

REPORT FOR DECISION

MEETING: EXECUTIVE COUNCIL

DATE: 14 OCTOBER 2009
28 OCTOBER 2009

SUBJECT: AGMA CONSTITUTION: PROPOSED AMENDMENTS

REPORT FROM: THE LEADER

CONTACT OFFICER: JAYNE HAMMOND, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TYPE OF DECISION: COUNCIL/EXECUTIVE (KEY DECISION)

FREEDOM OF INFORMATION/STATUS: This paper is within the public domain

SUMMARY: This report sets out proposed changes to the governance arrangements for the Association of Greater Manchester Authorities and the wider "City Region":

OPTIONS & RECOMMENDED OPTION

1. To formally endorse the proposed amendments to AGMA's Constitution as set out in this report.
2. To authorise the Chief Executive to write to the AGMA Secretary advising him/her of this Council's decision.

REASON: To progress work on making statutory city region status achieve the type of opportunities and working relationships aspired to by the AGMA Executive Board.

IMPLICATIONS:

Corporate Aims/Policy Framework:

Do the proposals accord with the Policy Framework? No

Financial Implications and Risk Considerations:	There are no direct financial or risk implications arising from the matters set out in the report.
Statement by Director of Finance and E-Government:	See above.
Equality/Diversity implications:	No
Considered by Monitoring Officer:	It is considered that the impact of the recommended options will be neutral Yes
	Article 11 of the Council's Constitution allows the Council and the Executive to establish joint arrangements.
Are there any legal implications?	Yes
Staffing/ICT/Property:	None
Wards Affected:	All
Scrutiny Interest:	All

TRACKING/PROCESS
DIRECTOR: Director of Legal and Democratic Services

Chief Executive/ Management Board	Executive Member/Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council

1. PURPOSE OF REPORT

- 1.1 This report has been prepared in order to seek agreement from the Council for proposed amendments to the Constitution of the Association of Greater Manchester Authorities (AGMA).
- 1.2 It is necessary to consider this report within the Council's own decision making process because according to AGMA's own Constitution, formally confirmed on 29 August 2008:-

17.1 This Agreement may be amended following a resolution of two thirds of the Board and also approved by two thirds of the Parties.

The first part of this requirement was confirmed by a unanimous resolution of the AGMA Executive Board at its meeting on 28 August 2009. This report now aims to fulfil the second part of that requirement; and similar reports are being considered in the other 9 AGMA member authorities.

2 RECOMMENDATIONS

2.1 Members are recommended to:-

- a. Formally endorse the proposed amendments to AGMA's Constitution which are set out in Appendix 1 to this report; and
- b. Authorise the Chief Executive to write to the AGMA Secretary advising him/her of this Council's decision.

3 BACKGROUND – AGMA'S NEW CONSTITUTION

3.1 AGMA's current Constitution was developed in 2008 in order to adapt it to be fit for purpose for what was then an emerging position of potential development of more delegation of powers and functions to city regions. In particular it was felt that AGMA's original Constitution – which had existed since 1986 -

- did not properly reflect the ambitions which the 10 authorities in Greater Manchester had expressed in terms of collaborating more effectively at a sub regional level on issues where they agreed this was necessary,
- had no legal framework which showed both a readiness to manage strategic development and financial resources delegated **down** from either a national or regional level and which underpinned our common goal of Greater Manchester becoming a world-class city region at the heart of a thriving and competitive North; and
- contained very little in terms of linking the functions and work which is done at a strategic sub regional level into a system of democratic accountability, both at a sub regional level and within individual local authorities in Greater Manchester.

3.2 In developing the new Constitution it was also recognised that AGMA needed to operate in the context of the 'sovereign' role of the existing 10 local authorities who make up AGMA. This is addressed at both the beginning and end of the new Constitution, where it is stated that the proposals:-

"are not seeking to create a separate local authority and are committed to retaining the existing structure of metropolitan districts within the combined administrative area"

and that nothing in the Constitution should place any

"restriction on the exercise by any of the parties of their statutory functions".

