

IMPLEMENTATION OF SUB-NATIONAL REVIEW ARRANGEMENTS

TRANSITION

FREQUENTLY ASKED QUESTIONS

Transfer of Functions

1. What Regional Assembly functions will continue to be funded by Government?

Regional Assemblies are voluntary bodies, funded by government, to carry out a series of functions including scrutinising Regional Development Agencies' (RDAs) economic strategies; as Regional Planning Bodies (RPB); advising Ministers in their capacity as Regional Housing Boards and undertaking a range of other funded activities that fall under the heading of 'regional strategic partnership work'.

During 2009/10, in line with issued Business Planning Guidance, the Government will continue to fund Regional Assemblies to perform these functions until they are transferred to successor bodies, such as Local Authority Leaders Boards.

During 2009/10 scrutiny of regional bodies and regional strategies will, for the first time, be undertaken by Regional Select Committees, and this will need to be recognised in the level and type of scrutiny activity that Regional Assemblies undertake. (See Q22). Local Authorities also have powers to scrutinise, if they wish to do so, in future.

The function of preparing and reviewing Regional Spatial Strategies (including the further reviews set out in the Housing Green paper) will continue until they are replaced by the single Regional Strategies. Strategy-making and the associated skills needed to prepare and implement them will therefore continue. Regional Housing Boards are being discussed in the context of work with the Homes and Communities Agency. (See Q7)

2. Where will Regional Assembly functions transfer to? When will Government set out timings for transfer of functions, staffing and resources?

For those functions of the Assembly that will continue, it will be for the new Local Authority Leaders Board and RDA jointly to decide the new arrangements. The detail has been kept flexible to ensure that the best solution for each region is agreed within the region by partners who have the most detailed knowledge of what would work best.

The Government, through Government Offices and the joint CLG/BERR transition team will work with Regional Assemblies, the Regional Development Agencies, LGA and other partners over the coming months to agree the timescale for the transfer of functions, staffing and resources to new bodies. This will be set out in a Change Management Programme for each region. The Government would stress the importance of partnership working to achieve satisfactory future working arrangements.

Beyond April 2010 the Government will no longer sponsor and fund Regional Assemblies. We would expect that staff currently working for Regional Assemblies would, in the first instance and because of the skills, experience and knowledge that they have, form the pool of staff to be drawn upon by Local Authority Leaders Boards and RDAs to establish the new working arrangements.

3. What will Regional Assemblies do in 2009-10 while new arrangements are being finalised?

Business Planning Guidance for Regional Assemblies, issued by CLG, sets out in detail the work that Regional Assemblies should do in 2009-10. The Government will expect Regional Assemblies to continue to work on Regional Spatial Strategies, including, where appropriate, further reviews; to work with partners on preparing the evidence base for the Regional Strategy in line with draft guidance to be published by CLG/BERR in parallel with the Bill; and to undertake positive scrutiny of Regional Development Agency work (also see Q7).

4. Do CLG and BERR expect Regional Assemblies to continue with scrutiny of RDAs in 2009-10?

Yes. As set out in their business planning guidance for 2009-10, Assemblies' scrutiny activities should continue until new arrangements for regional strategies come into effect. However, this work must complement, and not duplicate, any activity being undertaken by the Parliamentary regional select committees, which it is anticipated will begin work on a pilot basis in the New Year, or any arrangements developed by Local Authorities in a region.

5. Where will the current sustainable development activity in Regional Assemblies transfer to? RDAs or Local Authority Leaders' Board?

Sustainable development will underpin the regional strategy. It is a matter for regional partners to determine when and how such activity is undertaken in the future.

