

West Midlands
Regional Assembly

WEST MIDLANDS REGIONAL ASSEMBLY
Board of Directors – 24 September 2008

**Review of the operating arrangements of the West Midlands
Regional Assembly**

1. Purpose of this paper

1.1 This paper sets out the broad context, analysis and rationale and options for changes to the Assembly's operating arrangements. Following discussion at the Board it is recommended that the options agreed are the subject of further consultation before a paper is taken to the Assembly meeting on 29 October. It is made in the context of what is currently understood to be the position with the SNR, although the Government's response to the SNR consultation is now expected around 26th September and these proposals may need to change to reflect this.

2. Purpose of the Review

2.1 At its 9th July meeting, the Assembly agreed to carry out a brief, internal review to assess whether its operating arrangements are sufficiently robust, effective and efficient in the lead up to 2010 and to assist in providing effective transitional arrangements.

2.2 The focus of this Review is on maintaining the continuity of Assembly decision-making up to 2010 and ensuring that critical matters of importance to the region are delivered effectively.

2.3 This review is not to be confused with the Partnerships Review commissioned by the Assembly and AWM through the Strategic Transition Group. This will be advising on the post 2010 stakeholder engagement for the development and implementation of the Single Integrated Regional Strategy.

3. Influencing Factors to 2010

3.1 The government's Sub-National Review proposed significant changes to regional governance, not least the abolition of the regional assemblies in 2010. This has significantly altered the operating context of WMRA and presented it with new challenges with respect to the continuity of its key functions.

3.2 Budget

3.2.1 The Assembly's business has to be achieved within the context of a diminishing budget. The Assembly was subject to a 7% reduction from 2007-8 to 2008-09. A further reduction on this, of around 10% is anticipated for 2009-10. Furthermore, local authorities and other partners will themselves be under increased budgetary pressure arising from both the CSR and the more difficult economic environment.

3.3 Decision-making

3.3.1 The Assembly will need to continue to make important and potentially controversial decisions on behalf of the Region right up to March 2010. It is vital these are underpinned by robust governance. Failure to do so would compromise regional strategy development and funding decisions. In worst case scenarios, this might leave the Region, local authorities and partners in a debilitating policy vacuum and lead to legal challenge.

3.3.2 Partnership based policy making has many advantages, but with the planned demise of the Assembly it is anticipated that interest may wane with attendance dropping off. Local authority attendance in particular is critical in maintaining accountability, robust and binding decisions and more practically, in achieving quorate meetings. For example, most of this year's Regional Planning Partnership and Regional Planning Executive meetings have been inquorate. In the run up to RSS Phase 2 EiP and Phase 3 Preferred Option it is critical that the decisions are taken in a timely and robust manner and with the full participation of necessary partners. A number of key decisions the Assembly will have to make before 2010 is set out in Table 1, at para 5.2.

3.4 Staffing

3.4.1 The on-going uncertainty of the detailed institutional arrangements post 2010 has also understandably created some anxiety among staff. While no senior staff have left to date, there have been some losses at policy officer and below.

Advertised vacancies have so far been successfully filled but budgetary constraints and an uncertain future for the organisation mean that some posts have been deleted. This is increasing the pressure and workload of more senior staff especially and is likely to impact on the ability of the Assembly to support extended partnership arrangements to 2010, especially as within this period the Assembly is facing the EiP of RSS Phase 2. In addition, senior staff are heavily engaged in the work arising from the changes envisaged by the SNR.

4. Current Responsibilities, Powers and Activities

- 4.1 The Full Assembly has a range of responsibilities derived from the 1998 Regional Development Agencies Act and the Planning and Compulsory Purchase Act 2004. These include:
- approving the business plan and annual budget;
 - approving the Assemblies regional strategies;
 - approval of regional planning strategy;
 - approval of the annual Strategic Review and Scrutiny process of AWM.
- 4.2 Currently the Assembly Board's roles are largely related to the Assembly as a business rather to strategic policy decision-making and co-ordination. These include:
- governance and management of WMRA Ltd;
 - approval of new members of the Assembly;
 - recommendation to the Assembly of the Annual Business Plan and Budget and Annual Report;
 - appointment of Chief Executive and Executive Directors.
- 4.3 The Board also has a role to review and recommend to the Assembly changes to the sub-groups and partnership structures.
- 4.4 However, much of the Assembly's policy business is either formally delegated to the Partnerships and Executives acting as Committees of the Board or effectively carried out by the Partnerships, with the Assembly acting in a largely report receiving, discussion and rubber stamping role.
- 4.5 Planning and Housing and to a more limited extent Strategic Review are formally delegated from the Assembly. While Transport and Environment have no such formal delegation, they have developed some decision-making capability alongside their important advisory roles.

