

Agenda Item No. 5.6

WEST MIDLANDS REGIONAL ASSEMBLY BOARD OF DIRECTORS - FRIDAY 6 OCTOBER 2006

Regional Planning Partnership – Amendment to Partnership Structure and Establishment of a Conformity Panel

1. Purpose of Report

To seek the Board's formal ratification of the Regional Planning Partnership (RPP) as a Committee of the Board, approve the establishment of the Regional Planning Executive (RPE) as a Sub-Committee of the Board and approve the protocols for the RPE to deal with the Regional Planning Body Conformity Function. Also to inform the Board of changes to the local government membership of the RPP.

2. Recommendations

- 2.1 That the establishment of the Regional Planning Partnership (RPP) as a Committee of the Board dealing with the Assembly's Regional Planning Body (RPB) function, and the delegation to it in the initial terms of reference, be ratified.
- 2.2 That the revised terms of reference for the RPP (attached as Appendix 1) be approved and that the RPP have the ability to delegate certain of its functions to a Sub-Committee of the Board.
- 2.3 That the establishment of the Regional Planning Executive (RPE) as a Sub-Committee of the Board and the delegation to it of the conformity function of the Regional Planning Body be approved.
- 2.4 That the terms of reference of the RPE (attached as Appendix 2) incorporating protocols for governing the exercise of the conformity function be approved.
- 2.5 That the changes to the local government membership of the RPP be agreed.
- 2.6 That the proposed amendment to the Town and Country (Regional Planning) (England) Regulations, relating to RPB voting structures, be noted

3. **Report Details**

- 3.1 The Assembly is the Regional Planning Body, a role statutorily created and conferred by the Planning and Compulsory Purchase Act of 2004. The role of RPB was however in existence (less formally) prior to the Act and the Assembly took over the function from the West Midlands Local Government Association in 2003.
- 3.2 At that time the Assembly delegated the function of RPB to the Regional Planning Partnership with terms of reference essentially as Appended to this report. These included the creation of a smaller Regional Planning Executive of RPP members to advise the RPP.
- 3.3 This was prior to the incorporation of the Assembly as a company limited by guarantee. Whilst the company assimilated the existing member structures, including the RPP and RPE the WMRA Board did not formally ratify the RPP as a Committee of the Board, although there was an implicit understanding that this was the case and the RPP has always been chaired by a WMRA Director.
- 3.4 For legal clarity the Board is asked to pass a formal resolution ratifying the establishment of the RPP as a Committee of the Board.

4. **RPP Membership**

- 4.1 WMLGA has proposed a variation in the local government membership structure of the RPP. This does not affect either the overall voting structure or the number or relative proportions of the business or other stakeholders memberships.
- 4.2 The change involves a reduction in the number of local government members nominated to carry votes where larger authorities have multiple votes. These authorities are required to distribute votes between political groups on the basis of the political balance on each authority. The new arrangements provide for only one representative for each group allocated a vote or votes. Previously a number of members could represent political groups on the larger authorities. The result is a reduction in the numbers on the RPP without materially affecting the voting structure.

- 4.3 The Board should also be aware of the recent consultation on an amended Regulation 4 to the Town and Country (Regional Planning) (England) Regulations 2004.
- 4.4 The purpose of the amendment is to clarify regulation and protect the principle of non-local authority representation. At present the Regulation does not make clear that RPB's have the flexibility to determine their own voting structure. The proposed amendment will enable an RPB to organise its voting structure as it sees fit providing all members can vote, the non-local authority proportion of a RPB is represented in any vote, and Government guidance principles on regional assembly constitution arrangements are satisfied.
- 4.5 The proposed amendment does not introduce or affect any of the other existing elements relating to the recognition or qualification of Regional Planning Bodies (RPB's) and will not require any RPB's to change their current constitutional arrangements.
- 4.6 Whilst the consultation ended on the 29th September, the proposed amendment does not affect WMRA's arrangements, and therefore we have not made any comments back to DCLG.

