

EXPLANATORY MEMORANDUM TO

THE WEST OF ENGLAND COMBINED AUTHORITY ORDER 2017

2017 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Order establishes the mayoral West of England Combined Authority (“the Combined Authority”) across the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire. It also provides for the governance arrangements of the Combined Authority, including that the area of the Combined Authority is to have a directly elected Mayor (“the Mayor”), and for the date of the first and subsequent elections to the role of Mayor and the term of office. Finally, the Order also provides for certain functions of the Combined Authority’s constituent councils and certain public authorities to be exercised by the Combined Authority, and certain specified functions of the Combined Authority to be exercisable only by the Mayor of the Combined Authority.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The report required by section 105B(9) of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) is attached to this Explanatory Memorandum.

Other matters of interest to the House of Commons

- 3.2 This instrument applies only to England.
- 3.3 The instrument applies only to England as it is entirely concerned with local government areas in England. Section 103(2) of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) provides that a combined authority may be established in relation to local government areas in England. The instrument does not give rise to minor or consequential effects outside England.
- 3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P, the subject-matter of this instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter; or the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament; or the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.
- 3.5 The Department has reached this view because it considers that the primary purpose of the provisions in this instrument relate to local government, which is within the

devolved legislative competence of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales.

4. Legislative Context

4.1 Part 6 of the 2009 Act, as amended by the Cities and Local Government Devolution Act 2016 (“the 2016 Act”), provides for the establishment of combined authorities for the areas of two or more local authorities in England.

4.2 Combined authorities are bodies corporate which may be given power to exercise specified functions of a local authority, and power to exercise specified functions of any other public authority

4.3 The Order cites the following powers:

- Section 103(1) of the 2009 Act (Combined authorities and their area): the Secretary of State may by order provided for the creation of combined authorities.
- Section 104(1)(a) of the 2009 Act (Constitution and functions: transport): the Secretary of State may by order make provisions about the constitutional arrangements of a combined authority, this includes membership, remuneration, voting powers and executive arrangements of a combined authority.
- Section 105(1) of the 2009 Act (Constitution and functions: local authority functions generally): the Secretary of State may by order provide for a function of a local authority that is exercisable in relation to the combined authority’s area to be exercisable by the combined authority in relation to the combined authority's area.
- Section 105(3) of the 2009 Act (Constitution and functions: local authority functions generally): the Secretary of State may by order make provision for the costs of a combined authority to be met by its constituent councils, and the basis on which the amount payable by each constituent council is determined.
- Section 105A(1)(a), (1)(b), (2) and (3)(b) of the 2009 Act (Other public authority functions): the Secretary of State may by order provide for a function of a public authority, that is exercisable in relation to a combined authority's area, to be a function of the combined authority, and to make provision by order conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area.
- An order under subsection (1)(a) or 1(b) may include further provision about the exercise of the function, including provision for the exercise of the function to be subject to conditions or limitations. Subsection 3(b) provides that an order under subsection (1)(a) may include provision for the function to be exercisable by the combined authority concurrently with the public authority.
- Section 107A(1) and (4) and 107B(3) of the 2009 Act (Power to provide for election of mayor): the Secretary of State may by order provide for the creation of the position of a mayor for the area of a combined authority with the consent of the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority).

- Section 107D of the 2009 Act (Functions of mayors: general): the Secretary of State may by order provide for any function of a mayoral combined authority to be a function exercisable only by the mayor; such an order may provide certain conditions or limitations on the exercise of functions; such an order may provide for members or officers of the combined authority to assist the mayor in the exercise of general functions; confer ancillary powers on the mayor for the purposes of the exercise of general functions; and authorise the mayor to appoint one person as the mayor's political adviser.
- Section 108 and 109 of the 2009 Act (Review by authorities: new combined authority; and Preparation and publication of scheme: new combined authority): enables authorities wishing to establish a new combined authority to undertake a review of the exercise of statutory functions in relation to an area (“the review area”) with a view to deciding whether to prepare and publish a scheme for the establishment of a combined authority under section 109.
- Section 110 of the 2009 Act (Requirements in connection with establishment of combined authority): provides that before establishing a combined authority the Secretary of State must carry out a public consultation unless:
 - a scheme has been prepared and published under section 109 of the 2009 Act;
 - the constituent councils carried out a public consultation in connection with the proposals contained in the scheme and provided the Secretary of State with a summary of the consultation responses; and
 - the Secretary of State considers that no further consultation is necessary.