4.6 In practice, these arrangements mean that there is often no discussion; and very little decision making, at Board level about important strategic matters and no vehicle for these to be discussed there in a way that integrates the most important strategic functions of the Assembly. The partnerships operate almost independently of each other.

4.7 Statutory and quasi-statutory functions

4.7.1 The Assembly carries out its statutory role as the regional planning body through the Regional Planning Partnership. In discharging this function it is responsible for producing the Regional Spatial Strategy (including the Regional Transport Strategy) for submission to the Secretary of State: the Assembly provides an opinion on the general conformity of planning applications and local development frameworks to RSS and prepares an annual RSS monitoring report.

4.7.2 The production of the RSS is subject to a number of legal requirements including statutory responsibilities for Strategic Environmental Assessment and Sustainability Appraisal. A key legislative requirement deriving from the Planning and Compulsory Purchase Act 2004 is the duty to consult strategic planning ("Section 4.4") authorities on planning matters affecting their areas. These authorities are in turn required to advise the Regional Planning Body on the same matters.

4.7.3 While non-statutory, Ministers have also given the assemblies responsibility for producing the Regional Housing Strategy and providing advice to ministers on regional housing allocation funding.

4.7.4 Government has also sought advice from the Assembly and its partners on the second round of Regional Funding Allocations advice. This process is underway and due to be submitted to government in February 2009.

4.7.5 Within the Assembly these functions are carried out by the Regional Planning, Transport and Environment Partnerships and the Regional Housing Executive on behalf of the Regional Assembly.

4.7.6 The Regional Development Agencies also have a statutory responsibility to have regard to the views of the regional chambers (now Assemblies). This is carried out as a formal

scrutiny process which is carried out on behalf of the Assembly by the Strategic Review Group.

4.8 Non-statutory functions

4.8.1 The Assembly also carries out a broad range of, non-statutory activities. These include some activities undertaken by the Strategic Review Group, the Housing Executive and the Partnerships set out above. For example, in response to the Governmental priority of tackling climate change, the Assembly has taken a lead role in the preparation of the regional Climate Change Action Plan and the regional Biodiversity Framework.

4.8.2. Other Partnerships have also been established to meet the non-statutory needs of the Region through the European Strategy Board and the Regional Equalities and Diversity, and Health & Well-Being Partnerships.

4.8.3 Of these, the Health and Well-Being Partnership is funded by the Department of Health who also provide the secretariat and funding for a dedicated part-time Assembly officer. Similarly, support for the Equalities and Diversity Partnership at director level is currently provided by a secondee from the Home Office without a financial contribution from the Assembly.

4.8.4 The Assembly also has a partnership which considers European and international affairs. A scrutiny review of the Region's European working was carried out last year and as a result this Partnership has been recently recast and reformed as the European Strategy Board. The Review also affected the relationship and operation of West Midlands in Europe (WMIÉ).

4.8.5 There are also a variety of other partnership organisations which the Assembly has an interest and active involvement in, such as the Rural Affairs Forum which fall outside the scope of this Review.

5. Key Decisions for the Assembly 2008-10

5.1 There are a relatively small number of key decisions directly related to its statutory and ministerially derived responsibilities that need to be made between now and 2010 by the Assembly.

