



## **The Future of Regional Scrutiny**

### **1. Purpose**

To share ideas and prompt discussion regarding possible scrutiny arrangements post 2010.

### **2. Recommendations**

That members of the partnership

- Note the process for developing a possible model for future scrutiny
- Comment on the options contain within the attached discussion paper

### **3. Background**

3.1 The Sub National Review (SNR), published in July 2007, proposes a number of significant changes to regional governance arrangements. These include the abolition of Regional Assemblies, anticipated to occur in 2010, greater responsibilities for Regional Development Agencies and an enhanced accountability role for Parliament and for local authorities in respect of Regional Development Agencies. It is expected that the Government will issue a SNR consultation document before Easter.

3.2 Considerable work is being undertaken within the Region to consider how the SNR proposals could be implemented. This includes a review of the way in which West Midlands Local Government Association should operate in the future which will also encompass scrutiny issues.

### **4. Development of Future Regional Scrutiny Arrangements**

- 4.1 The Assembly's Strategic Review Group is developing proposals for future regional scrutiny arrangements that will also inform other developments around SNR. This work will consist of:
- Completion of an discussion paper (attached)
  - Identification of a number of preferred options to be taken forward following discussion with regional partners and stakeholders
  - Development of the options into viable propositions in order to allow the identification of a "West Midlands offer" with regional buy in by July 2008

- Development of a regional protocol with key partners that will translate the strategic intent into practical reality. It is hoped to complete this by early to mid 2010 to enable a smooth transition from current to new arrangements.
- 4.2 The attached paper is intended to provoke thinking and discussion as to the possible form and function of any future regional scrutiny arrangements. This should not be taken as any indication of a possible Assembly position. It is anticipated that discussion events will be organised during April and May for partners and stakeholders. These will follow the publication of the SNR consultation document as it will be important to ensure that any proposed options will meet the expectation of Government.
- 4.3 The purpose of circulating the options paper at this stage is to provide an opportunity to provide initial comments that will inform the further development of possible options for discussion. The Strategic Review Group would welcome any views you have but would emphasise that at this stage we are not requesting a formal response but a more informal "first thoughts". In particular we would welcome your views on;
- If there should there be a regional scrutiny function
  - Who should participate in this
  - How can it be governed
  - What resources would be required to support such a function
  - How this should be funded
- 4.4 We have valued the input from Members of the Rural Affairs Forum to individual reviews. It is essential to ensure that any new arrangements take account of views from different sectors and across the region. We would appreciate any views you may have.

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## Possible Models for Future Regional Scrutiny

### 1. Aims

- 1.1 There are fundamental questions regarding the aims of any scrutiny arrangements that should be answered before any consideration is given to the design of new arrangements.
- Why Regional scrutiny – we need to be clear about the basis and reasons for carrying out scrutiny at a regional level – is this to constructively criticise organisations operating in the region or because central government tells us to?
  - What are we trying to achieve –should regional scrutiny support the achievement of better outcomes for the whole region or to ensure that each locality gets its “share of the cake”?
  - What are we not trying to do – should we avoid micro management, over regulation or having an audit role?
- 1.2 It will be necessary to agree a set of principals to underpin the development of arrangements and how these will operate. The following have been developed taking into account academic theory and practical experiences within the regional context.

|              |  |
|--------------|--|
| Clear        | purpose, roles and responsibilities with rules of engagement                                 |
| Challenging  | in a constructive and robust way that is objective, rigorous and evidenced based             |
| Inclusive    | drawing in external expertise and views of “seldom heard” groups                             |
| Independent  | democratically driven and free from political or other constraints and seen to be so         |
| Transparent  | in all activities and decision making  |
| Proportional | to need, appropriateness and available resources   |
| Responsive   | to concerns of stakeholders allowing an area or issue based approach yet remaining strategic |
| Influential  | in impacting on outcomes and driving improvement   |

### 2. Focus

- 2.1 The focus and emphasis of scrutiny can vary according to need and structures. There are three broad approaches that are not mutually exclusive although they may require different skills and support arrangements. It may be

appropriate for any new regional scrutiny arrangements to consider activities within all categories.

