As the Governing Body responsible for the delivery of the Freeport

-and-

*North West Leicestershire District Council, Rushcliffe Borough Council and
South Derbyshire District Council*

**As the Billing Authorities responsible for collecting business rates in Freeport
Tax Sites**

Contents

1. Introduction 3
2. Governance 7
3. Financial Arrangements 16
4. Freeport Delivery 23
5. Strategic Delivery 26
6. Performance Management, Assurance and Evaluation 32
7. Ongoing Management 35
8. Freedom of Information 37

Attached

- Appendix 1: East Midlands Freeport FBC with Annexes
- Schedule 1: Spend Profile
- Schedule 2: Milestones
- Schedule 3: Communications Partnership Pack for Freeports
- Schedule 4: Freeports Performance Management, Security Audit and Assurance Framework ('the Freeports Framework')
- Schedule 5: Monitoring and Evaluation Indicators and Guidance

1. Introduction

1.1. Purpose

- 1.1.1. This Memorandum of Understanding ('MoU') sets out the terms, principles and practices that will apply to the working relationship between: the Department for Levelling Up, Housing and Communities ('DLUHC'); Leicestershire County Council ('the Accountable Body'); and the East Midlands Freeport Limited ('the Governing Body') (collectively 'the Parties'), regarding the delivery and administration of the East Midlands Freeport ('the Freeport'), including the use of Seed Capital grants; the use of Capacity Funding grants; and North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council (collectively 'the Billing Authorities') for collecting business rates in the Freeport tax sites.
- 1.1.2. These parties have agreed to collectively deliver a public policy intervention – East Midlands Freeport – with aims rooted in the public good. This carries with it certain expectations of the Parties, their behaviour, and the consideration they will give to those aims given the financial and other public support they stand to receive from His Majesty's Government of the United Kingdom of Great Britain and Northern Ireland ('HMG'). This MoU details those expectations and provides for a shared understanding of what it means to participate in the delivery of public policy.
- 1.1.3. Eight prospective Freeports in England were announced at the March 2021 Budget. The East Midlands Freeport was successful in its bid to become a Freeport, as set out in the Freeports bidding prospectus.¹
- 1.1.4. An Outline Business Case ('OBC') and a Full Business Case ('FBC') were developed to demonstrate how the Freeport will achieve the policy objectives set by HMG.
- 1.1.5. Following submission and appraisal of its OBC, HM Treasury ('HMT') tax site assessment and HM Revenue & Customs ('HMRC') authorisation of a custom site, the Freeport became operational on 29th March 2023. An operational Freeport is a Freeport with designation of at least one tax site and one customs site, and an approved OBC.
- 1.1.6. On 11 August 2022, the FBC for the Freeport was received by DLUHC. Following consultation with DLUHC and other government departments, on 29th March 2023 HMG approved the FBC and DLUHC notified the Freeport of the outcome. A copy of the FBC and its Annexes are attached at Appendix 1, unlocking Seed Capital from Financial Year (FY) 2023/24 to FY2024/25.

¹ HM Treasury and Ministry of Housing, Communities and Local Government, Freeports bidding prospectus (2020), <https://www.gov.uk/government/publications/freeports-bidding-prospectus>

OFFICIAL SENSITIVE

1.1.7. HMG has approved the FBC on the understanding that the Accountable Body and Governing Body will oversee the development of individual business cases for Seed Capital projects in accordance with best practice principles, namely those outlined in the HMT Green Book (2020),² IPA Cost Estimating Guidance and Cabinet Office's The Construction Playbook.^{3 4}

1.1.8. Following FBC approval, DLUHC provided the East Midlands Freeport with the following list of outstanding actions that should be achieved within the agreed timeframes. DLUHC will review the status of these actions through the processes set out in Section 6 of this MoU:

- a) Correct risk owners in the Security and Illicit Activity risk assessment
- b) Provide regular updates to DLUHC on the interaction between the Freeport and the DevCo.
- c) Review the governance structure of the Freeport on the establishment of any combined authority which includes the constituent local authorities of the Freeport (Derbyshire County Council, Leicestershire County Council, Nottinghamshire County Council, North-West Leicestershire District Council, Rushcliffe Borough Council or South Derbyshire District Council).
- d) Project Business Case for Hydrogen Skills Academy to be reviewed and approved by accountable body governance before release of Seed Capital Funding relating to that project.
- e) Work with DLUHC and the M&E provider to agree expected M&E input and output targets as required per Schedule 5.

1.1.9. This MoU formalises the key commitments made by the Freeport throughout the FBC and outlines what support it can expect from DLUHC and other HMG departments, including the Department for Business, and Trade (DBT), Department for Education ('DfE'), Department for Energy Security and Net Zero (DESNZ) and Department for Science, Innovation and Technology (DSIT), the Department for Work and Pensions ('DWP'), HMT, and HMRC.

1.1.10. While this MoU is not legally enforceable, it is expected that all parties will aim to, as far as possible, honour their obligations under this memorandum, as per Section 7 of this MoU.

² <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

³ <https://www.gov.uk/government/publications/cost-estimating-guidance>

⁴ <https://www.gov.uk/government/publications/the-construction-playbook>

1.2. Definitions

1.2.1. It is agreed that:

- a) “Accountable Body” means the local authority organisation(s) accountable for the delivery and administration of Freeport Seed Capital and Capacity Funding grants and for ensuring the good functioning of the Freeport Governing Body. Depending on locally agreed retained business rates arrangements, the Accountable Body may also be accountable for the use of the retained business rates across the Freeport.
- b) “Billing Authority” means the local authority(s) responsible for the collection of business rates within a Freeport designated tax site. Depending on locally agreed retained business rates arrangements, the Billing Authorities may be accountable for the use of the retained business rates across the Freeport.
- c) “Capacity Funding” means the revenue grant which is HMG’s contribution towards day-to-day resources and administration for the delivery of the Freeport proposal. This is disbursed through the Accountable Body.
- d) “Confidential Information” means any information which has been designated as confidential by any of the parties in writing or that ought to be considered as confidential (howsoever it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets and all personal data and sensitive personal data within the meaning of applicable legislation. Confidential Information shall not include information which:
 - i. was public knowledge at the time of disclosure (otherwise than by breach of a duty of confidence by any of the parties);
 - ii. was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
 - iii. is required to be disclosed by applicable laws or regulations of a stock exchange or regulatory authority or by order or ruling of a court or administrative body of competent jurisdiction;
 - iv. is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
 - v. is independently developed without access to the Confidential Information.
- e) “Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive, and the National Assembly for Wales), including, but not limited to, government ministers,

OFFICIAL SENSITIVE

government departments, government offices and government agencies.

- f) “Data Protection Legislation” means (i) the UK GDPR as amended from time to time; (ii) the Data Protection Act 2018 as amended from time to time; (iii) regulations made under the Data Protection Act 2018; (iv) all applicable law about the processing of personal data.
- g) “DevCo” means East Midlands Development Corporation.
- h) “DLUHC Freeport Lead” has the meaning given in Section 2.3.1.
- i) “EMF” means East Midlands Freeport Limited, a company registered in England and Wales with company number 14236696.
- j) “FBC” has the meaning given in 1.1.4.
- k) “Financial Year” means the Government’s financial year which runs from 1 April to the 31 March each year.
- l) “Founding Members” the founding members of EMF as constituted from time to time in accordance with the members’ agreement relating to EMF.
- m) “Freeport” means the area, and related operations within, outlined in maps provided to, and agreed by, HMG during the business case approval process. These maps are published on GOV.UK⁵.
- n) “Governing Body” means the primary governance body accountable for delivering the Freeport and achieving its strategic objectives. The Governing Body may take different organisational forms based upon how the Freeport company or entity is set up, which in the case of the Freeport is the Board of directors of EMF. The Accountable Body is a member of EMF and appoints a director to the Board. EMF is accountable for the use of the retained business rates across the Freeport.
- o) “HMRC” has the meaning given in 1.1.5
- p) “Operational Freeport” means a Freeport with designation of at least one tax site and one customs site, and an approved OBC.
- q) “Public Sector Directors” means EMF’s Board members appointed by the public sector Founding Members.
- r) “RBR” and “retained business rates” means the uplift in non-domestic business rates collected after the relevant Tax Site designation date by the Billing Authorities from premises within each Tax Site after allowing for business rates equalisation payments to EMF’s Public Sector Members, the Leicestershire Fire Authority, the

⁵ <https://www.gov.uk/government/publications/maps-of-uk-freeports>

OFFICIAL SENSITIVE

Nottinghamshire Fire Authority and the Derbyshire Fire Authority, that are pooled and held the Accountable Body for use and allocation by EMF.