5. **RPB Conformity Function**

- 5.1 On 10 March 2006 The Board agreed in principle to creating a Conformity Panel to deal with matters relating to the Regional Spatial Strategy Conformity process. Following further considerations, including the taking of legal advice, it is now proposed to manage the conformity function through a delegation to the RPE. The RPE would establish a Conformity Panel mechanism from its membership and operate in accordance with agreed protocols. Decisions of the Board are now required to implement this approach within the legal structure of the Assembly company.
- 5.2 Firstly the existing terms of reference of the RPP need to be amended so as to include within them the power of the RPP to delegate its duties to a sub-committee of the Board (Appendix 1).
- 5.3 The Board then needs to approve the establishment of the RPE as a Sub-Committee of the Board, sitting under the RPP, and agree the attached terms of reference (Appendix 2). These include the delegation of the conformity function and

establishment of protocols for the fulfilment of this role initially through a Conformity Panel of RPE members (which will be established as a sub-committee of the RPE and therefore as a sub-sub-committee of the WMRA Board), but with certain conformity considerations reserved for, or referable to, the full RPE.

- 5.4 There is a requirement for all decisions of the RPE/Panel to be signed off by a WMRA Director thus ensuring legal ownership of the decisions by the Board. Inclusion in the terms of reference of the Conformity Panel is requirement that all Panel decisions require the endorsement of a minimum of three members one of whom must always be a WMRA Director. The core membership of the RPE Conformity Panel will be the Chair and Vice-Chairs of the RPP who are all Board members so this requirement will be feasible. All meetings of the RPE or the Panel will be chaired by a WMRA Director.

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The Regional Planning Partnership

Terms of Reference, Modus Operandi, Membership Criteria and Person Specification.

Overarching Key Objectives.

The Regional Planning Partnership (RPP) will carry out the Regional Planning Body (RPB) function on behalf of the Regional Assembly leading on the development and delivery of the Regional Spatial Strategy (RSS).

In undertaking this role, the RPP will be under a statutory duty to:

- Keep under review the Regional Spatial Strategy and matters relating to the on-going planning and development of the Region;
- Ensure that a Sustainability Appraisal is undertaken of any new proposals emanating from any draft revisions to the RSS;
- Prepare an annual monitoring report on the delivery and performance of the RSS and consider whether implementation is achieving its purpose;
- Where appropriate, to advise relevant bodies on the preparation or revision of policies relevant to the implementation of the RSS;
- Consider the general conformity of Local Development Documents with the RSS and advise the Secretary of State and Local Planning Authority accordingly;
- Advise LPA's on planning applications which would be of major importance for the implementation of the RSS or relevant regional policy, because of their scale or nature or location of the land;
- Prepare an annual monitoring report for submission to the Secretary of State in respect of the statutory deadline to respond to consultations in relation to planning applications and pre application enquiries;
- Consider how strategic authorities should assist the RPB in undertaking the above functions.

In fulfilling this duty, the RPP will also:

- Ensure that the RSS (inc. the Regional Transport Strategy (RTS)) is coordinated with other regional strategies including the Regional Economic Strategy, the Regional Housing Strategy, the Regional Cultural Strategy and the Regional Sustainable Development Framework;
- Oversee the development of a Regional Implementation Framework in order to ensure that a clear set of priorities are identified for the integrated implementation of the Spatial Strategy across all policy areas;
- Oversee the adoption of a Protocol between the Regional Planning Body and the Region's Local Planning Authorities to secure the general conformity of Local Development Documents and regionally significant planning applications with the policies of the RSS and to review the process on an annual basis.
- Work with sub-regional partnerships to identify and resolve relevant sub-regional issues which need to be addressed within the RSS;
- Provide a coherent regional voice and 'champion' for the region's spatial policy agenda at a national and European level.
- Ensure close cooperation and effective communication by working closely with, in particular the Regional Transport Partnership in relation to the RTS, the Regional Housing Executive in relation to the RHS and other Partnerships and the Regional Observatory to maintain effective communications with the wider region to ensure a transparency of working.

Modus Operandi.

- To be constituted as a Committee of the WMRA Board, chaired by a WMRA Director nominated by the Assembly's local government nominating body with, as vice chairs, Directors nominated by the Assembly's local government, business and other stakeholder sectors' nominating bodies.
- To meet quarterly with additional meetings as and when required.