- Development of Policy – to inform and influence including the development of strategies but this should not unduly delay the agreement of policy documents
  - Scrutiny of Expenditure - including the allocation of resources between services and localities
  - Scrutiny of Past Decisions – this is linked to ensuring lessons are learnt and implemented elsewhere
- 2.2 Any discussion of the focus of any future regional scrutiny arrangements needs to address the questions of “who” and “what”. Although the SNR indicates that the focus should be on the Regional Development Agency (RDA) and the Single Integrated Regional Strategy (SIRS), regional working is more complex than this.
- 2.3 Independent research has demonstrated that the key factor in ensuring effective scrutiny is the provision of resources including officer support. The scope of scrutiny activity undertaken will significantly depend on the resources available. Similarly there should be an awareness of the burden of compliance placed on those organisations being scrutinised. This includes direct costs and resources required to provide information or evidence and to comment on any recommendations. There also needs to be an awareness of existing accountability arrangements in order to prevent duplication of activity.
3. **Governance and Structures**
- 3.1 Any proposed scrutiny governance arrangements and structures selected must sit within wider changes to governance arrangements in the Region. Where the Forum of Leaders or WMLGA Executive is referred to this should be taken as meaning the appropriate governance arrangement as agreed within the region. The following options are proposed as a basis of discussion.

Option 1 – Do Nothing

- 3.2 The SNR does not refer to regional scrutiny or accountability arrangements but calls for local authorities to play a stronger role in holding RDAs to account. SNR therefore does not require a regional accountability structure however partners may decide that the demands of 38 local authorities may be too onerous. An option may be for the 14 strategic authorities to carry out this role. Certainly strategic

authorities have more resources to support scrutiny in general and this would also provide a clear link with the new duty to co-operate in the 2007 Local Government and Public Involvement in Health Act.

- 3.3 This model would therefore require no additional governance structures or resourcing. However it will not provide for a joined up approach and that could effectively challenge to Advantage West Midlands or other regional organisations.

#### Option 2 – Standing Committee Structure

- 3.4 This is based on the most common local authority overview and scrutiny model with a series of theme based scrutiny committees reflecting the main areas of activity that would require to be examined in order to meet the agreed focus of regional scrutiny.
- 3.5 Individual committee members will be nominated by constituent local authorities with Chairs selected by the WMLGA Executive or Forum of Leaders. Members of the proposed Forum of Leaders will not be eligible to sit on or chair any of the theme based scrutiny committees. This will ensure there is a clear differentiation between any responsibilities of this group in preparing and approving the Integrated Regional Strategy and in scrutinising it.
- 3.6 The Chairs of the committees will form a separate Chairs Group that will have a co-ordinating role in agreeing work programmes for each of the theme committees. All voting members of individual committees will be elected members. However committees will have the ability to co-op additional members, either to the main committees or any sub groups, in order to bring relevant additional expertise, experiences and views.

#### Option 3 – Bottom Up Approach

- 3.7 This is based on the view that regional scrutiny should build on and address issues raised by existing local and sub regional scrutiny mechanisms. A Regional Scrutiny Group will be created that forms part of the existing West Midlands Overview and Scrutiny Network. Nominations will be sought from elected members already involved in scrutiny and finalised by the Overview and Scrutiny Steering Group.

- 3.8 The Regional Scrutiny Group will examine issues of common concern with individual local authorities and scrutiny panels also having the opportunity to raise specific issues. Task and finish groups could be utilised where appropriate, with any reports and recommendations approved by the Regional Scrutiny Group. This group will report activities and progress to the wider Overview and Scrutiny Network and the WMLGA.