The Secretary of State may make an order establishing a combined authority only if:

- the Secretary of State considers that doing so is likely to improve the exercise of statutory functions in the area or areas to which the order relates;
- the constituent councils consent; and
- any consultation required has been carried out.

The Secretary of State is also required to have regard to the Scheme prepared by the authorities seeking to establish a combined authority and to the need:

- to reflect the identities and interests of local communities, and
- to secure effective and convenient local government.

- Section 114 of the 2009 Act (Incidental etc provision): the Secretary of State may by order make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under this Part or for giving full effect to such an order.
- Section 117(5) of the 2009 Act (Orders): an order under Part 6 of the 2009 Act may include provision amending, applying (with or without modifications), dis-applying, repealing or revoking any enactment whenever passed or made.
- Paragraph 3 of Schedule 5B to the 2009 Act provides that the Secretary of State may make provision for the dates on which and years in which mayoral elections

for the area of a combined authority may or must take place, the intervals between elections for the return of a mayor and the term of office of a mayor.

- 4.4 Orders under section 105 and 105A may make provision for the function to be exercisable by the combined authority either generally or subject to such conditions or limitations as may be specified in the order. When laying before Parliament an order which confers public authority functions on a combined authority, the Secretary of State must also place a report before Parliament which sets out the effect of the order and why the Secretary of State considers it is appropriate to make it. The report must include any consultation and information which has been taken into account, as well as any other evidence or contextual information that the Secretary of State considers it appropriate to include.
- 4.5 Parliamentary approval (through a resolution of each House) is required before the Secretary of State can make the Order establishing the combined authority.

5. Extent and Territorial Application

- 5.1 This instrument extends to England and Wales as the relevant powers being exercised extend to England and Wales.
- 5.2 The territorial application of this instrument is set out in Section 3 under “Other matters of interest to the House of Commons”.

6. European Convention on Human Rights

- 6.1 Andrew Percy, Parliamentary Under Secretary of State at the Department for Communities and Local Government, has made the following statement regarding Human Rights:

“In my view the provisions of the West of England Combined Authority Order 2017 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 Combined authorities may exercise specified functions across a number of local government areas. They provide a stable, efficient, and accountable form of governance both to underpin the local authorities’ collaboration and to facilitate that partnership with business, particularly with the Local Enterprise Partnership for the area, which is essential for the effective promotion of economic growth.
- 7.2 The Government committed in its 2015 manifesto to “devolve powers and budgets to boost local growth in England...to large cities which choose to have elected mayors”. The Government considers such devolution will boost economic growth, increase public service efficiency, improve Britain’s weak productivity, and rebalance the economy, as the Government builds an economy that works for everyone. Devolution will provide local leaders with the levers they need to boost economic growth. It is local areas themselves who are often best placed to take decisions relating to the area about the use of public money and assets, support for business, infrastructure investment, and decisions on housing. With devolution, Government investment in economic development can be tailored directly to the individual challenges and opportunities particular places and communities face and can effectively be augmented by private sector investment. Devolution will allow greater local

integration of public service delivery, increasing public service efficiency and improving outcomes.