5.2 Table 1: Key Decisions

	Key Decisions	What	When
1	RSS Phase 2	Response to GOWM Housing Study	Between October and December 2008
2	Housing Allocations (Regional Housing Pot)	Advice to govt	November 2008 and February 2009 & for 2010/11
3	Regional Action Plan	Response to Regional Ministers Transport Challenge	December 2008
4	Housing Figures	Response to GOWM figures	December 2008
5	RSS Annual Monitoring Report	Content	February 2009
6	Conformity	Planning decisions	On-going
7	RFA 2	Advice to govt	February 2009
8	Regional Transport Priorities	Part of RFA advice to govt	February 2009
9	RSS Phase 3	Agreeing preferred option	March 2009
10	RSS Phase 2	Prep for EiP	Ongoing to May 2009
11	Gypsies and Travellers	Advice to govt	September 2009
12	RSS Phase 3	Preferred Option Consultation	Early 2010
13	Scrutiny of AWM	Activity-based scrutiny reviews	On-going

5.3 In addition it is likely that the Assembly will have to make a number of decisions on the transition to new regional arrangements.

- 5.4 These critical decisions relate to the roles of the Housing Executive; the Environment, Planning and Transport Partnerships and to the Strategic Review Group. In the light of this, whilst the governance arrangements and focus of the other partnerships are important, and the same concerns apply around resources, these Partnerships will not be subject to the same level of scrutiny and potential legal challenge as those dealing with statutory functions. This together with the external funding, support arrangements and recent formation or reorganisation means that it is recommended that it is more important at present to focus on the Partnerships which deal with the core Assembly functions and leave these other partnerships to be the subject of review as part of the transitional arrangements.
- 5.5 The focus on key decisions does not imply the detailed programme of activity in the Business Plan will be curtailed, although budgetary pressures might have an impact; as much of the programmed activity is necessary to underpin these key decisions.

6. Decision-making and accountability

6.1 Arrangements in Other Regions

- 6.1.1 The arrangements for Assembly partnership and decision-making arrangements vary across England in terms of number and remit of partnerships, delegated responsibilities and number of members on them. For example, the East Midlands has a single Board covering planning, housing and transport.
- 6.1.2 In some cases Assemblies have advisory panels rather than separate executive bodies for different policy areas, with the decision-making capability retained by the Assembly or an Executive Committee, as is the case in the South West. Others have bodies that have some delegated authority but major decisions, such as approving the RSS are retained by the Full Assembly, for example in the South East.
- 6.1.3 The West Midlands is alone in having such a large decision-making body (over 90 members) for the planning function
- 6.1.4 In the case of the North West, the regional assembly has been wound-up and replaced by 4NW which operates. This acts as a regional strategic partnership with a 23 strong Board responsible

for all decisions previously made by the NWRA, which meets bi-monthly and is supported by advisory panels and a secretariat.

7. Conclusions

- 7.1 The extraordinary situation the Assembly finds itself in means that continuing with current arrangements is unlikely to be appropriate. Between now and April 2010, or whenever the post SNR arrangements come into place, the regional arrangements will be in a constant and evolving state of flux. It is unlikely that the expansive involvement and decision-making structures that the Assembly has developed over the past 10 years will prove themselves to be robust and fleet of foot to be suitably adaptable and flexible.
- 7.2 A decision-making capability which consolidates strategic decision-making, responsibility and accountability where possible and practical is required. The current partnership model and the limited board role does not provide that and is unlikely to be able to do so effectively.
- 7.3 Because of the likely limited life of the assembly and the extensive work which is already in place around transition, it is not recommended that a very extensive exercise is undertaken to look at all options that might be available, as this would be impractical in the circumstances. Rather, the Board is recommended to consider change which would meet the criteria against which this exercise has been undertaken and to consult on a single way forward.
- 7.4 The alternative which is recommended is to change the remit of the Assembly Board, upon which all the Partnership Chairs sit, as Directors of the assembly, so that the Board becomes the decision-making body for the major strategic decisions which currently are delegated to the Partnerships: takes responsibility for the coordination of policy and for ensuring that the Assembly remains focused on the key decisions it has to make.

8. Modifying how the Assembly operates

- 8.1.1 The fundamental choice to be made in this Review is between concentration of all decision making in the hands of the Assembly Board and a rationalisation of the existing Partnership structure coupled with a much enhanced Board role.