- s) S151 Sub Group has the meaning given in Section 2.2.1.h)
- t) “Seed Capital” means the capital grant which is HMG’s contribution towards capital investment for the delivery of the Freeport proposal. This is disbursed through the Accountable Body.
- u) “Spend Profile” means the forecast spend of grants as set out in the Schedule 1: Spend Profile, demonstrating how grants will be spent and the assumptions on how projects will be financed.
- v) “Tax Site” means Freeport tax sites that are designated and recognised in law as geographical areas where businesses can benefit from tax reliefs to bring investment, trade and jobs to regenerate regions across the country that need it most. Freeport tax site maps are published on GOV.UK⁶.
- w) “UK GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019.

2. Governance

2.1. Roles and Responsibilities

2.1.1. EMF Governing Body is accountable to DLUHC for the delivery of East Midlands and achieving its strategic objectives as set out in Sections 4 and 5 of this MoU and the approved FBC, attached at Appendix 1. Where EMF is accountable for an aspect of Freeport delivery, but contracts this out, it is incumbent upon EMF to put in place the necessary mechanisms to hold partners to account for East Midlands Freeport’s delivery.

2.1.2. Leicestershire County Council is the Accountable Body for East Midlands Freeport and is accountable to DLUHC for the use of Seed Capital, Capacity Funding grants and for ensuring the good functioning of the Freeport Governing Body. The Accountable Body is required to be a member of EMF.

2.1.3. North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council are the Billing Authorities responsible for the collection of business rates within the Freeport

⁶ <https://www.gov.uk/government/collections/maps-of-freeports-and-freeport-tax-sites>

OFFICIAL SENSITIVE

designated tax site. The accountability of the Billing Authorities and use of retained business rates is set out in Section 3.7.

2.1.4. DLUHC as the HMG body accountable for coordinating the delivery of the Freeports Programme, agrees to support the Parties in the delivery of commitments as set out in the FBC, and particularly in the realisation of the strategic objectives as set out in Section 5 of this MoU.

2.1.5. The Parties agree to work together, cooperate in good faith and fully participate in the delivery of the Freeport as articulated through the FBC, attached at Appendix 1, in addition to this MoU, or any subsequent revisions to the FBC agreed through the change process as referenced in Section 6.10 of this MoU.

2.1.6. For the avoidance of doubt, the relevant Parties shall be accountable to DLUHC for the acts of its external delivery partners if delivering public money, including any consequences of poor performance arising from their conduct, as per Section 7.3 of this MoU.

2.2. Freeport governance

2.2.1. EMF will adopt the governance structures for the delivery of the Freeport as set out at 5(a) in the Management Case of the FBC attached at Appendix 1, including:

- a) EMF's Board will be composed of thirteen Board members including an Independent Chair.
- b) Out of the twelve Board members (excluding the Independent Chair), one Board member will be appointed by each of the Founding Members, initially being:
 - i. six will be public sector partners (Derbyshire County Council, Leicestershire County Council, Nottinghamshire County Council, North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council); and
 - ii. six private will be sector partners (Etwall Land Ltd, Goodman EMIP (UK) Limited, East Midlands International Airport Limited, Maritime Transport Limited, SEGRO Properties Limited and Uniper UK Limited).
- c) EMF's Board will also be supported by additional observers, whose requirements will be determined as required by EMF but will include, as a minimum, a representative from the Accountable Body, DLUHC and DevCo.

OFFICIAL SENSITIVE

- d) EMF will review the governance structure of the Freeport on the establishment of any combined authority which includes the constituent local authorities of the Freeport (Derbyshire County Council, Leicestershire County Council, Nottinghamshire County Council, North-West Leicestershire District Council, Rushcliffe Borough Council or South Derbyshire District Council).
- e) An assembly of seven subcommittees will be established as part of the delivery phase governance structure, covering areas of particular complexity, risk, or programme necessity. Most of these subcommittees will be internal subcommittees, with one, the Community Engagement Subcommittee, being external. They will support EMF with decision making in accordance with each Subcommittee's Terms of Reference and in line with the Freeport's requirements of Annex J of the FBC.
- f) The six internal Subcommittees are as follows: S151 Subgroup; Sites & Infrastructure; Marketing, Comms and Investment; Security & Compliance; Innovation & Net Zero; Regional Economic Growth.
- g) The six internal-sitting Subcommittees will be formed from the membership of the Working Groups, that supported the Board through the necessary activities within the Set-Up Phase, including collaborative development of the proposal. Formal composition of each Subcommittee will be determined by a member nomination process, completed by each Founding Member and confirmed by the Governing Body. A formal Chair of each Subcommittee will be proposed by the subcommittee's membership to the Governing Body for confirmation, and a Vice-Chair will be appointed by each Subcommittee's membership.
- h) Composition of the S151 Subgroup will not be subject to the nomination process. Instead, membership will be the S151 officers of each Local Authority & District Council or their nominees, supported by the Executive Delivery Team as required.
- i) Subcommittee membership will comprise of representatives from both the core Freeport Founding Members as well as from other relevant stakeholders as recommended by the Freeport's Founding Members organisations and confirmed by EMF. Additional members may be co-opted into the Subcommittees subject to Governing Body approval.
- j) These six Subcommittees will be underpinned by Internal Subcommittee Terms of Reference, which will be overarching joint

OFFICIAL SENSITIVE

heads of terms – these are reflective of Annex J of the FBC.

- k) The Community Engagement Subcommittee will be a formalised evolution of the existing Engagement Network, which is currently an index of external contacts whom the Board and the Working Groups can consult for ad-hoc feedback and use as a sounding board to rationalise plans and decisions. The Community Engagement Subcommittee's membership will comprise participants from the Engagement Network who do not form part of the core (internal) partner group, as set out in Section 5a. vi of the FBC. Additional external stakeholders may be continually co-opted into the Community Engagement Subcommittee, subject to Board approval of their direct involvement in the programme.
- l) As the Community Engagement Subcommittee will sit externally to the core EMF group, its meetings will be supported by core Freeport partners who will provide programme updates, facilitate Q&As and pass on key feedback points and meeting outcomes to EMF, whilst information that is deemed commercially sensitive by the core Freeport partners will not be shared with the group to ensure partner confidentiality is maintained. The Subcommittee will be underpinned by the Community Engagement Subcommittee's Terms of Reference – which is reflective of Annex J of the FBC.

2.2.2. EMF will notably, in this regard

- a) Commit to appropriate levels of transparency, propriety, and inclusivity with respect to governance and adherence to the Seven Principles of Public Life ('the Nolan Principles'⁷). This includes but is not limited to the publication of (non-confidential) Board papers, Board minutes, and register of directors' interests to ensure any actual or perceived conflicts of interest are recorded and can then be managed appropriately. Where publication of board papers, minutes and registers of members and directors' interest are subject to commercial confidentiality and/or other existing confidentiality obligations, the Accountable Body will need to set out a process for determining the publication criteria for commercial confidentiality with EMF. This will need to provide the rationale that balances protecting commercial interests directly connected to the objectives against the wider public interest in transparent Freeport governance. This should be aligned with established regulatory standards such as Schedule 12a of the Local Government Act 1972 and principles⁸ set out by the Information Commissioners Office ('ICO'). All items

⁷ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

⁸ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/section-43-commercial-interests/#publicinterest>

OFFICIAL SENSITIVE

need to be maintained if not publicly published and must be provided to DLUHC if requested for assurance purposes.

- b) Within reasonable endeavours, ensure that sufficient financial and human resources are available to support the successful delivery of the Freeport; and
- c) Inform the DLUHC Freeport Lead (see Section 2.3.1) of any changes to the governance structures set out in Section 2.2.1 and Section 5a of the FBC Management Case and, if required, take any changes through the change process referenced in Section 6.10 of this MoU and as per Schedule 4 of the Freeports Framework.

2.2.3. EMF will adopt the structures referred to in Section 2.2 within the timeframes set out in the FBC Management Case. EMF will inform their DLUHC Freeport Lead of any changes to these timeframes.

2.2.4. The Accountable Body will:

- a) Be accountable for any HMG Freeport-specific grant funding if paid through a Section 31 grant and unless stated otherwise, including monitoring and reporting against the use of these funds, upholding procurement practices, as per Section 3.5 of this MoU;
- b) Maintain appropriate records relating to Freeport delivery, including, but not limited to project plans and risk registers for HMG funded activity; and
- c) Use best endeavours to ensure EMF operates in line with appropriate levels of transparency, propriety and inclusivity, abiding by the Nolan Principles, as referenced above in Section 2.2.2(a).