- Progress and activity to be reported to the full Regional Assembly meetings on a quarterly basis.
- To be advised by a Regional Planning Executive to be created as a sub-committee of the WMRA Board and to which shall be delegated the primary role in determining conformity of Local Development Documents and regionally significant planning applications with RSS policies.
- Also to be informed and advised by appropriate Regional Assembly Policy Partnerships, and relevant cross sector Regional Officer Groups.
- To develop a close and collaborative relationship with the Regional Housing Executive to ensure an integrated approach to strategic housing issues with the RSS, including cross membership arrangements.
- To form task and finish groups with specific work areas and timescales.
- Secretariat support to be provided the Regional Partnerships Secretariat with additional support as appropriate from regional partners
- Notes of meetings to be public documents posted on the Website and reported to WMRA and other partners where appropriate.
- Meetings to be held in open session with a facility to move to closed session if required.
- The work of the Partnership to be open and transparent.

Membership

- The membership of the Partnership will reflect the Regional Assembly membership ratio of 4 local authority members: 1 business sector: 1 other stakeholders.
- Members of the Planning Partnership will be appointed by the WMRA Board and drawn from the Regional Assembly Board, wider Assembly membership or be suitably skilled and experienced designated Assembly representatives, nominated by the Assembly's sectoral nominating bodies.

- Members of the Partnership will be able to vote on specific issues if necessary. Votes will be weighted in accordance with the distribution of votes set out in Annex 1. Voting protocols are set out in Annex 2.
- All members of the Partnership will be subject to the Regional Assembly Members Code of Conduct, the Code of Practice and Guidance on the exercise of planning functions by the Assembly and the Protocols adopted by the Assembly governing the relationship of the Assembly's advocacy role with the Regional Planning Body function.
- Members of the Planning Executive will be drawn from the membership of the Partnership.
- Membership to be kept under review.

Criteria for Membership.

- Members should have a broad and deep knowledge of their sector.
- Members will be expected to represent their sector or area of interest and express the views of their organisation, constituent group or nominating body when appropriate but always to have the overall interests of the region as their primary concern in conducting the business of the RPP.
- Members will require an awareness of the role and contents of the Regional Spatial Strategy for the West Midlands.
- Members should have an understanding of any approved regional strategies and should respect the aims of such strategies.
- Members will be expected to communicate information and decisions made by the Partnership to others in their sector, organisation or group.
- Members will be expected to provide continuity of attendance.
- Membership will be specific to the named individuals with a nominated alternate if required.
- Members will be required to sign the Assembly's Code of Conduct.

- As far as possible membership should reflect the diversity of the region's population.

Person Specification

The following criteria are designed to assist the nominating bodies in identifying suitable people to sit on the Planning Partnership. In addition they are intended to guide those selected as to what may be needed to carry out the task.

The skills and experiences detailed below are designed to inform and guide. It is not the intention that each individual member shall have all of the skills and experiences detailed; more that the partnership as a whole reflects the full range.

Relevant Experience & Knowledge

- Knowledge of, or experience in, one or more of the policy areas of the Regional Spatial Strategy;
 - Urban renaissance
 - Rural renaissance
 - Communities for the Future (Housing, society)
 - Prosperity for All (economy)
 - Quality of the Environment
 - Transport and Accessibility
- Knowledge or experience of other Regional strategies (eg Regional Housing Strategy, Regional Economic Strategy, Regional Cultural Strategy, Regional Sustainable Development Framework)
- Experience of representing a sector, group or organisation and their opinion in a forum that will have a wide range of perspectives and experience.

Useful Skills

- Communication skills
 - Members will be expected to share information and decisions made by the Partnership to others in the sector, organisation or group.
 - Members should have the ability to communicate the opinions of the sector, organisation or group they represent.
- Networking skills - the ability to share information on a formal and informal basis with regional partners and member organisations

- Partnership working - the ability to work with representatives of different sectors and interests to achieve a common goal.
- Vision
 - Members should understand the concept of Sustainable Development as set out in the vision of the Regional Spatial Strategy and have the skill to be able to relate it to the topic under discussion.
 - Members will have the ability to see the long term implications of decisions and topics under debate.
- Cohesive thinking – members should have the skill to “think outside the box” to link issues being discussed to the broader Regional picture.
- Members should have the capacity to think regionally and strategically.
- Consensus building – developing policy which takes account of a range of viewpoints & evidence.