These statements reflect the view, often expressed in submissions to Government, that AGMA has been successful because it has been 10 authorities collaborating, without a centrally imposed governance structure. Greater Manchester is not the same as Greater London, and there has been a consistent view that an Executive Mayor at a Greater Manchester level would not be supported within AGMA authorities.

- 3.3 Since the new Constitution was adopted the Chancellor of the Exchequer announced in his Budget Report on 22 April this year that Greater Manchester would be a pilot City Region. Since then there have been significant discussions at both official and ministerial level and an agreement has been signed. The approach has been to agree priorities as part of the development of the Greater Manchester Strategy, and to ensure that programmes and resources around these shared priorities can be aligned. The overall process of engagement has enabled AGMA to highlight the critical importance of public sector reform in the delivery of these priorities - through a series of pilot projects - and to base our "asks" for changes in functions and responsibilities, where a reasonably strong evidence base exists. The intention is to show that the progression of the pilots will also add weight to the case for additional reforms going forward.
- 3.4 AGMA's new Constitution alone would not have been a determining factor in taking statutory "city region" status forward. There is a strong economic case for Greater Manchester's position, backed up by the evidence contained in the recent Manchester Independent Economic Review. Nevertheless it is also the case that the changes in the AGMA Constitution did mean that some potential issues around governance and accountability did not feature significantly in the negotiations. However there is still much work to do in making statutory city region status achieve the type of relationship between Central Government and the Greater Manchester, aspired to by AGMA's Executive Board. The agreement signed with Government provides an opportunity which would not otherwise have been available and AGMA's own ability to reform its working arrangements has partially provided the climate enabling that agreement.

4 THE CHANGES NOW PROPOSED IN AGMA'S CONSTITUTION

- 4.1 It was made clear when the new Constitution was agreed in 2008 there would be a commitment to an annual review made. The changes proposed at Appendix 1 are a response to that first annual review.
- 4.2 The changes proposed reflect a recognition that, as the new Commissions being established start to come into operation, there needs to be a more formal setting out of their accountability and relationship to the AGMA Executive Board than was set out in the initial Constitution.
- 4.3 Two other aspects of the Constitution needed changing as a result of the experience of the first year's operation and the development of the new Commissions.
- Firstly, because of the way current Local Government legislation is formulated the way in which the Commissions are established means that that they cannot – as Commissions – be delegated any decision making powers by the Executive Board. Hence the amendments now propose that decisions – if not referred to the Executive Board – are delegated to an Officer. This reflects the way in which some decisions are delegated within individual local authorities.
 - Secondly, and mirroring the way in which Executive Board meetings are held, the Commissions will be required to operate in the same way as the Executive Board in terms of issuing agendas, making available reports and public access to meetings.

5 THE REVISIONS

5.1 The proposals set out at Appendix 1 mean that:-

- Commissions would be required to provide a Work Programme for consideration and agreement by the Executive Board on at least an annual basis. These work programmes would need to include any financial requirements which had been identified by the Commission for the forthcoming year.
- At the time of agreeing the Work Programme Board members would have the opportunity to identify any matters that would be excluded from the potential to be 'referred up' to the Executive Board. At the request of Executive Board members the new clause specifically states that any matter so excluded would need agreement from 7 of the 10 Executive Board members
- Following each Commission meeting, there will be a process of preparing a record of proceedings which is made available to each Executive Board member. Board members can then - for those issues which they did not agree to 'waive' in agreeing the Commissions Work Programme - refer these to the Executive Board. The reason for referral must be stated and there is a defined process in terms of timescales for making any referral; and who can make a referral. Referral must be to the next meeting of the Executive Board in order to ensure that final resolution if any such issue is not unduly delayed by the fact of its being referred to the Executive Board.
- As explained in 4.3 above; there is now a provision proposed (in clause 8.5) that decisions are delegated to an Officer (reflecting the way in which some decisions are delegated within individual local authorities). A new clause 8.9 requires Commission meetings to operate under the same access to information arrangement as the AGMA Executive Board.
- There are two points to note on these proposals:-
 - i) if Work Programmes are annual and are to include budget requirements then there will be an obvious need to ensure that such Work Programmes are considered at an appropriate time within the cycle of the financial year; i.e. in the autumn.
 - ii) any issue from a Commission meeting referred to the Executive Board in this way would then be potentially subject to the same call in process by AGMA's Scrutiny Panel as operates for any other Executive Board decision.