2.2.5. The Accountable Body will:

- a) Be accountable to DLUHC for the management of the retention of Business rates in line with the Local Government Accountability System.
- b) Be responsible for distributing all pooled business rates collected on the Freeport tax sites in accordance with the allocation decision-making process and purposes outlined in the FBC.

2.2.6. EMF, the Accountable Body and the Billing Authorities agree to work collaboratively and proactively to manage any actual or perceived conflicts of interest in decision-making as set out in the Management Case of the FBC, and in particular on the use of Seed Capital, Capacity

Funding and collected business rates. EMF, the Accountable Body and the Billing Authorities agree to provide DLUHC with evidence of these processes when requested as part of the Freeports Framework as set out in Section 6 of this MoU.

2.2.7. EMF, the Accountable Body and the Billing Authorities are required to manage any disputes in relation to Section 2.2 through a locally agreed process.

2.3. Ways of working

2.3.1. The Freeport will be assigned a lead within the DLUHC Freeports Delivery Team who will act as a central interface for EMF to interact with HMG on the delivery of the Freeport and its strategic objectives ('DLUHC Freeport Lead'). This will help ensure that the Freeport is receiving the expertise and input it needs from across HMG departments to enable the Freeport to deliver against its FBC. In addition, DLUHC will support Freeports through:

- a) Continuous improvement and policy learning, for example by using monitoring and evaluation to generate evidence and insights to inform improvements in Freeport delivery and adaptation of policy;
- b) Providing sector support, exploring areas where Freeports strongly align with national and sectoral economic strategies;
- c) Exploring opportunities to access further benefits across HMG, considering areas to leverage policies, schemes, and support for the Freeport;
- d) Cross-programme collaboration, enabling opportunities for Freeports to collaborate, facilitating lesson-learning and shared programme learning;
- e) Providing sufficient specialist and technical resource to support the delivery of the programme until 31 March 2025. DLUHC is unable to provide commitment beyond the current Spending Review period, though they commit to consulting with the Freeport on plans beyond 31 March 2025 when it is right to do so;
- f) DLUHC will ensure the Freeport is consulted should there be the opportunity for any new benefits related to the programme.

2.3.2. DSIT will hold quarterly meetings with the Freeport innovation lead(s) to understand progress on the innovation strategy and the barriers to innovation the Freeport is facing. DSIT will help the Freeport address

these barriers where possible, including ensuring the Freeport is connected to the correct teams across government to provide them with support.

2.3.3. On trade and investment, the Freeport will be supported by the DBT in leveraging the export and support services which the Department offers to provide additionality above and beyond what the Freeport is able to deliver itself.

2.3.4. The DBT Freeports team will act as the central contact point for accessing DBT services and capabilities, and the Freeport will endeavour to ensure regular dialogue with DBT through bi-monthly check-in meetings. DBT will ensure the Freeport is consulted in relation to strategic investment and export promotion activity conducted by DBT and will ensure the Freeport is notified of enquiries relating to the Freeport arising from DBT lead generation activity.

2.3.5. The Freeport is responsible for maintaining capability to independently support exporters and the end-to-end investor journey, including functions for prospecting and generating leads, enquiry handling, project management and support, as well as the management and retention of existing investors. The Freeport is encouraged to notify DBT of investment enquiries and requests for export support in order for DBT to provide targeted support on projects on an on-going basis. This will involve the Freeport's lead for Trade and Investment liaising closely with their DBT partnership manager, who, where appropriate, will ensure a virtual team from across DBT is brought together in support of prospective investors from when they express an interest in locating in your Freeport to when their investment lands. DBT will work collaboratively with the relevant official within the Freeport to agree arrangements for providing this information. This is the standard manner in which DBT works with investment promotion agencies to manage and support investment projects and enables DBT to help investors access any relevant support. Accessing DBT resource and support is contingent on the Freeport sharing information on investment and export enquires as they arise.

2.3.6. The Freeport will engage with the Freeport Security Forum as per section 2.5.5 and 2.5.6 of this MoU, in line with the requirements of the annual Freeport security audit. This is a cross-government group consisting of security stakeholders from the Home Office, Border Force, National Crime Agency, the Police, DfT, HMT and HMRC.

2.4. Public sector equality duty

- 2.4.1. Recognising its role regarding the public sector equality duty under the Equality Act 2010, the Accountable Body commits to using best endeavours to ensure EMF complies with the Public Sector Equalities Duty.
- 2.4.2. The Parties commit to using this data to help ensure that the Freeport is optimised to advance equality and foster good relations by highlighting any key areas for improvement, ensuring that adverse aspects of Freeport delivery relating to equality are mitigated and limited, and ensure that any opportunities to reduce inequalities are maximised.

2.5. Risk management and security

- 2.5.1. EMF will ensure the documentation of, and active management of all overall delivery risks related to the Freeport and the dedication of proportionate resources to ongoing risk management⁹.
- 2.5.2. EMF commits to ensuring suitable escalation to address, mitigate and resolve significant risks through the governance procedures put in place and will flag any escalation of risk to DLUHC.
- 2.5.3. EMF will regularly and thoroughly maintain the Freeport's risk register(s) and will inform DLUHC of risks, associated mitigations, progress and removal through the measures set out in the Management Case of the FBC.
- 2.5.4. Recognising HMG's priority to ensure Freeports uphold the UK's reputation of high standards for tax integrity and probity, port security and combatting illicit activity, the Parties commit within the scope of Freeport activities to fully support and cooperate with HMG in honouring the obligations set out in the OECD Code of Conduct for Clean Free Trade Zones,¹⁰ and the UK's Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.
- 2.5.5. EMF commits to ownership and management of the security and illicit activity risk assessment at Annex B of the FBC and to coordinating the implementation of an appropriate risk management and mitigation plan on this basis. Recognising this, and the commitment from Freeport customs site operators to counter illicit activity included in Annex H of the FBC.

⁹ EMF's role is summarised in section 4 of the Freeports Framework and is primarily focused on coordinating the Annual Freeport Security Audit: EMF is responsible for convening partners to identify and mitigate risks and relies on relevant partners and risk owners to report accurate information and undertake requirement mitigations accordingly.

¹⁰ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0454>

2.5.6. EMF commits to the establishment, ownership and management of the appropriate structures, governance arrangements, and establishing effective processes for coordinating the management of security risks outlined in section 5g Management Case of the FBC. This includes coordinating active management across physical, personnel and cyber domains and working with HMG and other relevant agencies as required.¹¹

2.5.7. EMF will carry out an annual audit of Freeport security measures in place and any breaches with local security stakeholders as required by the Freeports Framework.

2.6. Data retention and intellectual property

2.6.1. Documents and data should be retained by the relevant Parties for a minimum of 7 years. Where relevant data is held by third parties, EMF should seek mechanisms to be put in place to ensure third parties also keep documents and data for a minimum of 7 years and provide the information to EMF if required.

2.6.2. If requested, EMF will work within reasonable endeavours to enter into an intellectual property licensing agreement whereby the Freeport will grant DLUHC a perpetual royalty-free licence to use the OBC(s) and FBC(s). Agreement would be gained from all Parties and participating organisations/ partners before publication and any published documents would be subject to commercial confidentiality.

2.6.3. EMF will manage the Freeport's data and its stakeholders' data effectively and commit to complying with the Leicestershire County Council data retention policies and Data Protection Legislation.

2.6.4. The Parties will process any personal data in compliance with the Data Protection Legislation. HMG will manage any data provided by the Freeport effectively and commit to complying with Data Protection Legislation.

2.7. Communications and Branding

2.7.1. DLUHC has provided EMF with a Communications Partnership Pack for Freeports attached at Schedule 3. This is to support consistent messaging when communicating about the Freeport, including where public funds are being used or other government support has been provided, and the UK Freeports programme as a whole. The Pack also sets out how DLUHC will work in partnership with the Freeport on joint

¹¹ In some instances, those agencies will be the risk owners responsible for identifying and mitigating relevant risks.

communications and engagement activity. New iterations of this pack will be made available as the programme – and the associated messaging and branding – evolve. The Parties should work to best endeavours in adopting the guidelines set out in the Pack and subsequent additions.

2.7.2. EMF should work to best endeavours to inform DLUHC of major upcoming events, public announcements, and publications, in good time, where possible. Where appropriate, DLUHC will use HMG platforms to promote and support the work of the Freeport.