6. Who will lead on taking forward the transition process in the regions?

Local Authorities, RDAs and Regional Assemblies should lead on drawing up a change management programme for their region. They will be advised and supported by Government Offices, along with the BERR/CLG Transition team in drawing up, agreeing, and implementing a change management programme that is practical and achievable for their region. The flexibility given to regions means there can be no single blueprint for what a change management programme should look like. However, Government expects each change management programme to clearly set out a timetable for how regional partners will implement the changes needed to institutions, relationships and processes. Business Planning Guidance issued to Regional Assemblies by CLG states that such plans should be worked up during 2009-10. To ensure that momentum is maintained in driving the transition process we expect regional partners to bring such plans forward and to have agreed their basic structures in the change management programme by March 2009. Government will establish an SNR Transition Steering Group with representatives from the LGA, RDAs and RAs to help in sharing best practice between regions on transition to new arrangements and helping to resolve issues.

7. How will the Homes and Communities Agency (HCA) and Regional Housing Boards be integrated in the new arrangements?

The Homes and Communities Agency (HCA) is working with Communities and Local Government to ensure that the most appropriate regional arrangements are designed to fit with the outcome of the Sub-National Review. The HCA Regional Director will be closely involved with the regional partners.

8. Who will become the Regional Planning Body in future?

There will be no statutory Regional Planning Body after the forthcoming Bill is enacted. The Bill will give a joint duty to the RDA and Local Authority Leaders Board to draft the regional strategy. It is therefore no longer necessary to designate a body as the RPB.

Transfer of staff

9. When do TUPE¹/ COSOP² come into effect?

TUPE/COSOP comes into effect when the Regional Assembly is replaced by the new regional body. The transfer should be seamless for the employee. On the day before the transfer, staff are employed by the Regional Assembly. On the

¹ TUPE: Transfer of Undertakings (Protection of Employment) Regulations (TUPE). See Annex A

² COSOP: Cabinet Office Statement of Practice on Staff Transfers in the Public Sector. See Annex A

day of the transfer, staff are employed by the new regional body on exactly the same terms.

10. Can TUPE/COSOP be applied informally now, ahead of the final transfer?

As the answer to Q9 indicates, TUPE/COSOP comes into effect legally at one point in time. However, it is good practice to start thinking about the TUPE process as soon as it is certain the transfer will take place. It is normal practice for bodies faced with a TUPE transfer to start drawing up lists of staff who are 'in scope' for transfer some time beforehand. This is because (a) a person cannot be forced to transfer. However, if they refuse, their contract of employment is automatically terminated on the transfer date, although this will not count as a dismissal by the transferor and therefore does not give rise to a claim for unfair dismissal; and b) sometimes only part of a workforce is transferred, either because the function is ceasing or there is duplication of roles. In such cases it would be normal to undertake a preference exercise to establish which staff want to transfer and those who do not. It would then be possible to move/swap people to reduce the effect of the automatic termination of contract referred to above. The timetable for any TUPE/COSOP transfer will depend upon the arrangements reached within each region.

11. How will Government ensure money isn't wasted by each region getting separate legal advice on TUPE/COSOP?

Regions can seek their own legal advice on TUPE/COSOP. However, to minimise costs, and ensure a common approach, it would be advisable for regions to seek advice from their Government Office on any questions they may have to ascertain if these have been raised and answered in other regions. The CLG/BERR transition team will work closely with Government Offices to ensure consistent advice is provided across the regions on TUPE matters.

12. Does TUPE/COSOP apply across the piece or on a region by region basis?

TUPE and COSOP are predicated on a workforce unit basis. Each Regional Assembly is a separate employer. TUPE/COSOP will therefore be dealt with on a region by region basis. For example consider Staff in Region A doing work of type X and if that work, for that Region, transfers to another body, then those staff are in scope for TUPE/COSOP - and the other staff in Region B don't get taken into account.

Funding and Assets

13. My region wants to move to new governance arrangements in April 2009. What functions will CLG fund in the financial year 2009-10?

Business Planning Guidance issued by CLG sets out what functions it expects each region to undertake in 2009-10. The roles the guidance identifies are: Regional Planning Body; Regional Housing Board; Scrutiny of Regional Development Agencies Regional Economic Strategies; and regional strategic partnership work (including Regional Funding Advice). Any region wanting to move to new governance arrangements in April 2009 should discuss the implications of this move with their respective Government Office to ensure that the resultant regional structures and functions performed will be appropriate and acceptable. The current designation criteria for RPB's will apply to new governance arrangements until new legislation is in place.