- 7.3 On 16 March 2016 the Government and the West of England leaders – the leaders of the councils of Bath and North East Somerset, Bristol City, North Somerset, and South Gloucestershire – agreed the West of England Devolution Deal.¹ On 7 June 2016 North Somerset Council decided not to ratify the deal and the remaining three councils have proceeded to implement the deal agreement without North Somerset Council. The Devolution Deal provides the potential for further devolution over time and for the reform of public services to be led by the West of England Combined Authority.
- 7.4 On 21 June 2016 the constituent councils – councils for the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire – published a governance review and a scheme² setting out their proposals for a mayoral combined authority. The governance review concluded that a mayoral combined authority for the West of England would improve the exercise of functions such as housing, transport, planning, and economic development and regeneration. It would also enable improved strategic overview of powers and resources to generate economic growth in the West of England.
- 7.5 The Devolution Deal provided, and conditional on the legislative and statutory processes, for a directly elected Mayor for the West of England Combined Authority, with the first election taking place on 4 May 2017. The elected Mayor would take office on 8 May 2017 and become the Chair of the Combined Authority.
- 7.6 The Government considers that an elected mayor ensures strong democratic accountability, provides a powerful advocate for the local area, and is pivotal to offering residents of an area that single point of accountability which is essential where wide ranging powers are devolved.
- 7.7 The Order is part of the legislation necessary to deliver the West of England Devolution Deal. The Order establishes a mayoral combined authority for the West of England, which comprises the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire. The proposal to establish a combined authority was made by the three councils of Bath and North East Somerset, Bristol City and South Gloucestershire pursuant to the provisions of the 2009 Act. As required by that Act, the three councils have consented to the Order. The Order laid in draft will, if approved by Parliament, be made pursuant to the provisions of the 2009 Act, as amended by the 2016 Act. The Secretary of State intends, subject to the relevant statutory requirements and Parliamentary approval, to make further orders to implement the West of England Devolution Deal.
- 7.8 For the Order, the Secretary of State is satisfied that the statutory conditions provided for in the 2009 Act, as amended by the 2016 Act, have been met. These conditions included that no further consultation is required on the proposals; that the proposals are likely to improve the exercise of statutory functions in the Combined Authority area; that where proposals relate to local authority functions and constitutional

1

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/508112/160315_West_of_England_Devolution_Agreement_Draft_-_FINAL.pdf

² <http://www.westofenglanddevolution.co.uk/wp-content/uploads/2016/07/Governance-Review-for-Bristol-Bath-South-Gloucestershire-2016.pdf>

changes they are appropriate, having regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government. Specifically, this Order makes provision, as described in the following paragraphs, to establish a mayoral combined authority and confers on the Combined Authority functions, which cover: transport (7.11 – 7.13), housing and planning (7.14 – 7.27), and economic development (7.30).

- 7.9 The Order enables the Combined Authority to exercise a number of functions exercised by the constituent councils and other public authorities in relation to the Combined Authority area as reflected in the Devolution Deal. Provision in the 2009 Act enables functions to be conferred on the Combined Authority, to be exercisable by the Mayor individually, or by the Combined Authority (which is chaired by the Mayor).
- 7.10 The Order provides for the funding of the Combined Authority in relation to the functions conferred by the Order. It does this by requiring the constituent authorities to meet the costs of the Combined Authority reasonably attributable to its functions. The Order then provides that the constituent councils may agree the respective proportions they will pay; in absence of this agreement, the proportions are to be calculated by reference to their respective shares of the total resident population, as estimated by the Statistics Board. The Order also recognises that certain Combined Authority transport functions may be funded through a levy; it is intended to make regulations under Section 74 of the Local Government Finance Act 1988 empowering the Combined Authority to issue such a levy if it so wishes.
- 7.11 The Order makes the following provisions in relation to transport functions to be exercised by the Combined Authority:
- the functions of the constituent councils specified in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985;³ and
 - the functions of the constituent councils as local transport authorities specified in Part 2 (local transport) of the Transport Act 2000.
 - the functions specified in sections 63 (functions of local councils with respect to passenger transport in areas other than integrated transport areas and passenger transport areas) and 64 (consultation and publicity with respect to policies as to services) of the Transport Act 1985, functions to be held jointly with the constituent councils.
 - the functions of the constituent councils specified in section 6 of the Highways Act 1980 (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc.)⁴ are exercisable by the Combined Authority in relation to the Area.
 - the functions of the constituent councils as local highway authorities specified in section 8 of the Highways Act 1980 (power to enter into agreements with local highway authorities and strategic highways companies for the doing of

³ 1985 c.67.