3. Financial Arrangements

3.1. EMF will aim to deliver the Freeport in line with the Financial Case as set out in the FBC. DLUHC recognises that the Financial Case may adjust as the Freeport develops. If significant changes are to be made to the Seed Capital or Capacity Funding, DLUHC should be notified in advance through the change process set out in Section 6.10 of this MoU.

3.2. EMF commits to the Freeport being no longer reliant on HMG Capacity Funding and self-funded by FY2025/26, enabled by Capacity Funding available from FY2021/22 through to FY2024/25, or alternative means where necessary.

3.3. Freeport Seed Capital and Capacity Funding

3.3.1. The Seed Capital (capital grant) is part of HMG's capital investment for delivery of the East Midlands Freeport proposal. The Capacity Funding (revenue grant) is to support the Freeport to ensure there is sufficient organisational capacity in place for the set up and delivery of the Freeport. DLUHC expects the Freeport, overseen by the Accountable Body to use the allocated funding for activities outlined in the approved FBC attached at Appendix 1 and that the relevant evidence of spend and delivery is provided to DLUHC through the reporting requirements as set out in Section 6 of this MoU. DLUHC expects EMF to fully support and cooperate with the Accountable Body to deliver the Seed Capital and Capacity Funding to achieve the objectives of the Freeport.

3.3.2. As part of its support for the Freeport, DLUHC considered the FBC for the Freeport proposal and agreed to allocate Seed Capital (paid as capital grant funding) up to £25 million Seed Capital from FY2022/23 to FY2024/25 and Capacity Funding (paid as revenue grant funding) up to a total of £1m from FY2021/22 to FY2024/25. An indicative allocation for each year, based on the FBC and any additional information provided to DLUHC to date is set out in Table 1 below. The profile of grants should be aligned to planned delivery and spend arrangements during that FY. There will be opportunities to request changes to the proposed profile of this funding through the process referenced in Section 6.10 of this MoU. As DLUHC will need to consider the financial profile across the overall Freeports Programme, adjustments may not always be possible.

	[REDACTED]
Spend Profile	Schedule 1: Spend Profile
Project Outputs & Outcomes	EMF will deliver on the outputs and outcomes presented in the FBC, but a final, more detailed set of project outputs and outcomes will be agreed through the setup of quarterly reporting as set out in Section 6 of this MoU.
Projected Timeline & Key Milestones	Appendix 1: FBC Annex C – Project Plan
Risk Management	Appendix 1: FBC Annex D – Risk Register

3.3.4. As per the requirements of the English Freeports Full Business Case Guidance¹² (section 4.5, page 15), the Accountable Body is expected to appraise¹³ project business cases for all seed capital funded projects, following approval by EMF. The process the Parties will approve these business cases will be through the establishing of working groups for each Seed Capital project, overseen by the Sites and Infrastructure Committee. The S151 Sub-Group will provide advice on each project to ensure a thorough viability and subsidy control assessment is conducted. Upon completion the finalised project business case(s) will be reviewed by EMF and approved by the Public Sector Board Directors.

3.3.5. The FBC identified the projects marked above with an asterisk as not fully developed at the time of signature of this MoU. The Accountable Body must take these projects through the steps outlined in section 3.3.4 prior to any seed capital funding being released for these projects. The Accountable Body must notify DLUHC once these projects have been approved locally. DLUHC may release an initial payment to the Accountable Body to support the development of these projects if requested.

3.3.6. By agreeing to this MoU, the Accountable Body and EMF commit to full compliance with the process referred to in the 3.3.4 subsection, unless changes have otherwise been mutually agreed as per the change process set out in Section 6.10 of this MoU.

3.3.7. Reporting and assurance on project progress shall be carried out through the Freeports Framework, as set out in Section 6 of this MoU.

3.4. Grant Arrangements

3.4.1. Seed Capital and Capacity Funding (see Table 1) will be issued to the Accountable Body as non-ringfenced grant payments under Section 31 of the Local Government Act 2003, for expenditure as set out in Table 2 above.

3.4.2. The Accountable Body will manage grant payments to deliver and operate the Freeport, including the financial and fraud risks associated with

¹² <https://www.gov.uk/government/publications/english-freeports-full-business-case-guidance>

OFFICIAL SENSITIVE

this and upholding the principles of Managing Public Money. The Accountable Body reserves the right to enforce risk management systems or audit the Freeport Governing Body where the delivery of public money pertains.

3.4.3. Grant payments to the Accountable Body will normally be made annually by DLUHC, towards the beginning of each FY, as agreed between DLUHC and HMT. Annual amounts for each FY will be agreed in principle by the Parties before the payment is made.

3.4.4. The Accountable Body (or Governing Body, if delegated to them by agreement of the Accountable body and Governing Body) will provide quarterly project, financial, and financial risk reporting to DLUHC, demonstrating spend against the previous funding and that outputs are being delivered, including site delivery, in line with the approved FBC, as per Section 6.3 of this MoU. This should include updates on the development or approval of the individual business cases for any seed capital projects not locally approved prior to the approval of the FBC.

3.4.5. The release of subsequent Seed Capital and Capacity Funding will be subject to an annual review as outlined in the Freeports Framework and set out in Section 6 of this MoU. DLUHC reserves the right to make appropriate adjustments to payments and may withhold payments where it has significant concerns regarding the delivery of the Freeport, as per Section 7 of this MoU.

3.4.6. Should the Accountable Body wish to amend the annual Spend Profile at Schedule 1 of this MoU for the following financial year, the Accountable Body will give notice to DLUHC by the last working day of September of the previous financial year. Requests for amendments will be considered by DLUHC, with DLUHC's approval of such requests subject to the availability of resources. There are no guarantees that such requests will be accommodated.

3.4.7. The Accountable Body will consult in good faith with EMF on matters related to the delivery of grants to end users and strive to amicably find a mutually acceptable resolution of any differences, with due transparency and expeditiousness.

3.5. Procurement

3.5.1. On the use of public funds, the Accountable Body will ensure:

- a) The Accountable Body is compliant with all relevant procurement regulations and best practice standards applicable to EMF when undertaking procurement for EMF;
- b) That value for money is achieved; and
- c) That the Freeport objectives as set out in Section 5 are delivered.

3.5.2. Before releasing public funding associated with the Freeport Seed Capital Programme to Freeport delivery partners, the Accountable Body will assure themselves that all relevant regulations and approved standards have been met by the by Derbyshire County Council, Leicestershire County Council or Nottinghamshire County Council or other first tier authority (whichever will have:

- a) procurement oversight for the relevant seed capital project; and,
- b) where applicable, responsibility for, ensuring obligations under The Public Contracts Regulations 2015 are met).

3.5.3. All procurement activities will be subject to a business case and extended cost modelling process which will evaluate different delivery model options including assessment of in-house internal resources and expertise (where available), procuring a service from an outside supplier or mixed economy models that combine in sourcing and outsourcing different components of the requirement, with the aim of ensuring that value for money is achieved, and that the policy objectives are, in its estimation, likely to be delivered. Where not directly procuring goods or services, the Accountable Body will satisfy themselves that they are content with the approach taken.

3.6. Subsidy Control

3.6.1. Before releasing public funding associated with the Freeport Seed Capital Programme and retained business rates funded projects, to end users in the Freeport, EMF will satisfy itself that doing so is compliant with UK legislation on subsidies.

3.7. Collected Business Rates

3.7.1. Under paragraph 39(1) (designation of areas) of schedule 7B to the Local Government Finance Act 1988 – local retention of non-domestic rates, the Freeport tax sites are to be classed as a designated area with effect from 22 March 2022 for a fixed term of 25 years from the date the tax site was designated for the purposes of tax relief. The Billing Authorities, signatory to this MoU, will retain 100% of their share of the collectible business rates for each non-domestic dwelling in excess of a baseline amount (set out in the table below) until the next 5-yearly baseline reset (as outlined in 3.7.7 below).

Tax Site	Billing Authority	Baseline Amount (at 31 March 2022)
East Midlands Airport Gateway and Industrial Cluster (EMAGIC)	North West Leicestershire District Council	£887,438

OFFICIAL SENSITIVE

Ratcliffe-on-Soar	Rushcliffe Borough Council	£0
East Midlands Intermodel Park (EMIP)	South Derbyshire District Council	£21,457

3.7.2. The EMF (acting by the Public Sector Directors, following recommendations from the S151 Sub-Group), will use business rates retained locally and pooled by the Billing Authorities from the Freeport tax sites to promote the Freeport and the Freeports Programme’s objectives within the Freeport geography or wider ‘travel to work area’, and for activity which:

- a) Would not otherwise occur;
- b) Requires public funding; and
- c) Is most appropriately funded from collected business rates, rather than other public funding, as per the Freeport’s Retained Business Rates Strategy.