14. When will we know what funding will be available from 2010 onwards and when and to whom will guidance be issued?

When government announces funding for 2009-10 we will seek to give broad undertakings for 2010–11 although this will be dependent on the change management programmes which we have asked to be produced (see Q6) by March 2009.

15. When will Regional Assemblies' wind-up costs, including any redundancy payments, be identified, and how will they be funded? Will there be a central fund to cover them?

Most of the work undertaken by Regional Assemblies will still be undertaken in the future and therefore Government does not anticipate that there will be significant wind-up costs or redundancies. The identification of any such costs should be undertaken as part of the Change Management programme that regions will be undertaking in the coming months to prepare for the transition. Some initial work on this has already been carried out. Once there is a clearer understanding of any likely actual costs arising decisions will be taken on funding them. The expectation is that any costs will be funded from within existing budgets.

16. Current funding arrangements for Regional Assemblies do not allow for redundancy payment to be made from the public purse beyond the statutory minimum. Will this remain the case?

The funding agreement for Regional Assemblies has always contained a clause which states that "Grant must not be claimed for any of the following ... (e) payments for redundancy of staff in excess of the statutory minimum amount." The Government is not currently proposing to change this approach.

17. How will CLG ensure funds are in place to cover all pension liabilities and that they transfer with the staff? Will government cover the pension liabilities for local authorities?

Pension provisions in contracts normally mean that the employer and employee are both paying contributions into a pension's scheme. These payments will have been made and thus pension liabilities will be covered. We will work with each of the Regional Assemblies to ensure that this is the case; particularly where there are members of staff for whom an additional pension liability may need to be paid . However, we do not anticipate there being very many cases like this.

18. Can Government design new arrangements in a way that will enable those Regional Assemblies that are employing organisations to continue?

Government will cease funding Regional Assemblies after March 2010. Decisions on the new arrangements are a matter for the region and an issue that will be considered in the production of the regional Change Management programme. It is feasible that the Regional Assembly could change into the Local Authority Leaders Board as has happened in the North West which would provide some continuity – but this is a matter for the region.

19. Will CLG give Assemblies the ability to carry forward funding from 2008-09 to 2009-10 to cover work on transition?

The presumption is that funding for 2008-09 would be used to meet the milestones set out in the business plan for each region during that year. Exceptional circumstances would have to be demonstrated as to why funding for 2008-09 has not been used in year and agreement to carry-over any funding obtained in advance from the GO and CLG.

20. Is there a process (and location) for the transfer of records, information, filing, and will this be centrally funded?

This question should be addressed by regional partners in their Change Management programme for the region. There is no additional central funding available.

21. Where will the policy support for the Leaders Boards come from? How will it be funded?

Development of regional strategies will require close working between local authorities and the RDA in each region, at all levels, so local authorities will need to discuss and agree how policy support for Leaders Boards can be best structured to achieve this. Each region will wish to establish structures which best suit their overall arrangements. For example: in the North West, Assembly officials have already transferred to the new organisation 4NW and are working closely with NWDA; in the North East, Assembly policy officials involved in strategy development have moved to work with those from the ONE. The overall aim should be to ensure effective integration of policies for the new regional strategy.

Local Authority Leaders Boards will receive funding to cover their work on the Regional Strategy (and also to cover continuing functions of the Assemblies). RDAs are also currently funded to produce the economic elements of the strategy. In future, it will be for the RDA and the Local Authority Leaders Board to decide between them how the work under the jointly agreed regional arrangements is resourced.

Scrutiny and Accountability

22. How will the new scrutiny and accountability arrangements be addressed?

Future arrangements

RDAs will continue to be accountable to Parliament through the Secretary of State for Business, Enterprise and Regulatory Reform, working within a robust performance framework, and this will remain the principal way in which the RDA is subject to external scrutiny and held to account. RDAs will set out in their Corporate Plans what they intend to do in delivering the agreed strategy and will be accountable against that.