8.1.2 An all-powerful Board could represent the most efficient response to the circumstances outlined in this report. It would, however, place decision-making responsibilities on the shoulders of a limited number of people, suggesting that a much more frequent meeting pattern would be necessary with lengthier meetings involving routine decision makings as well as more strategic matters. It would also run the risk of undermining the existing spirit of partner inclusion from which the Assembly derives much of its legitimacy in the absence of directly-elected status.

8.1.3 Some of these potential issues could be addressed in a modified partnership/Board structure, but at the price of limiting the drive for streamlined decision making and reduction in costs.

8.2 Assembly Board Proposals

8.2.1 To address the issues set out above it is proposed that the role of the Assembly Board be enhanced to give it greater control over the statutory and quasi-statutory policy decisions giving a clearer and consistent accountability than at present, with the partnerships (with some changes, outlined below) retaining decision making capacity for routine decisions and those taken within agreed policy.

8.2.2 The Board will become the Assembly's strategic policy co-ordination body. This will comprise of four key elements:

- Becoming the Assemblies pre-eminent decision-making body, with key policy decisions referred up to the Board under a clear scheme of delegation.
- Ensuring the policy development activity remains focused and coordinated across the policy development bodies
- Setting the priorities for policy development and agreeing the work programmes of the policy development bodies
- Receiving regular progress reports from the policy development bodies.

8.2.3 These arrangements will apply to statutory responsibilities directed by ministers; that is, those currently delegated or taken by the Planning, Environment and Transport Partnerships and the Housing Executive. The other Assembly led partnerships will continue with their current arrangements.

8.2.4 The pace and complexity of decision-making required for the statutory functions and in the run-up to 2010 means that it

would be prudent to retain some appropriate decision-making capacity below Board level. For example, some planning decision-making such as conformity would still be delegated to an executive planning body; and there would need to be a clear scheme of delegation setting out the criteria for decisions to be referred up to the Board from the Executives.

8.2.5 Were these arrangements to be adopted it is recommended that the Board continue to operate under the existing Articles of Association which allows a maximum of 22 directors. This is currently made up by 14 local government directors, four business council nominated directors and four directors nominated by the other stakeholder group.

8.2.6 It is not proposed to change at present the arrangements for the Strategic Review Group, although this will need to be considered in due course owing to the effect of transitional arrangements. For the present the SRG will maintain its necessary independence of scrutiny from the Executive.

8.3 Policy Executives and Transport Partnership

8.3.1 To ensure that the Board is not bogged down by minor and very technical decisions, an executive i.e. decision making capacity for key policy areas should be established. This will refocus the existing Executives for Housing and Planning. With the key environmental decisions falling under the RSS Phase 3 Revision workstream, it is proposed that falls under a new combined Planning and Environment Executive.

8.3.2 It is anticipated that the new arrangements will overcome the current problems of quoracy. However, where an Executive is inquorate their deliberations will become advice to the Board, who will then make the decision on behalf of the Assembly.

8.3.3 The Transport Partnership's formal role is advisory to the Board and the regional spatial planning function and it is proposed to maintain this. The Partnership is currently engaged in some sensitive business relating to transport priorities and has been successful in engaging partners and stakeholder in this. Whilst the SNR developments will understandably mean some changes in the future, the current high-profile of the partnership within the Region and with the Regional Minister is noted and it is felt that there is more to lose than gain at present by reducing its membership.

- 8.3.4 For planning and the environment it is recommended that its decision-making be placed into a single executive body which takes on the roles currently performed by the Planning and Environment Partnerships. In the case of Housing, the Executive is currently the decision-making body with the Partnership advising them. Experience with the Housing Executive, where there have been no problems of quoracy, suggests that vesting decision-making in a more focused body which has clear decision-making responsibilities will improve attendance and so reduce problems with quoracy.
- 8.3.5 Whilst a consistent approach across policy areas to Executives would be "neater", it would not reflect the practical realities of decision-making continuity in the current circumstances. Consequently, it is proposed that there will be Executives for Housing and Planning & Environment with the Transport Partnership continuing in its current form.
- 8.3.6 The Planning and Housing Partnerships will be recast and reformed as a single Strategy Advisory Body where it is desirable or necessary to have the input of a broader constituency, with the membership of this being the subject of consultation.