3.7.3. EMF (acting by the Public Sector Directors, following recommendations from the S151 Sub-Group) will ensure the collected and pooled business rates fund will help meet the objectives of the Freeport including through the detailed investment plan for retained rates (the Retained Business Rates Strategy) to be provided to DLUHC following the approved FBC. This includes:

- a) Acting as the catalyst for EMF and regional connectivity. EMF will spend RBR on Transport and Connectivity challenges to unlock connectivity in the region in the early years of the Freeport, using best endeavours to ensure Trade and the Travel to Work Area functions effectively, and use best endeavours to ensure transport infrastructure does not constrain economic growth.
- b) Developing a world class regional skills base. This objective focusses on EMF’s capacity for generating high value and specialist jobs and workforce transition in the East Midlands Region through the delivery of skills interventions that enable the regional labour market to grow and evolve into the next generation of products, services, and technology.
- c) Turbocharging productivity and stimulating innovation across EMF target sectors. In line with Government’s objective for creating hotbeds of innovation, EMF considers RBR funding as a generational opportunity to accelerate new and existing innovation and productivity interventions in the East Midlands. Working alongside regional Partners the Freeport will design a series of funds, interventions and accelerator programmes that can seed innovation projects and make a meaningful contribution toward improving output per head in the region.

OFFICIAL SENSITIVE

- d) Setting up EMF for success. This RBR objective focusses on EMF's capacity for generating high value and specialist jobs and workforce transition in the East Midlands Region through the delivery of skills interventions that enable the regional labour market to grow and evolve into the next generation of products, services, and technology.

3.7.4. EMF will ensure that decisions relating to the use of retained business rates will be made after projects have been assessed by the Freeport's Sites & Infrastructure subcommittee and the S151 Sub-Group. A recommendation will be made to EMF's Public Sector Directors for retained business rates spend. Ultimately, the Public Sector Directors, which includes a director appointed by each of the Billing Authorities, will make the final decision on Business Case's approval, and therefore funding via Retained Business Rates, based on the Retained Business Rates Strategy set by EMF's Board. The Retained Business Rates Strategy will include the prioritisation and selection of projects for funding, and how projects are to be reviewed and evaluated.

3.7.5. Allocation of Retained Business Rates by EMF will be subject to the Freeport's Business Plan process as set out in the FBC, including the Business Rates Equalisation Mechanism (BREM) calculation, and used for the purposes outlined in the Retained Business Rates Strategy. The detailed methodology for the BREM is set out in the Retained Business Rates Agreement between the Accountable Body and billing authorities.

3.7.6. The BREM will be undertaken in a standardised manner every year utilising industry and Government recognised practice for Retained Business Rates models, following the same underlying modelling structure and assumptions as detailed in the FBC for the Business Rates forecast. Inputs will be updated each year based on industry standard data such as the valuations and timings of hereditaments provided by the Valuations Agency Office / NNDR3 information direct from Local Authorities.

3.7.7. The BREM will be calculated as follows:

- a) 50% of the growth of business rates that is received across all Freeport Tax sites above most recent business rates baseline reset. There is no further provision for additional service costs arising to those authorities from the EMF's existence.
- b) A "business rate baseline reset" will take effect at least once every 5 years. This means that the reset is applied to the EMF retained business rates calculations, even if Government hasn't officially applied a reset. If there is a national reset between the artificial resets, this will be ignored for the purposes of the calculations.
- c) At the time of each reset, any growth in the preceding years (from the last reset) becomes part of an increased baseline and is no longer passed on to the local authorities. It is instead retained by EMF from that point onwards for the purposes outlined in the Retained Business Rates Strategy.

3.7.8. EMF through its Business Plan process will produce annually a BREM calculation to be allocated to the local authorities who would have received Business Rates. EMF will approve the second and subsequent Business Plan on or before 31st December in each year in readiness for the following Financial Year. The Business Plan will include:

- a) The year-end RBR actuals generated per hereditament entered into the RBR model to calculate the BREM value per authority.
- b) A RBR forecast model for the year ahead to inform the financial strategy for the year ahead (existing annual RBR generated per hereditament, plus the forecast position for prospective occupiers).

3.7.9. The Accountable Body will:

- a) manage the retained business rates and distribution fund in accordance with the decisions of the Public Sector Directors
- b) manage any financial and fraud risks associated with such distribution and
- c) uphold the principles of Managing Public Money.

4. Freeport Delivery

4.1. Progress Milestones

4.1.1. Overall Freeport progress milestones will be set out by DLUHC and will be agreed with all Freeports. In cases where a progress milestone is not applicable to the Freeport, DLUHC will mutually agree a revision or completion of that particular milestone with the Freeport.

4.1.2. EMF is accountable to HMG for delivery of the Freeport according to agreed progress milestones. Progress milestones, attached at Schedule 2, will be monitored through regular check-in meetings, data reporting and contribute to the annual review process, as set out in Section 6 of this MoU.

4.1.3. EMF and DLUHC will mutually agree any changes to delivery milestones or timescales.

4.2. Tax Sites

4.2.1. EMF is accountable to HMG for reporting on the delivery of Ratcliffe-on-Soar, East Midlands Airport, and gateway Industrial Cluster ('EMAGIC') and East Midlands Intermodal Park ('EMIP') Tax Sites, including optimising development of tax sites which:

- a) Align with the Freeport's target sectors of advanced logistics and warehousing, advanced manufacturing of motor vehicles, innovative

OFFICIAL SENSITIVE

aircraft and other electrical equipment, low carbon and renewable energy production and transmission and research and development, objectives, and vision as set out in the FBC;

- b) Would not have occurred without Freeport Tax Site status and is not displaced from elsewhere in the UK; and
- c) Occurs within the period for most Freeport Tax Reliefs (i.e., prior to October 2026),¹⁴
- d) Through EMF's tax site framework. The relevant landowners or their respective Tax Site Operators, have responsibility for development of the Tax Sites.

4.2.2. To achieve this, EMF will:

- a) Uphold the Tax Site Code of Conduct, Tax Site Investment Gateway Review and Tax Site Occupier Code of Conduct in Annex Z of the FBC (as updated from time to time), which provide a structure to ensure that HMGs objectives for the Freeport are achieved, setting expectations for those operating in tax sites and ensuring tax site activity is aligned to the objectives of the Freeport in a transparent and proactive manner;
- b) Monitor and report to DLUHC on compliance with the aforementioned Tax Site Code of Conduct, Tax Site Investment Gateway review and Tax Site Occupier Code of Conduct;
- c) Exercise the incentives and implications for Tax Site Operators which could include the diversion of proposed Seed Capital and/or Retained Business Rates spend to projects that do not benefit the Tax Site in question; Barring of representative from existing representation on the Freeport Subcommittees; Suspension or removal of position on EMF and/or voting rights on EMF; Suspension of use of the East Midlands Freeport brand to publicise and promote the Tax Site in question in relevant scenarios of noncompliance as defined in the Commercial Case of the FBC
- d) Exercise the incentives and implications for Tax Site occupiers including the removal of business rate relief for the relevant Tax Site Occupier, governed by EMF and relevant Rates Authority; Diversion of proposed Seed Capital and/or Retained Business Rates spend to projects that do not benefit the Tax Site Occupier; not approving the Tax Site Operator to act as a representative on Governing Body

¹⁴ <https://www.gov.uk/government/publications/statement-on-the-designation-of-freeport-tax-sites/statement-on-the-designation-of-freeport-tax-sites>

OFFICIAL SENSITIVE

Subcommittees or other governance forums, as deemed relevant;
Suspension of use of the Freeport Brand to publicise and promote the Occupier in question in relevant scenarios of noncompliance as defined in the Commercial Case of the FBC;

- e) Monitor and report to DLUHC on the delivery of the Tax Sites listed in the FBC as part of the formal data reporting requirements, as set out in Section 6 of this MoU; and
- f) Inform DLUHC of any delays to the delivery of the Tax Sites.

4.2.3 If existing Freeport Tax Sites are converted to Investment Zone status, or any Investment Zones sites are to be designated within an existing Freeport outer boundary after the FBC has been approved, the EMF, the Accountable Body and the Billing Authorities must submit a formal change request as per Section 6.10 of this MoU. Freeports should note, that changes may be required to the FBC and MoU in light of this before the request is approved.