⁴ Section 6 was amended by section 8 of, and paragraph 4 of Schedule 4 to, the Local Government Act 1985 (c.51), section 22 of, and paragraph 2 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19), section 1 of, and paragraph 7 of Schedule 1 to, the Infrastructure Act 2015 (c.7), and S.I. 1995/1986.

certain works)⁵ are exercisable by the Combined Authority in relation to the Area.

- 7.12 The Devolution Deal includes the commitments that the Mayor of the West of England will take responsibility for a devolved and consolidated transport budget, and that the Mayor would take responsibility for an area-wide local transport plan.
- 7.13 In giving effect to this commitment, the Order makes various provisions related to the Mayor's transport responsibilities in the West of England. This enable the Mayor to:
- exercise the functions of a Minister of the Crown specified in section 31 of the Local Government Act 2003 (power to pay grant), to pay grants to the consistent councils of the Combined Authority, with the condition that the Mayor has regard to the desirability of ensuring that the council has sufficient funds to facilitate the effective discharge of those functions; has regard to any other sources of funding available to the council for expenditure incurred, or to be incurred, in relation to the exercise of highway functions; and has regard to the most recent determination by the Secretary of State of an amount of grant paid to the council for the delivery of highway functions: section 31 of the Local Government Act 2003, a function to be held concurrently with the Secretary of State.
 - exercise functions of the Combined Authority in sections 108 (local transport plans), 109 (further provision about plans: England) and 112 (plans and strategies: supplementary) of the Transport Act 2000.
- 7.14 The Devolution Deal included the commitment that the Mayor of the West of England would exercise strategic planning powers to support and accelerate the area's housing and planning ambitions, and the power to develop a spatial development strategy for the area.
- 7.15 To support this ambition, the Order provides for this by conferring functions corresponding to those exercised by the Mayor of London under Part 8 of the Greater London Authority Act 1999 in Greater London, with necessary modifications to apply the provisions to the West of England. The functions provide that the development of a spatial development strategy is to be a function exercisable only by the Mayor, and that the strategy must have the unanimous agreement of the Combined Authority before it is adopted. The Order provides that this function will come into force on 8 May 2018. The postponement on the exercise of this function is to allow the emerging Joint Spatial Plan (including North Somerset Council) to develop in advance of the development of the Spatial Development Strategy. This approach is in line with the Devolution Deal commitment to recognise the weight of the existing Joint Spatial Plan.
- 7.16 The Devolution Deal states that the Mayor's power will include the ability to be consulted on or call-in planning applications identified as being of potential strategic importance in the West of England. As stated in the Devolution Deal, it is the policy intention that these are mayoral functions and as these functions relate to the spatial development strategy these too will come into force on 8 May 2018.

⁵ Section 8 was amended by section 22 of, and paragraph 3 of Schedule 7 to, the Local Government (Wales) Act 1994, section 8 of, and paragraph 5 of Schedule 4 to, the Local Government Act 1985, and section 1 of, and paragraph 8 of Schedule 1 to, the Infrastructure Act 2015.

