

4.0 Additional Ex-Ante Assessment information

Implementation Arrangement – Article 37 (2) (b) and (e)

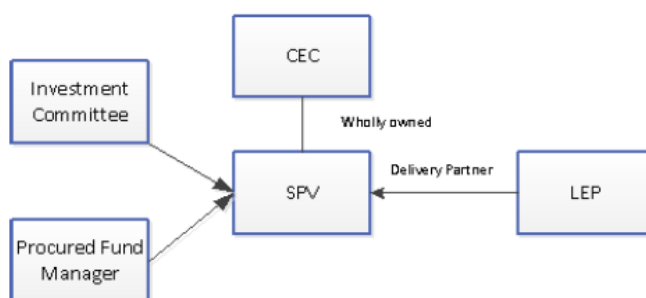
This report provides advice on how a £20m urban development fund utilising the European Regional Development Fund ("**ERDF**") to make investments in eligible undertakings across Cheshire and Warrington can be set up in compliance with the relevant ERDF rules, in particular those set out in Article 38(4) of Regulation 1303/2013.

The European Commission's guidance for Member States on the selection of bodies implementing financial instruments (the "**Selection Guidance**"), State aid law and relevant public procurement obligations. The recommended fund structure is the "In-House" model set out in the Selection Guidance.

This will involve a contracting authority, which shall be Cheshire East Council, setting up a special purpose vehicle ("**SPV**") which meets the relevant tests explained in this report. The SPV will be the vehicle used to deliver the fund, drawing upon the experience and expertise of independent, professional fund managers selected through an open and non-discriminatory public procurement process.

The Cheshire and Warrington Local Enterprise Partnership ("**CWLEP**"), drawing upon its local experience and expertise in running public sector regeneration funds shall input into the SPV. Cheshire East Council shall retain oversight over the SPV. Partnership agreements will be put in place which create a limited partner (Cheshire East Council) and general partner (SPV) relationship. This partnership arrangement shall be applied to the basic corporate structure for the fund, which is set out below.

CHESHIRE AND WARRINGTON UDF



The fund is set up to use "no aid" routes to achieve State aid compliance. The fund will make equity and loan investments on a "no aid" basis (by meeting the principles of the *Market Economy Investor Principle* ("**MEIP**")) into eligible undertakings. The fund manager(s) shall be selected by way of an open and transparent process (public procurement) and thereby they shall also deliver the fund on a "no State aid" basis (as their remuneration is at a market rate). The inter-relationship between CEC and the SPV is "no aid" (as envisaged by the Commission in the Selection Guidance) as the SPV is an in-house body under 12(1) of the Public Contracts Regulations 2015 administering a public sector fund.

The substantive requirements listed at Article 7 of the so-called "Delegated Regulation" (480/2014) must be incorporated into the design of the fund and the procurement process carried out to select the fund managers.