Annex 1

WEST MIDLANDS REGIONAL ASSEMBLY REGIONAL PLANNING PARTNERSHIP VOTING STRUCTURE

	Votes	
Local Government Sector		
Worcestershire CC	6	
Worcestershire DCs (6 x 1 vote each)	<u>6</u>	12
Herefordshire Unitary		4
Shropshire CC	5	
Shropshire DCs (5 x 1 vote each)	<u>5</u>	10
Telford and Wrekin Unitary		3
Staffordshire CC	8	
Staffordshire DCs (8 x 1 vote each)	<u>8</u>	16
Stoke-on-Trent Unitary		5
Warwickshire CC	5	
Warwickshire DCs (5 x 1 vote each)	<u>5</u>	<u>10</u> 60
Birmingham	21	
Coventry	7	
Dudley	7	
Sandwell	7	
Solihull	5	
Walsall	7	
Wolverhampton	<u>6</u>	<u>60</u>
WMPTA		2
		<u>122</u>
Business Sector		
(15 reps x 2 votes each)		30
Other Stakeholders Sector		
(15 reps x 2 votes each)		<u>30</u>
Total Votes		182

Annex 2

WEST MIDLANDS REGIONAL ASSEMBLY

Voting protocols for Regional Planning Partnership

1. Voting Principles

Local Government

Voting strengths relate to authorities rather than individuals and therefore mechanisms should be some limited degree of transferability to enable authorities with multiple votes/representation to maximise their vote when required.

Business and Other Stakeholders

Votes are held personally by the agreed number of representatives.

2. Voting protocols:-

(a) Representation and Voting:-

(i) Each local authority which has more than one vote must allocate their votes between political groups as far as possible in accordance with the political balance on their own authority.

(ii) Multiple vote authorities shall appoint the minimum number of members required to represent the allocation of votes by political groups . [Note this works out to approximately 60 representatives]

(iii) The nominating bodies for the Business and Other Stakeholder sectors shall each appoint 15 representatives carrying two votes each.

(iv) Substitutions are allowed with an automatic transfer of the voting allocation attached to the member being substituted, subject to the Secretary being notified of such substitutions before the start of each meeting.

(v) Votes are not transferable between authorities or between nominated representatives of the Business sector or between nominated representatives of the Other Stakeholders sector and may not be exercised by officers.

(vi) The Secretary will not accept notification of changes to the allocation of votes between local authority political parties unless such notifications are in writing signed by a proper officer of the authority.

(vii) For each meeting the Secretary shall maintain a 'named votes list' showing the names of the members entitled to be present at that meeting and the votes attached to each.

(viii) For the local government sector, In the event of some members/substitutes not being able to attend the whole or part of any meeting the 'absent' votes shall be transferable to attending members of the same authority and political group.

(x) If a named vote is taken the Secretary shall, on reaching the names of those members entitled to vote on behalf of an authority having more than one vote, indicate before such votes are taken the number each member is entitled to cast on the basis of the latest information before him/her. Where a voting member from that authority is then absent another member of the same political party as the absent member may, with the agreement of the other members of that party from that authority, cast the vote or votes of the absent member.

(b) Voting Procedure

(i) The Chair initially to seek approval to motions by voice agreement.

(ii) If the indication by voice is not clear the Chair may, or if requested by any member shall, seek a show of hands.

(iii) If, because of the multiple vote arrangements, on a show of hands the decision remains in doubt, the Chair may, or if requested by a number of members equivalent to 10 votes must, initiate a named vote where the Secretary uses a voting list which indicates the voting members and the numbers of votes each has at that meeting. In these circumstances decisions will be based on a majority of the votes cast in accordance with the voting totals.

The Regional Planning Executive

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Terms of Reference, Modus Operandi and Membership Criteria.

Overarching Key Objectives.

The Regional Planning Executive (RPE) will be created as a sub-committee of the Regional Planning Partnership ("RPP") and therefore as a sub-sub-committee of the WMRA Board. Its membership will be drawn from the Regional Planning Partnership (RPP) and will assist the Partnership by:

- Developing necessary work programmes and acting on behalf of the Partnership as required to ensure that the statutory and other duties of the Partnership (as set out in its separate terms of reference) are successfully undertaken particularly with regard to:
 - overseeing the implementation of the Regional Spatial Strategy (RSS) through the development of a Regional Implementation Framework
 - the preparation of annual RPG Monitoring Reports
 - undertaking any necessary further development or review of the RSS
- Steering the work of the RPP to ensure any identified targets or deadlines associated with these duties are met.
- Advising the RPP on major policy issues involved in the undertaking of these duties.
- Ensuring that the input of other Assembly Policy Partnerships is coordinated to support the work of the RPP.
- Ensuring that the RPP is kept fully informed of European, National, regional, and (where appropriate) sub-regional issues relevant to the RSS.