- 7.17 In giving effect to this commitment, this Order confers corresponding functions to those exercised by the Mayor of London under sections 2A, 2B, 2C, 2E 2F; section 74 of the Town and Country Planning Act 1990; and the Town and Country Planning Order 2008 onto the Mayor of the West of England. These powers are equivalent to referral and call-in, ensuring that the Mayor has oversight of development proposals that use the planning system, and that these proposals accord with the growth goals of the West of England and the Spatial Development Strategy.
- 7.18 The Order confers functions in respect of the Mayor of London's powers to be consulted on, determine or refuse planning applications of Potential Strategic Importance (PSI) to the West of England Combined Authority, to be exercised by the Mayor. These functions provide that the Mayor may determine applications in place of the local planning authority. The Order specifies that these applications shall be limited to developments that are cross-boundary linear developments identified in the Spatial Development Strategy and / or will be safeguarded schemes or schemes of strategic performance (these relate specifically to the development of surface rail, bus ways, rapid transit, public highway infrastructure, bridges, and flood defences).
- 7.19 The Devolution Deal states that in order to realise the West of England's housing and planning ambitions, the Mayor will have the power to create Mayoral Development Corporations (MDCs), which will support the delivery of strategic sites in the West of England.
- 7.20 In giving effect to this commitment, this Order provides for the conferral of the public authority functions (functions of the GLA, particularly the Mayor of London to designate mayoral development areas and create MDCs on the Combined Authority. Conferring these functions is the first step in establishing an MDC in the West of England and; a further order is necessary to create such a body if the Combined Authority decides to exercise the functions being given to them. The timeline for this order would be dependent on decisions to be taken the Combined Authority. As stated in the Devolution Deal, it is the policy intention that this is a mayoral function and as such, these functions will come into force on 8 May 2017, the date on which the Mayor will take office. Designation of an MDC is subject to agreement from a Combined Authority member representing the area(s) in question.
- 7.21 The relevant powers concerning MDCs are established in the 2011 Act (Part 8, Chapter 2; Schedule 21 and Schedule 22), specifically for the Mayor of London to exercise in relation to the Greater London area. This Order uses the provisions in the 2009 Act, as amended by the 2016 Act, to confer the corresponding functions from the 2011 Act on the Combined Authority, to be exercised by the Mayor. The Order provides that:
- references in the 2011 Act to the Greater London Authority (GLA) and the London Assembly are to be read as references to the Combined Authority;
 - the Combined Authority has in relation to its area the corresponding functions that the Mayor of London has in relation to London;
 - the Mayor must exercise these functions conferred on the Combined Authority;
 - the Mayor may only exercise the functions conferred on the Combined Authority if the Combined Authority member for any constituent council whose council area contains any part of the area to be designated consents to the exercise of the functions;

- the 2011 Act provides that the Mayor of London can designate an area if the designation of the area is considered expedient for furthering any one or more of the GLA’s principal purposes. As combined authorities do not have “principal purposes”, the Order replaces this with a condition that the Mayor must consider that such designation would further “economic development and regeneration in the Combined Authority area”; and
 - the persons to be consulted before an area may be designated have been changed to reflect the conditions in the West of England.
- 7.22 In replacing the London Assembly with the Combined Authority it is considered appropriate that the Mayor should require the consent of the Combined Authority member for any constituent council whose council area contains part of an area to be designated as a mayoral development area. This is a commitment in the Devolution Deal agreed between the Government and local leaders, and the provisions in the 2011 Act reflect the circumstances in London, which has its own Assembly with 25 members elected to represent either constituencies or the pan-London area. The Combined Authority does not have an assembly and covers a smaller geography with a membership of three constituent councils, each to be represented on the Combined Authority board by a member they have nominated. Given the size of the board’s membership, if member(s) in an area within a proposed mayoral development area did not provide consent, this would mean the Mayor would lack substantial support from the local area to proceed with the proposals.
- 7.23 The Devolution Deal includes the commitment that the Mayor will be able to undertake compulsory purchase to support and accelerate the housing and planning ambitions in the West of England. Conferring land acquisition, regeneration and disposal powers on the Combined Authority (to be exercised concurrently with the local authorities) will provide greater flexibility across the West of England and enable development and regeneration to be driven across the functional economic area of the West of England.
- 7.24 In giving effect to the Devolution Deal commitment, this Order confers powers of land acquisition and disposal on the Combined Authority. This will support the Combined Authority’s objective to stimulate economic growth, by driving development and enabling regeneration across the area.
- 7.25 This includes land acquisition and disposal powers under:
- The Housing and Regeneration Act 2008 – These will be conferred on the Combined Authority, functions to be held concurrently with the Homes and Communities Agency.
 - The Town and County Planning Act – These enable a local authority to acquire land for planning purposes and enable an authority to appropriate land acquired under other powers for planning purposes so that the land can be disposed of to developers.
 - The Housing Act 1985 – These will be conferred on the Combined Authority, functions to be exercised concurrently with the constituent council in which the land is located.
- 7.26 Each instance of the Mayor’s use of a Compulsory Purchase Order will be subject to the agreement of each Combined Authority member representing the constituent council or councils in which the purchased land is located. As with local authority and