4.3. Customs Sites

4.3.1. EMF will:

- a) Work closely and collaboratively with HMRC and customs site operators to support the delivery of customs sites;
- b) Oversee, monitor, and report to DLUHC on the delivery of the customs sites of Space Park Leicester and the Project Plan at Annex C of the FBC;
- c) Inform DLUHC of any delay to the delivery of the customs sites; and
- d) Make all reasonable efforts to deliver the customs sites to the standards and to the timescales as set out in the FBC. More information on these requirements can be found in the English Freeports Full Business Case Guidance (section 6.5.3, page 25). This also sets out how the Governing Body's responsibilities sit alongside HMRC's ongoing processes to audit Customs Site Operator compliance.
- e) Make all reasonable efforts to ensure that each Customs Site always has a fully functioning Customs Site Operator and will act quickly best endeavours to ensure that a replacement is appointed in as short a time as possible if for any reason this not the case.

5. Strategic Delivery

- 5.1. As the HMG body accountable for leading the delivery of the Freeports Programme, DLUHC will provide EMF with support to coordinate with HMG on strategic areas of Freeport delivery, including with: DBT, DESNZ, DFE, DSIT, and DWP.
- 5.2. DLUHC will facilitate across HMG to enable a coordinated approach to the support, guidance and interaction between HMG and Freeports, to ensure support is targeted and appropriate to the needs of each Freeport. The support offered will be tailored to the needs of each Freeport and will include, but is not limited to, capacity support, technical assistance, coordinating the resolution of common or external issues faced by Freeports and working collaboratively to act on common opportunities or interests for Freeports.

5.3. Net Zero

- 5.3.1. EMF commits to owning, updating and devoting appropriate resources to the delivery of the Net Zero strategy at 1g in the Strategic Case of the FBC, including:
- a) Supporting clean growth and sustainable investment in the wider East Midlands region
 - b) Supporting businesses in the Freeport tax and customs sites to deliver on ambitious emissions targets, ahead of the 2050 Net Zero target pioneered by HMG.
 - c) Supporting regional partners' proposals for an international decarbonisation centre "ZERO" through strategic and operational collaboration with Freeport partners.
 - d) Undergo an initial baselining exercise, focused upon where applicable identifying HMG-standard 1990-levels of Scope 1 and Scope 2 emissions of business sites and infrastructure associated with the tax and customs sites within the Freeport Outer Boundary of within 12 months post-designation and deploying an alternative approach for sites where 1990-level emissions are not applicable.
 - e) Building in checkpoints to assess partners' plans, determine synergies and opportunities to optimise these, and set out an overarching trajectory towards net zero for the Freeport to cover additional reduction options which may be required, particularly where residual emissions are identified. The first of these checkpoints should fall 12 months from operationalisation of the Freeport, as such strategy is updated from time to time by EMF and

in consultation with DLUHC.

5.3.2. EMF will be supported by DESNZ's Local Net Zero team which will provide a first point of contact and manage support for the delivery of the Freeport's Net Zero plans. This support may be through ongoing engagement, providing guidance and advice on Net Zero topics and will be either with officials across HMG or through the appropriate Local Net Zero Hub.

5.4. Innovation

5.4.1. EMF commits to owning, updating and devoting appropriate resources to the delivery of the Innovation strategy at Annex L of the FBC, including:

- a) Engaging with local conveners (including the Institute of Advanced Manufacturing), LEPs, businesses (even those not located within core Freeport tax and customs sites), academic institutions and other local stakeholders around innovation activity and opportunities.
- b) Engaging publicly through press releases, marketing collateral, quarterly webinars and direct engagement to showcase the Freeports innovation activity and potential opportunity.
- c) Supporting the Freeport delivery team to set up an enquiry management protocol for organisations, specifically small and medium enterprises ('SMEs'), that contact the Freeport around innovation activities, opportunities or projects, with the aim to support these businesses in utilising the Freeport benefits.
- d) Consulting with the Freeport Innovation Network to identify sources of funding or collaboration that could benefit Freeport projects and investors.
- e) Developing projects to support and encourage innovation as the Freeport mobilises its governance structures. These options will be built out as part of further iteration of the Freeports Innovation strategy, and through the Innovation & Net Zero subcommittee.
- f) Using the Retained Business Rates to support the Freeports core objectives relating directly to innovation: Turbocharging Productivity and Stimulating Innovation across the Freeport target sectors.
- g) Consulting the FREN where potential projects identify a regulatory challenge as a potential risk to delivery. The FREN will be consulted at the earliest possible stage, even where businesses working within

OFFICIAL SENSITIVE

the boundaries of the freeport site, come to EMF with a potential project / investment at a relatively embryonic stage.

- h) Supporting Custom Site Operators (Charnwood Campus and Space Park Leicester) in developing their innovation offer and attractiveness in becoming a Customs Site Operator within the Freeport, as such strategy is updated from time to time by EMF and in consultation with DLUHC.

5.4.2. Innovate UK's East Midlands Regional Manager will attend the Innovation & Net Zero subcommittee on the Freeport's request to provide advice on the development and implementation of the Freeport's innovation strategy, informed by their in-depth understanding of the region's innovation ecosystems. The Regional Manager will help upskill the Innovation, Skills and Employment Director to ensure they are aware of available funding opportunities and the existing support on offer in the region to help businesses innovate.

5.4.3. DSIT, alongside the Innovate UK Regional Manager for the East Midlands, will actively promote relevant innovation support and funding schemes to the Freeport with advice on how to apply. DSIT will support DLUHC and the Freeport to develop targeted communications aimed at promoting the Freeport as an attractive prospect for innovative businesses. DSIT, alongside DLUHC, will promote Freeports across HMG to raise awareness of the benefits Freeports have to offer for research, development and innovation focussed activity. DSIT will work with other government departments to explore potential opportunities to expand schemes, and pilot new initiatives within Freeports

5.4.4. The FREN, as part of HMG's offer on innovation, will engage with the Freeport regularly to review progress of engagement with the FREN to address regulatory barriers. Where criteria are met and resource available, it will support the Freeport to address regulatory barriers in their innovation endeavours and help identify challenges in doing so. It will support the Freeport to address these barriers, including through establishing connections with regulators and other relevant stakeholders to explore approaches.

5.4.5. The Freeport will support the FREN with identifying and testing specific regulatory areas of opportunity and development relating to their innovation objectives. The Freeport will work with relevant regulators, businesses and partners through the FREN to advance this, including through regular sharing of knowledge, information and lessons learned.

5.5. Regeneration and Levelling Up

5.5.1. EMF commits to reasonable endeavours in owning, updating and devoting appropriate resources to support the delivery of Regeneration and Levelling Up objectives (as such objectives are updated from time to time by EMF and in consultation with DLUHC).

5.5.2. DLUHC will provide Levelling Up support to Freeports including by:

- (1) supporting Freeports to develop their business rate investment schemes - including exploring options for borrowing against future business rates income;
- (2) supporting Freeports to develop their planning strategy and explore optimal planning tools and innovative progression routes;
- (3) facilitating a joined-up conversation between the Freeport and UK government about regeneration and placemaking;
- (4) supporting Freeports to implement customs incentives in the initial designated sites;
- (5) facilitating monitoring and reporting of site delivery progress; and
- (6) providing strategic advice and support to overcome specific challenges in Freeport delivery, if they arise.

5.5.3. While Local Planning Authorities ('LPAs') retain their statutory powers and responsibilities with regards to planning, the EMF are accountable to HMG for supporting Tax Site LPAs to create a supportive planning environment and holding them to the commitments at 5.5.4. This includes:

- a) EMF to seek to agreeing planning delivery goals and resourcing commitments with Freeport Tax Site LPAs and work with their respective Tax Site LPAs to establish the necessary local governance and risk management structures to oversee delivery of these goals and manage planning risks.
- b) EMF providing Freeport Tax Site LPAs with financial support to enabling projects (that have been approved by EMF's processes) through the use of pooled Retained Business Rates to facilitate the delivery of these targets.

OFFICIAL SENSITIVE

- c) EMF and the Billing Authorities engaging and supporting Freeport Tax Site LPAs to engage with UK government planning support.
- d) EMF reporting quarterly to DLUHC as per Section 6.3.

5.5.4. While LPAs retain their statutory powers and responsibilities with regards to planning, the Billing Authorities, where they also function as Freeport Tax Site LPAs, commit to:

- a) Using reasonable and appropriate endeavours to deliver a planning environment that supports appropriate investment on Freeport tax sites, including by exploring innovative uses of planning tools, and learning from best practice and from other LPAs and sharing expertise and experience with other Freeport tax site LPAs.
- b) Appropriately resourcing this work and agreeing planning delivery goals, and necessary support to deliver them, with the Freeport Governing Body.