In addition to these activities, the RPE will be delegated specific responsibility for examining the conformity of Local Development Documents with the RSS and to agree the Regional Planning Body's response to any consultation on planning applications of regional or sub-regional significance, the exercise of such responsibility to be governed by agreed protocols (attached).

Modus Operandi.

- The RPE to be constituted as a sub-committee of the WMRA Board with the Chair and Vice Chairs to be the Chair and Vice Chairs of the Regional Planning Partnership, who are Directors of WMRA.
- To meet bimonthly with additional meetings as and when required.
- Progress and activity to be reported to the Regional Planning Partnership on a quarterly basis.
- To be supported by appropriate West Midlands Regional Assembly Policy Partnerships, and relevant cross sector Regional Officer Groups, in particular the Regional Advisory Group.
- Secretariat support to be provided by the Regional Partnerships Secretariat with additional support as appropriate from regional partners
- Notes of meetings to be public documents posted on the Website and reported to WMRA and other partners where appropriate.
- Meetings to be held in open session but with a facility to move to closed session if required for the consideration of confidential matters.
- The work of the Executive to be generally open and transparent.

Membership

- Members of the Planning Executive will be appointed by the WMRA Board and will be drawn from the Planning Partnership, nominated by the Assembly's sectoral nominating bodies.
- The membership of the Executive will initially be eighteen, twelve from the local government sector and three each from the business and other stakeholder sectors.
- All members of the Executive will be subject to the Regional Assembly Members Code of Conduct, the Code of Practice and Guidance on the exercise of planning functions by the

Assembly and the Protocols adopted by the Assembly governing the relationship of the Assembly's advocacy role with the Regional Planning Body function.

- Membership will be specific to the named individuals.
- As far as possible membership should reflect the diversity of the Region's population.
- Membership to be kept under review.

Criteria for Members.

- Members should have a broad and deep knowledge of their sector and regional planning issues.
- Members should have a sound understanding of any approved regional strategies and should respect the aims of such strategies
- Members will be expected to be able to represent their sector or area of interest but always to have the overall interests of the region as their primary concern in conducting the business of the RPP.
- Members will be expected to be able to communicate information and decisions made by the Executive to others in their sector or group.
- Members should have the capacity to think regionally and strategically.
- Members will be expected to make an active commitment to the work of the Executive.

Regional Planning Body Conformity Function

Protocol Governing the Exercise of the RPB Conformity Role

Context and Legal Framework

The Regional Assembly is the Regional Planning Body (RPB), a role statutorily created and conferred by the Planning and Compulsory Purchase Act 2004. The Act requires Local Planning Authorities (LPA's) to request the opinion in writing of the RPB as to the general conformity of a Development Plan Document (DPD) with the Regional Spatial Strategy when they are submitting a DPD to the Government Office. LPA's can also make a similar request to the RPB with regard to any other Local Development Document (LDD) that they produce.

Once an opinion of general conformity has been requested the RPB has a duty to provide such an opinion to the LPA within the timescales stipulated by them.

Additionally, the Act also makes the RPB a statutory consultee on planning applications submitted to LPA's that are considered to be of major importance to the implementation of the RSS or a relevant regional policy. As a statutory consultee the RPB has a duty to respond to requests within a period of 21 days, or a longer date agreed in writing with the LPA.

This document outlines how decisions will be made by the RPB in fulfilling its statutory duties as described above. A Conformity Protocol has been produced and adopted between the RPB and the Region's LPA's to secure the general conformity of LDD's and regionally significant planning applications with the policies of the RSS.