Homes and Communities Agency powers, the Mayor may only implement a Compulsory Purchase Order with the consent of the Secretary of State.

- 7.27 The Order permits the Mayor to appoint one person to act as political adviser, for the period of the Mayor's term; or until the Mayor leaves office, if the Mayor leaves before the end of their term. This ensures the Mayor has access to political advice, in addition and separately to appropriate officer support, and within proportionate resource.
- 7.28 The Order provides that the General Power of Competence exercisable by the mayoral combined authority under Part 1 of the Localism Act 2011 is also exercisable by the Mayor. This provision has the effect of confirming the Mayor's power to do things appropriate or incidental to those functions indicated as exercisable by the Mayor.
- 7.29 The Order provides for the West of England Combined Authority to have economic development and economic regeneration functions. All combined authorities established under the 2009 Act have taken on functions relating to economic development and regeneration, and these provisions will allow for economic development and regeneration to be driven across the functional economic area in the West of England.
- 7.30 The Order provides for transitional arrangements to cover the period from establishment of the Combined Authority to the Mayor taking office on 8 May 2017. These provisions, relating to procedures and voting arrangements, require that any mayoral functions to be exercised before the Mayor takes office are subject to unanimous agreement by the members of the Combined Authority. These arrangements have been put in place as an interim measure to assist the Combined Authority in its decision making and operation.
- 7.31 These transitional arrangements also provide for the position of Chair and Vice-Chair of the Combined Authority in advance of the Mayor taking office on 8 May 2017. This will allow the Combined Authority to effectively exercise certain functions and hold meetings prior to this date. The Order abolishes these posts with effect from 8 May 2017.

8. Consultation outcome

- 8.1 As required by statute, the West of England councils undertook a consultation on the proposals for establishing a mayoral combined authority and conferring functions on it, as contained in the scheme, which they published on 4 July 2016. The three councils led the consultation, delivered in conjunction with other partners (such as, for example, the LEP). The consultation ran for six weeks from 4 July to 15 August 2016.
- 8.2 The consultation was undertaken both digitally and through paper copies which were available in public buildings such as libraries, citizen service points, one stop shops and other local hubs. The primary mechanism was through digital channels (an online consultation was hosted on the front page of the West of England Devolution website and links were available from each of the council websites) and over 100 community organisations were contacted to raise awareness of the consultation. The councils alerted residents and businesses to the consultation throughout the six weeks using social media, emailing registered businesses, posting a news item in the BBC Economic Development bulletin, emailing local residents and providing briefing to news outlets.