In addition, as part of the *Governance of Britain* programme, Government proposed the introduction of regional select committees, to scrutinise regional policies in England. The Modernisation Committee of the House of Commons (ModCom) was asked to conduct an inquiry into how this should happen. A report was published in July this year, in which the committee made a series of recommendations for establishing both Parliamentary regional select committees and regional grand committees. Government responded to the ModCom report, agreeing with the Committee's central proposals. (Detailed information here: http://www.parliament.uk/parliamentary_committees/select_committee_on_modernisation_of_the_house_of_commons.cfm)

The House of Commons debated regional accountability on 12th November and resolved the following:

- Parliamentary regional select committees for each of the English regions (except London) should be established, but they should ensure their scrutiny does not interfere with existing lines of accountability and departmental select committee scrutiny at a national level;
- Select Committees shall be appointed to examine Regional Strategies and the work of regional bodies;
- Regional grand committees comprising all MPs in the region should meet once or twice a year, and these should include an Oral Questions slot for Regional Ministers;

In view of these arrangements, and the increased democratic accountability through the joint duty placed on RDAs and local authorities to develop and implement a Regional Strategy, Government does not intend to legislate for local authority scrutiny arrangements. Local Authorities already have powers to scrutinise, if they wish to do so, in future.

Strategy and Policy

23. What will the new Regional Strategy contain and what will the process to prepare it be?

Guidance on the content and process for the preparation of the Regional Strategy will be prepared alongside the early stages of any bill that is considered by

Parliament and Government intends to make available a draft version in early 2009.

24. Will you be changing Statutory Instruments on the make up of Regional Planning Bodies to allow regions more flexibility to set up regional partnerships as they determine? When will these changes come into effect?

The current designation criteria for RPB's will apply to new governance arrangements until new legislation is in place. There are no current proposals to change Statutory instruments in advance of the forthcoming Bill being enacted but we are prepared to discuss this if necessary.

25. How will Government ensure that the new arrangements will enable cross-boundary working between regions and devolved nations?

There is already experience of this across the country and we will expect regional partners to build on this experience in devising future joint arrangements. Regional bodies should work closely together in addressing issues of common interest, both to inform the strategies they adopt and to ensure delivery plans are complementary. In some cases regions may wish to work together to develop a cross-boundary strategy or delivery plan to address a particular issue. The government encourages adjacent regions to co-operate in this way where it reflects economic geography or existing policy initiatives.

26. How will social, economic and environmental stakeholders in the region engage in regional policy development now they have been taken out of governance arrangements?

The Government is committed to stakeholder engagement as a fundamental feature of the processes for developing and delivering the regional strategy. There will be a wider legal duty to consult and engage stakeholders. Government will issue guidance to the RDA and Local Authority Leaders Board who will be required to prepare, and comply with, a published statement setting out how they will consult and engage with stakeholders and communities. We are aware of innovative and effective approaches in many regions for engaging with a wider range of stakeholders and want to build on these examples and share best practice.

It will be up to each region to decide how to engage with social economic and environmental stakeholders. The Local Authority Leaders Board and RDA may wish to explore alternative arrangements for ensuring an effective input from social and economic partners. There are a range of options that could be considered. These include establishing a consultative committee; seconding expertise from stakeholders or possibly appointing a stakeholder representative(s) to a Local Authority Leaders board or on a joint regional Strategy Committee. In developing change management programmes regional partners should explore the development of new arrangements for stakeholders.

27. How will Government ensure that agencies of central departments integrate their work with regional strategies?

Departments and agencies whose programmes will impact on the achievement of regional strategy objectives will be expected to be closely involved in both the development of the strategy and the delivery plan, in order to ensure alignment of priorities and investment. Additionally the development of Multi Area Agreements and the work undertaken in regions and with central departments on Regional Funding Advice provide models of how this can be made to work.

28. What will be the future role of Regional Skills Partnerships and Employment and Skills Boards, and how will DIUS skills funding (and proposed new bodies) be factored into new arrangements?