5.6. Skills and Workforce Development

5.6.1. EMF commits to owning, updating and devoting appropriate resources to the delivery of the Skills and Workforce Development strategy at Annex N of the FBC, including:

- a) Working with Local Authorities across all tiers within the East Midlands region and LEPs to understand the community skills and employment demand and support the identification of skills gaps in the labour market.
- b) Working with the Regional Economic Growth subcommittee to identify the skill gaps in the region that can be addressed through interventions within the Freeport.
- c) Ensuring that skills support and programmes developed and brought forward by the Freeport are made available to and targeted at those who are unemployed, disadvantaged, or in need of re-skilling.
- d) Exploring funding options to address identified gaps and help bring forward Freeport-led interventions as part of the Freeport's skills strategy and using Retained Business Rates as one of the primary sources of funding.
- e) Working with partners, including Local Authorities and private sector landowners, potential skills training providers and trade unions to facilitate partnerships between local and regional businesses to

deliver skills initiatives as part of the Freeport's skills plan.

- f) Working with and supporting Freeport businesses to work with the East Midlands Chamber of Commerce, Local Jobcentre Plus, Work Coaches, and Youth Employability coaches to promote job advertisements and consider other services available such as job application support, tailored recruitment packages and access to local employment networks, identifying opportunities to source employment and skills locally;
- g) Encouraging Freeport site operators to consider government schemes such as the Sector-based work academy programme (SWAP), apprenticeships, and traineeships to meet Freeport objectives and up skill the local population for Freeport enabled jobs;
- h) Improving the accessibility of East Midlands Freeports infrastructure to local people, by developing significant supporting infrastructure, to help unemployed and disadvantaged people access jobs and education related to East Midlands Freeport;
- i) Encouraging and supporting individual partners in the private sector, including tax site businesses, to develop and deliver projects in the region that deliver additional social value, including providing access to skills for unemployed and disadvantaged people, ensuring projects align with local plans, add value and avoid duplication of efforts, as such strategy is updated from time to time by EMF and in consultation with DLUHC.

5.6.2. HMG will work with Freeports to deliver their skills delivery ambitions.

5.7. Trade and Investment

5.7.1. EMF commits to owning, updating and devoting appropriate resources to the delivery of the Trade and Investment Strategy at Annex K of the FBC, including:

- a) The Freeports Regional Economic Growth Subcommittee will lead on identifying opportunities for regional businesses to be supported by the Freeports delivery team engagement with regional businesses networks and the LEPs.
- b) Supporting businesses in the region, across the Freeports target sectors but with a specific focus on advanced manufacturing, to take advantage of the export facilitations that the Freeport can offer.
- c) Working closely with DBT to support development of the Freeport's investment offer.

- d) Working closely with the Inward Investment teams at each of the County Councils (Derbyshire, Leicestershire and Nottinghamshire) involved in the Freeport and with regional partners, through subcommittees and the East Midlands Freeport executive, to create and align compelling investment propositions for the region.
- e) Supporting the Freeport's Executive Delivery Team to produce marketing collateral and leading engagement on behalf of the Freeport.
- f) Ensuring the Freeport's Executive Delivery Team deliver on the workplans for the Marketing, Comms & Investment subcommittee as set out in the Trade and Investment Strategy, Annex K of the FBC, as such strategy is updated from time to time by EMF and in consultation with DLUHC.

5.7.2. The Freeport is responsible for building and maintaining their own trade and investment capabilities that should be able to operate independently of DBT to support the end-to-end investment journey and support exporters, while drawing upon DBT's expertise and influence where this is additive. The Freeport is responsible for developing and executing their investment strategy and for supporting site-specific projects, while keeping DBT informed of their activity.

5.7.3. DBT's support for the delivery of the Trade and Investment Strategy will be guided by the requirements set out in Annex K of the FBC. All DBT services relevant to the delivery of the Freeport's Trade and Investment Strategy will be extended to the Freeport, within existing budgetary constraints.

5.7.4. DBT will maintain responsibility for articulating and promoting the UK Freeports offer globally. DBT will also support East Midlands to articulate and promote the proposition specific to East Midlands to target export and investment markets. DBT's activities will provide additionality to East Midlands' own independent promotional strategy and activities and will neither limit nor replace them.

6. Performance Management, Assurance and Evaluation

6.1. DLUHC will carry out ongoing monitoring of Freeports to assist with delivery, assure the use of public funds and evaluate the impact of the programme.

6.2. DLUHC has issued:

OFFICIAL SENSITIVE

- 6.2.1. The Freeports Framework, attached at Schedule 4 to this MoU, which sets out the reporting requirements Freeports are expected to adhere to enable these processes to take place; and
 - 6.2.2. Monitoring and Evaluation Indicators and Guidance, attached at Schedule 5 to assist Freeports with accurately collecting primary data needed as part of the ongoing monitoring and evaluation and to provide information on the overall evaluation approach.
- 6.3. EMF and the Accountable Body will collaborate with DLUHC on the processes and reporting requirements set out in the Freeports Framework. This includes committing to:
- 6.3.1. Monthly check-ins with the DLUHC Freeport Lead to provide updates on Freeport delivery and operations progress, risk, and governance;
 - 6.3.2. Granting observer status to the DLUHC Freeport Lead at the Freeport Governing Body meetings and inviting other HMG departments on a case-by-case basis where necessary;
 - 6.3.3. Reporting quarterly to update in such a format as DLUHC reasonably requires on Freeport site delivery and capital seed funded projects progress; the Project Plan and Delivery Milestones (FBC Annex C, at Appendix 1); Spend Profile (Schedule 1) and any live issues and proposed mitigations. These quarterly updates will have particular focus on tax site and infrastructure delivery progress;
 - 6.3.4. Data reporting formally twice a year on inputs, outputs, and outcomes as outlined in Schedule 5, Monitoring and Evaluation Indicators and Guidance; and
 - 6.3.5. Participating in a formal annual conversation with HMG to frame the quantitative evidence provided as per Section 6.3 and provide qualitative updates on the status and effectiveness of the delivery of the strategies of the Freeport on or around such date as DLUHC shall propose.
- 6.4. DLUHC shall ensure that:
- 6.4.1. it streamlines its monitoring and evaluation requests for information from EMF and the Accountable Body, where possible, (including by harmonising its information requests and timescales prior to issuing them to EMF and / or the Accountable Body) to minimise requests for very similar information at different points in time;

OFFICIAL SENSITIVE

- 6.4.2. it provides sufficient time, where possible for the Accountable Body and/or EMF (as applicable) to source and collate such information before passing it to DLUHC.
- 6.5. DLUHC will carry out an annual performance and assurance review of the Freeport's operations, which will be informed by information and data provided through the processes detailed in the Freeports Framework and in this section. This review will inform decisions with regards to any improvement plan or intervention, including the release of future benefits, as per section 7.3 of this MoU. Where non-delivery or non-compliance is identified, HMG will always as a first resort work with the Freeport with the aim of resolution as per section 7.3.1.
- 6.6. EMF will be responsible for coordinating the primary level data collection from end users of the Freeport with regards to reporting requirements set out in this MoU including Schedule 4: Freeports Performance Management, Security Audit and Assurance Framework and Schedule 5: Monitoring and Evaluation Indicators and Guidance. Freeports should work to best endeavours to agree data sharing agreements with end users of the Freeport to ensure the data required is provided. DLUHC and the external M&E provider shall assist EMF and if required the Accountable Body where possible on the required primary level data collection process and requirements (including by harmonising information requests and timescales as per Section 6.4), where possible, and the Parties will cooperate in full to satisfy these requirements.
- 6.7. DLUHC will lead the programme-level evaluation for Freeports, which will include a process, impact and value for money evaluation. EMF and the Accountable Body will not be required to lead any wider data collection for the evaluation beyond what is referenced in Section 6, though are expected to assist DLUHC or external suppliers, where deemed appropriate by DLUHC for monitoring and evaluation purposes. This may involve working to reasonable endeavours and where appropriate to support site access or arranging interviews with wider Freeport stakeholders.
- 6.8. DLUHC reserves the right to quality assure the data provided and conduct Freeport site visits, Freeport Governing Body office and Accountable Body office and records verifications within reasonable endeavours. This may include spot checks on governance structures and processes related to the collection, storage and utilisation of said data. DLUHC will aim to notify EMF and the Accountable Body within a reasonable timeframe to allow for resource planning if a visit is required, but depending on the nature of the visit, this may be at short notice.
- 6.9. In line with the above requirements, EMF will endeavour to promptly share information at appropriate times, as and when requested by DLUHC. The

OFFICIAL SENSITIVE

Accountable Body will endeavour to promptly share the required information most notably on HMG funding to EMF to allow for a timely return of the required data.