- 8.3 In addition, supporting communication activity was carried out across the areas of the three councils to engage key stakeholders and residents. Twelve informative ‘drop-in’ events were held during the consultation period where people had the opportunity to ask questions and request further information. The consultation was also promoted at three high-profile regional events organised in conjunction with VOSCUR (an umbrella body which represents Bristol’s voluntary and community groups and social enterprises), Business West and the LEP Construction Sector which the leaders of the councils attended to answer questions. The WoE councils also secured media coverage from nineteen different outlets including BBC Radio Bristol and BBC Points West.
- 8.4 1,894 digital responses were received and 117 paper responses. Of the total responses received, 215 were from businesses and eighteen stakeholder representations were received, including a letter co-signed by business organisations (Business West, the Federation of Small Businesses) and businesses operating in the West of England (Rolls-Royce, Airbus, GKN Aerospace) and, individual letters from businesses including Taylor Wimpey and Gladman Developments Limited. The West of England councils produced a summary of the consultation responses⁶ which included an analysis of responses to each of the eleven multiple choice answer questions and an analysis of the additional comments received for each question.
- 8.5 The consultation responses indicated a preference for the establishment of the mayoral combined authority to improve decision making and accountability. A majority of respondents agreed that a mayor would provide increased accountability and transparency for decisions affecting the region and that establishing the West of England Combined Authority would strengthen the way the West of England councils work together. The majority of respondents also thought a combined authority would improve strategic decision making and lead to more economic growth. The Government considers the positive responses to these three questions regarding the mayoral model specifically; clearly demonstrate local support for the both the establishment and the devolution of funding, powers and responsibilities to the West of England Combined Authority.
- 8.6 The written feedback highlighted the key themes of concern as the cost of the new model; that it represented a new unnecessary tier of local governance; and referred to the recent referendum in Bath & North East Somerset where residents voted against having a mayor. The Government considers that any costs of the model would be wholly proportionate to the significant powers and additional budgets, including an investment fund of £30million per year for 30 years, being devolved to the area; that the model is essential to provide the governance and accountability for these devolved powers and budgets; and that a new combined authority mayor, exercising powers over a wide area, is wholly different from an elected mayor to lead a local authority as was proposed for Bath & North East Somerset. Moreover, the Government notes the positive responses to the three questions regarding the mayoral model clearly demonstrate local support for devolution to the West of England Combined Authority.
- 8.7 As statute requires, the Secretary of State was sent the local areas’ summary of responses to the consultation, to which he has had regard when deciding the provisions to include in the Order. In accordance with the requirements at section 110(2) of the 2009 Act, the Secretary of State has also reviewed the three councils’

⁶ <http://www.westofenglanddevolution.co.uk/wp-content/pdf/BD8633-Summary%20of%20Consultation%20Responses%20D3.pdf>

consultation, and is of the view that no further consultation is necessary. The Secretary of State is satisfied that the three councils' consultation was sufficient in terms of its length (six weeks); the mechanisms used (online and paper versions and responses); the promotional activity (posters, media releases, intranet articles, social media, direct emails to key stakeholders and reminders); and the analysis undertaken.

- 8.8 The Secretary of State has decided not to implement by the Order all of the proposals that formed part of the scheme, which was consulted on by the three councils. In order to devolve the powers agreed in the Devolution Deal (regarding bus franchising and smart ticketing, business rates and skills) and implement the commitment at Autumn Statement to extend borrowing powers to cover the Combined Authority's new functions, the Government will seek Parliament's approval to further legislation. The other proposals, principally those relating to powers for borrowing, devolution of budgets for adult skills and bus franchising, which have not been implemented would be taken forward in future legislation, subject to the statutory tests being met.

9. Guidance

- 9.1 No guidance is necessary to accompany this Order. The Government continues to work with colleagues in the Combined Authority area to support their implementation of the Devolution Deal.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 As regards impact on the public sector, the Combined Authority should lead to operational efficiencies that could lead to reduced costs. Indeed, the statutory tests require the Secretary of State to consider that establishing the Combined Authority is likely to improve the exercise of statutory functions in the areas to which an order relates and the Secretary of State is required, to have regard to the need to secure effective and convenient local government. As explained at paragraph 7.8, the Secretary of State is satisfied that these tests are met in relation to the provisions of the Order.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 This Order provides for the establishment of a mayoral combined authority and for functions to be devolved on that Combined Authority. The Combined Authority will be required, under the devolution agreements reached with Government, to put in place an extensive programme of evaluation, agreed with HM Treasury, of the devolution agreement, including the new governance arrangements.

13. Contact

- 13.1 Hannah Duffy at the Department for Communities and Local Government (Telephone: 0303 444 3861 or email: Hannah.Duffy@communities.gsi.gov.uk) can answer any query regarding the instrument.