Joint departmental work is underway to produce good practice principles for Employment and Skills Boards (ESBs) which already exist and especially for those emerging from Multi Area Agreements. It is hoped that these 'light touch' principles will help steer and support ESBs on issues such as how the board is set up and the strategic relationships they should have at all levels. DIUS and BERR also recognise that Regional Skills Partnerships (RSPs) are in many cases evolving to meet the challenges of changing skills needs. The two departments are committed to supporting RSPs and have begun work to look at how they can support RSPs in this process and to ensure they continue to play an on-going partnership working role between the regional, sub-regional and local level. Both of these joint departmental projects will look at relationships with the Skills Funding Agency.

29. What will be the role of sustainable development champion bodies under the new arrangements?

The role of sustainable development champion bodies will not be prescribed centrally. This is something for each region to determine. The Defra Transformation and Transition Fund is currently supporting regions to investigate future arrangements.

30. How does Government envisage LA economic assessments working with the regional strategy?

The local economic assessments will form part of the evidence base for the development of regional strategies. Further guidance on this will be contained in the Regional Strategy guidance. (See Q.23)

31. How will the process for appraising regional strategies against the proposed single sustainable development framework work?

Defra will be working with stakeholders over the next few months to develop the single sustainable development framework and the appraisal process. This will ultimately form part of the guidance on preparing regional strategies.

Communications

32. How does Government intend to ensure clear and unambiguous messages are communicated to partners throughout the transition period to avoid different interpretations?

During the course of visits to the regions by the BERR/CLG transition team, regional partners made it clear they did not want formal advice/guidance on transition as they believe this will take too much time to draft and agree. Instead, partners asked for as much early advice as possible, to enable them to get underway with planning for the transition to the new arrangements, and for further advice to be provided in tranches, as we move through the transition period. These tranches will result in a 'compendium' of advice, which regional partners felt was a more practical and useful solution than formal advice. This FAQ forms the first tranche of this advice and will be updated as and when necessary.

Where there are regionally specific questions and issues, Government expects regional partners to work with their Government Offices to develop solutions. It believes Government Offices are best placed to advise and broker solutions for their regions, calling on CLG and BERR for advice and guidance when necessary. This advice can then be shared and drawn on by other regions as required.

Other Issues

33. Will Regional Assemblies be formally abolished under the proposals just announced?

Regional Assemblies are voluntary organisations and therefore it is not within the power of government to abolish them. However, Government will give the RDA and the Local Authority Leaders Board joint responsibility for the regional strategy, including its drafting, implementation plan and monitoring of its delivery. As a result, the key regional planning functions of the Regional Assembly will pass to the RDA and Local Authority Leaders' Board. Other residual functions will also pass to successor bodies as required and the need for Regional Assemblies will end. We will repeal any relevant legislation and transfer any funding to successor bodies.

34. Will National Park Authorities and Town and Parish Councils have a place on the new Leaders Boards?

Participating authorities in Local Authority Leaders boards will include District Councils (including Metropolitan Districts Councils), County Councils, National Parks Authorities and the Broads Authority. Town and Parish councils will be key

stakeholders in developing the regional strategy and Government will require the RDA and Local Authority Leaders' Board in each region to prepare, and comply with a statement setting out how stakeholder engagement will be managed, and it will expect the interests of Town and Parish Councils to be included.

ANNEX A

TUPE and COSOP Definitions

Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

TUPE preserves employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer. Full details can be found on the BERR website at: <http://www.berr.gov.uk/employment/trade-union-rights/tupe/page16289.html>

Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP)

COSOP applies to staff who are transferred to the private sector and those who move to different roles within the Civil Service. This document was revised in November 2007 mainly to make reference to the July 2006 TUPE Regulations.

COSOP sets out policy in relation to transfers, which the Government expects public sector organisations to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions. A copy of the document can be found here:

<http://www.civilservice.gov.uk/documents/pdf/employment/stafftransfers2.pdf>