8.4 Single Strategy Advisory Panel

- 8.4.1 The Housing, Planning and Environment Partnerships would therefore be effectively "frozen" pending the outcome of the new regional arrangements required for SIRS, which will be informed by the on-going Regional Partnerships Review.
- 8.4.2 In the interim, they would be recast into a single Strategy Advisory Panel. This would not have scheduled meetings, but would have meetings to discuss the very big issues; members might in addition be canvassed for their views by email or asked to participate in ad hoc meetings and task and finish groups as needs arise. Their role will be to give advice rather than make decisions.
- 8.4.3 The work programmes of the current partnerships would become the responsibility of the new/refreshed Executives who would take their direction on priorities directly from the Board and report to them on progress. Where appropriate, exchanges could be made between the meeting dates for Partnerships and Executives already agreed in the issues 2008-09 calendar.

Planning and Environment

- 8.5.1 A major part of the Assembly's activity to 2010 will be developing and guiding RSS Phases 2 & 3 through the EiP and Preferred Option stages. In addition there will be the continued requirement for planning conformity decisions.
- 8.5.2 A protocol or scheme of delegation will be needed setting out which decisions would be referred to the Board and which taken by the Planning Executive.
- 8.5.3 These arrangements will negate the need for Planning and Environment Partnerships in their current form and will subsume the existing Conformity Panel.
- 8.5.4 The Planning Partnership will be "frozen" in terms of its meeting programme but will act as a standing advisory Planning Panel to the Executive/Board, enabling all local authorities and representatives from the OSG and the business sector to be fully engaged in the key planning debates and not the other more routine business.
- 8.5.5 Due to the frequency and complexity of planning decisions, there will remain a need for some decisions to be made below Board level. These will be undertaken by a refreshed Planning and Environment Executive.
- 8.5.6 There are crucial decisions to be made during the remaining life of the Assembly and it is essential that RPE meetings are arranged at all the crucial points in the RSS Phase 2 and 3 Revision processes. It is also of vital importance that the current level of stakeholder engagement is at the very least kept, and preferably strengthened.
- 8.5.7 Currently, the Executive advises the Partnership. As well as empowering the Board the proposed new arrangements will effectively reverse the relationship between the Partnership and the Executive.
- 8.5.8 The key decisions to be made by the Environment Partnership are part of developing RSS. This taken together with the low proportion of local authority members and business and OSG activity on the Partnership suggests there would be significant advantages in bringing the environmental decision-making under

the Planning Executive as part of a single Planning and Environment Panel.

8.5.9 This would bring greater accountability to the environmental process and bring environmental and planning decision-making closer together.

8.5.10 The Planning Partnership currently has 93 members, constituted in the 4:1:1 ratio. (This figure varies over time to reflect changes in party political composition of individual local authorities) This is a large group and there is scope through this Review to rationalise its membership.

8.5.11 However, it is important that all local authorities continue to have the opportunity to engage in key debates that directly affect them, for example the distribution of housing. If the recommendations in this report are accepted the membership of this new body would be the subject of consultation about various options. For example, if the current 4:1:1 ratio is kept forming the Panel around the current 38 local authorities would produce a partnership of 58 to March 2009 and following reorganisation in Shropshire, 33 local authorities and a membership of 49 from April 2009.

8.6 Transport

8.6.1 Transport is an extremely sensitive and high priority, high spending area and in dealing with these issues it is important that the high level of buy-in from delivery partners that has been created is maintained at this critical time. It is recognised however that there are issues with local authority accountability. It is proposed that this is overcome by clarifying its advisory nature and strengthening the role of the Board as the ultimate decision-making body. For other purposes, it is intended that the role of the Transport Core Group, which has a formal 4:1:1 structure is clarified and used where formal ratification is needed for lower level matters.

8.6.2 As with the other policy areas, this will need to be formalised through a clear scheme of delegation setting out the criteria for referring decisions to the Board.