The Conformity Protocol describes a system between the RPB and the Region's LPA's that is open, inclusive, and transparent so that the RPB's duties are addressed on a consistent basis. The Protocol establishes a decentralised model whereby the Region's Strategic Planning Authorities provide advice to the RPB on general conformity issues for consideration. In practice this means that there are a number of Regional Conformity Advisors (RCA's) from each of the Strategic Authorities advising the RPB on general conformity issues arising in LPA's that each of the RCA's has been allocated. The RCA's remit includes providing informal Officer advice to LPA's and developers on such issues.

The need for regulations governing the exercise of the conformity function has arisen from the fact that opinions of general conformity and responses to planning applications are sought on a frequent but random basis. The RPB has a duty to respond to such consultations within certain timescales, which, in respect of planning applications, is extremely limited. So that the RPB can deal with the random nature of such consultations and meet the tight timescales stipulated it has decided to delegate responsibility to the Regional Planning Executive (RPE) utilising a mechanism of a Conformity Panel of RPE members to deal with conformity issues, notwithstanding that any conformity matter may be referred for determination at any time to the full Regional Planning Partnership which has overall responsibility for the Assembly's Regional Planning Body function as delegated by the Assembly Board.

The Conformity Determination Process

All conformity consultations will normally be referred in the first instance to the RPE Conformity Panel. However, in the following circumstances, the Conformity Panel shall refer the consultation to the full RPE:

- Where there are outstanding issues* within the RCA's assessment regarding the advice given to the RPB;
- If the Conformity Panel do not agree with the advice within the assessment provided to them by the RCA;
- Where the Conformity Panel considers the matter to be of such significance to warrant referral;
- If the Conformity Panel cannot provide the required majority agreement on a view (ie at least 3 votes to 1).

**Definition of "Outstanding Issues"*

Where there is a difference of views within a conformity assessment regarding an opinion of general conformity that Members of the Conformity Panel consider remain issues despite the evaluation and conclusions of the conformity assessment in question.

In such instances the WMRA Secretariat, as the interim response to the consultation, shall issue an opinion of non conformity if the consultation relates to a LDD. In respect of a planning application consultation the recommendation will be that the RPB has received conflicting advice regarding the general conformity of the planning application and, until the matter is considered further by the RPE, the advice to the LPA will be that the determination of the application be deferred. The Secretariat will then prepare a paper to the RPE for their consideration on the matter. As the RPE only

formally meets every three months any referral to them may from time to time to require a "special" meeting of that body.

The subsequent decision of the RPE will constitute the final decision on the conformity consultation, replacing the interim response, and be communicated to as such to the relevant parties.

Modus Operandi of the Conformity Panel (the Panel)

- The Panel will be presented with an assessment by the relevant RCA following a consultation request to the RPB.
- The Panel will make a decision on the consultation having considered the assessment provided to them either at a meeting of the Panel Members or via email sent by the WMRA Secretariat.
- The Panel shall meet if the WMRA Secretariat recommends they should meet or if any of the Panel Members requests a meeting. Otherwise the consultation shall be referred to the Panel by the WMRA Secretariat via email.
- Members of the Panel may not be involved in any consultation where they have a pecuniary or other prejudicial interest (including for local government members conformity consultations submitted by the local authority of which they are a member or, in the case of County Councillors, consultations submitted by authorities in their county area).
- All meetings shall be held in private although those parties or individuals who have made representations to the RCA, and the RCA themselves, will be able to attend so that they can express their views to the Panel.
- In order for the WMRA Secretariat to issue an opinion on behalf of the RPE three Members of the Panel must agree to append their signatures to an opinion in order for a decision to be made. The signatories must include at least one WMRA Director.
- Where the members of the Panel agree to append their signatures to a decision the WMRA Secretariat will be given authority to use electronic signatures. A record or note of the Panel's consent will be kept on file.

- Progress and activity of the Panel shall be reported to the meetings of the Regional Planning Executive and the Regional Planning Partnership.

Membership of the Panel

- The Panel will comprise a sub-committee of the WMRA Board, chaired by a WMRA director, with four members. The Chair and Vice-Chairs of the RPE will be the core members with nominated alternates, agreed by the RPE, to participate in Panel proceedings in the event of any of the core members being unable to participate. In exceptional cases of urgency any other member of RPE can fulfill an alternate role in any particular meeting of the Panel.
- The occasions when alternates will be called upon will include non availability of core members for business or personal reasons or where the core member has a prejudicial interest in the matter to be determined.