#### Option 4 – Commissioned Scrutiny

- 3.9 This is based on the assumption that there will be no separate structure to carry out or lead scrutiny at the regional level. The proposed Forum of Leaders will agree an annual programme of scrutiny activity that addresses regional concerns and issues raised by local scrutiny. Strategic local authorities will hold regional agencies to account for their contribution to Local Area Agreement targets through the duty to co-operate powers within the Local Government and Public Involvement in Health Act.
- 3.10 Individual scrutiny activities will be commissioned from a variety of bodies dependant upon the subject matter with the output of a report and recommendations being provided within an agreed timescale. This model does not envisage the direct use of consultants but instead would utilise existing and possible future regional groupings to deliver assessments linked to their area of expertise. An example could be West Midlands Social Enterprise Network examining support provided for social enterprise.
- 3.11 Reports would be approved by the Forum of Leaders which would also request a formal response from regional agencies to any recommendations made.

#### Option 5 - Select Committee within the Region

- 3.12 This is based on a parliamentary select committee model made up of Local Authority elected members reflecting the regional political balance. This would allow key regional players to be held to account by a committee of democratically elected members identified by political groupings within the WMLGA. The Chair should be selected from within the membership or alternatively it could be chaired by the Regional Minister.
- 3.13 The Committee will not have any formal reporting lines and therefore publish reports for the benefit of the region as a whole. It is envisaged that the committee will have the power

to co-opt members from other sectors to assist specific activities.

#### Option 6 – Regional Inspectorate

- 3.14 This is an officer based model that utilises the skills and experiences of officers within the Region. A regional inspectorate will report to a local authority member board that would meet on a quarterly basis. Members of the board will be nominated by the Forum of Leaders.
- 3.15 The inspectorate could operate by a series of secondments from local authorities and other organisations within the region dependant on the skill sets required. Its role would be to provide an enhanced examination in public of the integrated regional strategy. This inspectorate could be linked into the current examination in public process by replacing some of the inspectors currently appointed by the Planning Inspectorate. It is anticipated that the Chair of the Examination in Public would continue to be a central government appointee.
- 3.16 Although the examination in public will be an important role for this inspectorate it will occur infrequently. The inspectorate would also have a day to day role in examining performance and outcome data and in looking at specific issues of concern referred to it by the Forum of Leaders.

#### Option 7 - Sub Regional Committees

- 3.17 This model provides a geographical focus with the establishment of scrutiny committees in each of the sub regions. It is similar to the Regional Committees established by the Welsh Assembly.
- 3.18 Members will be nominated by all local authorities within the appropriate sub region and should include the Chair of Overview and Scrutiny wherever possible. This will ensure linkages are made to local scrutiny arrangements thus ensuring that any issues can be taken upwards. The Chair of each committee will be selected by the Forum of Leaders which will also receive reports from each committee.
- 3.19 The Chairs of the Sub Regional Scrutiny committees will meet together on a quarterly basis to discuss and agree work plans and if appropriate to raise issues of common concern with Chief Executives/Chairs of regional organisations. This will help to ensure that requirements on regional organisations are minimised and that duplication is avoided.

- 3.20 Resources for supporting this function could be provided by one of the strategic authorities within the sub region as part of their existing scrutiny team.

#### Option 8 – Regional Performance Board

- 3.21 The Regional Performance Board will share performance management information that is currently submitted to Advantage West Midlands' Board use already prepared data to assess Advantage West Midlands performance, draw attention to areas of poor performance and seek explanations and remedial action. As appropriate senior officers from Advantage West Midlands will be invited to discuss areas of concern. If the Regional Performance Board are not satisfied with any explanation, a task and finish group could be established to carry out more detailed work including taking evidence from stakeholders.
- 3.22 Members of the Regional Performance Board will be Local Authority members nominated by the Forum of Leaders. However the Board can also co-op additional members to bring additional expertise. Activities and areas of concern will be reported to the Forum of Leaders.