6 CONCLUDING REMARKS

6.1 At the time AGMA's new Constitution was ratified in 2008 the reports considered within each authority acknowledged that the new Constitution was then AGMA's first attempt at putting together a new Constitution to manage the new way that the Leaders wished to see AGMA operating in the future. As with any new proposal it was acknowledged that there would be some things that needed changing in the light of experience. The amendments proposed are the

first illustration of recognition and commitment to adapt to ensure that AGMA's Constitution remains true to the spirit of accountability intended when it was first established. On that basis the proposed amendments at Appendix 1 are recommended for endorsement by the Council

PROPOSED AMENDMENTS TO AGMA'S CONSTITUTION

1. Delete Existing clause 8.4, which currently reads:-

- 8.4 Any Party may refer any decision of a sub committee or commission to the Board for reconsideration. The Party must set out in a Notice signed by the Chief Executive or Leader the reasons for doing so. The Notice for the avoidance of doubt must be served in accordance with clause 24 and within 5 working days of the publication of the decision.

2. Insert new clauses 8.4 to 8.9

- 8.4 Any Commission created under clause 8 of this Constitution shall be required to produce, on at least an annual basis, a Commission Work Programme for approval by the Executive Board. This Work Programme will need to include any specific budget requirements. The Executive Board will indicate, when confirming each Commission Work Programme, for which elements they are prepared to waive the process described in clauses 8.6 and 8.7 below. If agreement on issues where the Executive Board are prepared to waive the process set out in 8.6 and 8.7 cannot be reached without a vote a 2/3 majority of the Participating Parties will be needed as set out in clause 12.3 of this agreement.
- 8.5 The Executive Board shall appoint a Lead Officer in relation to each Commission with delegated authority to take all necessary actions and decisions, in consultation with the relevant Commission, to implement the Work Programme of that Commission which has been approved by the Executive Board.
- 8.6 Following each meeting of any Commission established under clause 8.1 above it will be a requirement of the Chair of the Commission, within two working days of the Commission meeting, to provide the AGMA Secretary with a record of proceedings within two working days of each meeting. The AGMA Secretary will then e-mail a record of proceedings of the meeting to all members of the Executive Board within two working days of receipt.
- 8.7 Following the issuing of any record of proceedings from a Commission meeting, any Party may, within 5 working days, refer any item considered at that meeting to the Board for reconsideration, except where it has previously been agreed that this process can be waived as set out in clause 8.4 above. The Party must set out the reasons for referral in a Notice signed by the Chief Executive or Executive Board member or named substitute appointed under clause 6.1. The notice must be served in accordance with clause 24 of this Constitution.
- 8.8 Any proposed decision on any such issue referred to the Executive Board under clause 8.7 above must be considered at the next meeting of the Executive Board and shall not take effect until after the Executive Board has considered the matter.
- 8.9 In relation to any Commission set up under clause 8.1 above, notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972 as appropriate.

3. Add the following definition to section 2.

'Commission Work Programme' means an annual Work Programme required to be agreed by the Executive Board under section 8.4 of this Constitution. One will be required for each Commission set up under section 8 of this Constitution. It will set out the main areas of work, objectives and targets for each Commission for the forthcoming year plus any financial requirements in terms of contributions from the Parties, to be determined under clause 16.2 of this Constitution. Commissions may, at their discretion or if required by the Executive Board, seek to formally amend or revise their Work Programme during each year.

[NB For information, clause 24 referred to above reads:-

Any notice, demand or other communication required to be served under this Agreement shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post or email or facsimile transmission to the address of the AGMA Policy & Research Unit at the Wigan Investment Centre, Waterside Drive, off Swan Meadow Road, Wigan WN3 5BA. If so sent any such notice, demand or other communication shall, subject to proof to the contrary, be deemed to have been received by the addressee the time of personal delivery or on the second working day after the date of posting or unsuccessful transmission as the case may be.]

List of Background Papers:-

Draft report from the AGMA Policy Unit.

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