8.7 Housing

- 8.7.1 The Regional Housing Executive and Partnership performs the Region's housing function assigned by government to Regional Assemblies.
- 8.7.2 The Executive is a Committee of the Assembly Board and acts as the Regional Housing Board, having executive decision-making powers including making formal recommendations to GOWM and CLG.
- 8.7.3 As well as the key decisions highlighted above, the Executive will be overseeing the development of the Housing Market Area Partnerships and has a role in providing accountability for the Housing Corporation in receiving their reports. This may continue for the new Housing and Communities Agency when this becomes operational, but future regional housing arrangements are not
- 8.7.4 The Housing Partnership acts as the Executive's advisory body and meets twice a year. The Executive's membership is largely a sub-set of the Partnership with the two bodies also sharing a common set of Chair and Vice Chairs.
- 8.7.5 Excluding ex-officio members, the Housing Executive has 18 members, made up from 12 local authority members and three OSG and three business council nominations using the 4:1:1 principle.
- 8.7.6 In order to better align the important planning and housing functions the Planning and Housing Executives will be expected to work together more closely. This will further support the stronger co-ordination role that the Board will have.
- 8.7.7 Any changes in arrangements affecting the Regional Housing Board function will need to be agreed with government and may require a change to the Articles of Association. Experience in the North West where the decision-making was consolidated into a single Board suggests this should not be an issue.
- 8.7.8 It is also noted that unlike the other policy areas, housing is developing sophisticated sub-regional arrangements. Future development of regional governance structures will need to take account and further develop these.

8.7.9 As with the other policy areas in this review, a scheme of delegation will be needed to set out which decisions need to be referred up to the Board

9. Connecting the Executives and Transport Partnership to the Board

9.1 With the Chairs of the Transport Partnership and the Executives members of the Board there should be little difficulty in ensuring connectivity. The Transport Partnership and Executives' work programmes and priorities should be set by the Board so as to ensure a focus on key Assembly business until abolition. The Chairs should report regularly to the Board on the progress their Executive has been making and any advice which comes from the Advisory panels.

10. Officer Groups

10.1 Assembly officers will also need to continue to draw on the advice of existing regional working groups to support both the panels and the Assembly Board as necessary in drafting their reports.

10.2 As they do now, these groups will play an important role in developing policy and brokering agreement between local authorities and other partners. Of particular importance is the Regional Housing Advisory Forum (RHAF) which acts as the engine room for the Regional Housing Executive.

10.3 The pivotal nature of the planning responsibilities is reflected in a well-developed officer support structure based on the RSS Co-ordination group advised by the Regional Planning Officers' Group. Where particularly important high level decisions need to be made urgently the Chief Executive/Director level Strategic Management Steering group can be convened. This depth and breadth of support will need to be continued under any future member level structure.

10.4 The work of the Environment Partnership in relation to RSS is largely technical in overseeing the SEA and SA. Bearing this in mind and the large number of officers representing government agencies and interests on the Environment Partnership, it is proposed that the bulk of the Environment Partnership work could be carried out by a reconfigured Regional Environment Group.

11. Full Assembly

- 11.1 The Articles of Association sets out the number and ratio of members to be drawn from local government (68), business council (16) and other stakeholder group (16) members. This could be altered by a special resolution, but is not proposed to change the formal role or make up of the Full Assembly.
- 11.2 The proposed changes do not draw down any additional powers from the Assembly. However, the Assembly may want to consider what role it should have and how often it should meet in the period until abolition.
- 11.3 Within current arrangements there is considerable latitude for the Board to operate on behalf of the Assembly between Assembly meetings and, with an anticipated wind-down of activity prior to abolition, the Assembly may want to consider bi-annual meetings.

12. Next Steps

- 12.1.1 The proposals in this Review will need to be refined into a consultation process which takes place over the next few weeks and a report encompassing the results of that will be presented to the Full Assembly on 29th October. This will contain details of the proposed scheme of delegation will need to be agreed.
- 12.1.2 Whichever options are finally taken forward to the Board will need further detailed working up before they can become operational. Legal advice also will be needed to ensure that the actions are within the powers of the Board/Assembly and that the correct amendments to the Articles of Association, agreements with government and notices are given.
- 12.1.3 It is possible that further bespoke amendments may be necessary for each policy area.

Olwen Dutton

Chief Executive

0121 678 1031

o.dutton@wmra.gov.uk