#### Option 9 – Local Authority Directors

- 3.23 This model is loosely based on the role of school governors or non executive directors. Its main premise is that Local Authority members of Advantage West Midlands' Board should play a more obvious role in holding the Agency to account. This could also apply to Local Authority members on the Boards on other regional organisations.
- 3.24 It will be essential that independent support is given to these members by the WMLGA to assist them in this challenge role. Local Authority Board Members should have regular discussions with the Forum of Leaders both to provide feedback and be informed of any concerns or issues. If this model is extended to other regional organisations it may also be useful for all Local Authority Directors to meet annually to discuss any common issues for example approaches to partnership working. This annual meeting could also be combined with an opportunity for the Directors to take questions from wider Local Authority members, thus providing enhanced scrutiny to the region.

#### 4. **How Could Scrutiny Work?**

- 4.1 There are a number of methodologies detailed below that could be utilised in any future scrutiny arrangements. These are not mutually exclusive and therefore the preferred mechanism could include a combination of elements from these. Whatever mechanism is adopted should be flexible in order to incorporate continuous improvement.
- **Regional question times** would allow senior representatives of regional organisations to be directly questioned
  - **Specific inquiries** could be carried out by full committees, smaller sub groups or by a single rapporteur
  - **Performance reports** can be assessed by committees to identify activities or areas of concern.
  - **Policy development** can be improved by effective scrutiny in a number of ways.
  - **Budget activities** form an important part of the Local Authority scrutiny role but have not been undertaken at a regional level.
  - **Examination in public** of the Regional Spatial Strategy and the proposed Integrated Regional Strategy is an important form of scrutiny that is conducted by an independent panel appointed by central government. This provides an ideal opportunity to review and test the Integrated Regional Strategy as a whole.
  - **Call in** is a mechanism available at a Local Authority level which allows formal questioning of any decision taken by members of the executive and could be extended to the strategic decisions taken by regional organisations.
  - **Commenting** on documents such as draft strategies and policies will allow scrutiny activities to continue to add value.
  - **Confirmation of appointments** to Advantage West Midlands' and other regional organisations senior staff and Board may be a future area of activity although there is a need to explore how such hearings will relate to the appointment process.
  - **Referring issues upwards** provides a mechanism to press matters if responses to recommendations are inadequate.
  - **Monitoring implementation** provides an agreed process for assessing progress made in implementing any recommendations that arise from scrutiny activities and their outcomes

#### 5. **Linkages**

- 5.1 Regional scrutiny structures cannot be considered in isolation from wider regional governance structures and scrutiny arrangements at the local, sub regional and national level.

Working together will assist in reducing duplication and therefore the compliance burden on organisations being scrutinised. The scrutiny process at all levels would benefit from improved co-ordination between scrutiny bodies and increased information sharing.

- 5.2 Possible opportunities for collaborative working exist around
- sharing information and co-ordinating visits
  - utilising common frameworks
  - placing reliance on other's work
  - undertaking joint scrutiny activity

## 7. **Conclusion**

- 7.1 It is essential to ensure that there are robust accountability arrangements within the region. The increased responsibilities of Advantage West Midlands envisaged in the SNR and its independence needs to be balanced by responsibility and accountability to the Region.
- 7.2 Scrutiny should not be conducted simply for its own sake but should promote a greater sense of responsibility among decision makers. To enable this any new arrangements must be non partisan with a clear emphasis on improvements for the region as a whole, focusing on what should be done rather than on what should not be done
- 7.3 There are a number of difficult decisions to be made within the region regarding scrutiny and accountability. These not only include issues discussed in this paper of focus, governance and methodologies but also the identification of the necessary resources and the development of detailed processes to support the function.
- 7.4 It is vital that Local Authority members lead the scrutiny process as this is a function of the democratic process. It is also important that the expertise and contribution of social and economic partners is recognised and drawn into the process.