- 6.10. DLUHC reserves the right to publish relevant, general and/or aggregated data from the Freeport's reporting discussed herein and use it to inform public statements to communicate the outputs, outcomes, and impact of the Freeports Programme. Where this may relate to commercially sensitive information, DLUHC will work closely with EMF to first determine if the data can be made public and then if so, determine appropriate handling measures with respect to the use of such data, for example aggregation or anonymisation of data sets to manage commercially sensitive data. EMF will be consulted and notified in advance of any proposed publications by DLUHC.
- 6.11. EMF will notify DLUHC of any significant proposed changes to the approved FBC, in line with the parameters and process set out in the Freeports Framework. If relevant, this proposed change shall follow the formal change request process set out in the Freeports Framework. DLUHC will work to best endeavours to respond to formal change requests within a reasonable timeframe that will not inhibit the delivery of the Freeport.

7. Ongoing Management

7.1. Duration and Review

- 7.1.1. This MoU covers the duration of Freeports being a public policy and is subject to annual review by the Parties through the annual review process. This may result in amendments or extensions to this MoU by mutual agreement through a formal change request, as set out in Section 6.10 of this MoU, for example to manage the grant profile, ongoing tax reliefs and collected business rates, leading to this document being replaced by an updated version. Amendments to this MoU may only be made by mutual agreement in writing between the Parties through a formal change request.
- 7.1.2. The MoU will be formally reviewed prior to 31 March 2025 to consider the end of the HMG grant payments and delivery of the seed capital funded projects.
- 7.1.3. This MoU will come into effect upon signature by the Parties and will remain in effect until it is terminated by the Parties by full mutual agreement in writing. DLUHC reserves the right to exercise the options set out in Section 7.3 of this MoU in the event of a proposed early termination by the Parties, where appropriate.

7.2. Resolution of disputes

7.2.1. In the event of a dispute arising as to the interpretation or application of this MoU, the Parties will commit to discussion aimed at resolution.

7.2.2. This This MoU is not legally enforceable. It describes the understanding between the Parties for delivery of the Freeport. The Parties to this MoU are responsible for ensuring that they have the necessary systems and appropriate resources in place to comply fully with the requirements of this MoU.

7.2.3. The Parties agree to all due, reasonable, and appropriate transparency, open book working and a duty of good faith regarding all matters relating to the Freeport, and this MoU.

7.3. Managing poor performance

7.3.1. Freeport delivery will be managed through the processes set out in the Freeports Framework. Should an issue arise, DLUHC will first attempt to resolve it in collaboration with EMF and if applicable the Accountable Body. For persistent issues which are recorded at the annual review or are the result of other assurance activities DLUHC will seek to agree a tailored improvement plan with EMF and the Accountable Body as outlined in the Freeports Framework.

7.3.2. DLUHC's support for the Freeport is contingent on compliance with this MoU, Appendixes', and Schedules. DLUHC support of the Freeport may be withdrawn where there are significant concerns with the Freeport, for example including but not limited to the following scenarios where there is:

- a) Consistently poor progress against agreed delivery commitments and/ or limited commitment to full and effective Freeport delivery;
- b) Evidence of the misuse of public funds;
- c) An inability to manage the governance of potential security risks and illicit activity associated with the Freeport;
- d) Non-compliance with commitments on retained business rates and/or tax site delivery;
- e) Failure to comply with the minimum requirements of a Freeport (for example, failing to establish an operational customs site), as set out in HMG Freeports policy documentation;

- f) Activity or negligence leading to the risk of exposure to the wider Freeports Programme to reputational risk (for example, through failures of governance).

7.3.3. The Governing Body, Accountable Body and Billing Authorities accept and agree to all the terms having made full and proper enquiry before agreeing to the statements contained in this MoU.

7.3.4. DLUHC will not resort to performance measures as a first response to address concerns relating to Freeport delivery, except in the high-risk areas of continued concern. Where appropriate, HMG will consider:

- a) Engagement with relevant government officials (for example, additional bespoke meeting to understand and rectify problems)
- b) Increased frequency and/or depth of assurance testing
- c) Delay or reduction of capital seed funding and/ or revenue capacity funding: to ensure probity of public funds, funding may be partially or fully withheld until improvements in the Freeport are made. The specific amount and type of funding withheld will depend on the circumstances of the Freeport and the specific concerns which need to be addressed. As part of this process, consideration will be given to the impact that withholding funding may have on the delivery of Freeport projects and operations alongside the risk posed to DLUHC, other government departments and the Accounting Officer of making payments
- d) Withholding or delaying government support (including but not limited to investment promotion and the use of government branding)
- e) Exclusion from future government benefits (for example, support in accessing future funding)
- f) Revoking current policy levers and benefits

8. Freedom of Information

8.1. Each party will provide to the other parties any information in its possession that may be reasonably requested by the other parties, subject to any confidentiality constraints, safeguards and statutory rules on disclosure.¹⁵ Each party will consult the other parties before making to any third party any significant disclosures of information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 in relation to this MoU.

¹⁵ Information about bodies subject to FOIA can be found at Freedom of Information Code of Practice - GOV.UK (www.gov.uk)

8.2. The requirements in this Section 8 and Section 9 (Confidential Information) below are subject to any Government requirements as to transparency which may apply to either or all Parties from time to time.

9. Confidential Information

9.1. Each party understands and acknowledges that it may receive or become aware of Confidential or Commercially Sensitive Information of the other parties (which may include information where the other party owes a duty of confidence to a third party) whether in the course of performance of the key commitments as set out in the FBC or otherwise.¹⁶

9.2. Except to the extent set out in this Section 9 or where disclosure is expressly permitted elsewhere in this MoU (see Section 6.9), each party shall treat all the other parties Confidential or Commercially Sensitive Information as confidential and safeguard it accordingly (which shall include complying with any protective markings on documents and instructions supplied by the other parties). In particular, none of the parties will do anything that may place the other parties in breach of a duty of confidence owed to a third party. A party receiving Confidential or Commercially Sensitive information shall not disclose Confidential or Commercially Sensitive Information to any non-Crown bodies without the prior consent of the other parties.

9.3. The obligations of confidentiality in Section 9 shall continue to apply notwithstanding termination of this MoU.

10. UK Government Branding

10.1. The Accountable Body and Billing Authorities shall at all times during and following the end of the Funding Period:

10.1.1. comply with requirements of the Branding Manual in relation to the Funded Activities;

10.1.2. cease use of the Funded by UK Government logo in respect of the Funded Activities on demand if directed to do so by the Minister of State;

10.1.3. ensure that any grant funding agreement entered into by the Accountable Body on behalf of EMF with any third party in receipt of the grant funding, shall require that third party to:

¹⁶ In receiving information, DLUHC and its civil servants are required to abide by the civil service code and general principles of conduct. This has been legislated for in the Constitutional Reform and Governance Act 2010. All Freeports external contractors must comply with the confidentiality agreement in the contract.

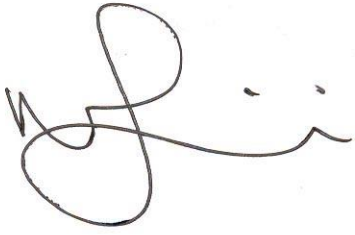
OFFICIAL SENSITIVE

- a) comply with requirements of the Branding Manual in relation to the Funded Activities;
- b) cease use of the Funded by UK Government logo in respect of the Funded Activities on demand if directed to do so by the Minister of State.

10.2. Branding Manual means the document titled 'Funded by UK Government branding manual' first published by the Cabinet Office in November 2022 and including any subsequent edits from time to time.¹⁷

¹⁷ <https://gcs.civilservice.gov.uk/guidance/marketing/branding-guidelines/>

Signed by the Chair on behalf of the Governing Body:



Name: Nora Senior CBE

Date: 30 November 2023

Signed on Behalf of Leicestershire County Council as the Accountable Body:

Name:

Date:

Signed on Behalf of North West Leicestershire District Council as a Billing Authority

Name:

Date:

Signed on Behalf of Rushcliffe Borough Council as a Billing Authority

Name:

Date:

Signed on Behalf of South Derbyshire District Council as a Billing Authority

Name:

Date:

Signed on Behalf of the Secretary of State of for Levelling Up, Housing and Communities:

Name:

Date: