

The Greater Manchester Combined Authority (Functions and Amendment) Order 2016

About this report.

Section 105B of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”), inserted by section 7 of the Cities and Local Government Devolution Act 2016, which sets out the procedure for making orders under section 105A of the 2009 Act, provides that at the same time as laying a draft of a statutory instrument containing an order under that section before Parliament, the Secretary of State must lay before Parliament a report explaining the effect of the order and why the Secretary of State considers it appropriate to make the order. The report must include a description of any consultation taken into account by the Secretary of State; information about any representations considered by the Secretary of State in connection with the order; and any other evidence or contextual information that the Secretary of State considers it appropriate to include.

This report accompanies the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 which is to be made, subject to Parliament’s approval, under provisions within the 2009 Act including section 105A.

1 Description of the Combined Authority

1.1 The Greater Manchester Combined Authority (“GMCA”) was established on 1 April 2011 by the Greater Manchester Combined Authority Order 2011 (S.I. 2011/908) as amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960), to enable co-ordination and integration of economic development, regeneration and transport functions. The GMCA is constituted of the local authorities for the areas of Bolton, Bury, Oldham, City of Manchester, Rochdale, City of Salford, Trafford, Tameside, Stockport and Wigan.

1.2 Devolution deals - agreements to devolve a range of powers and responsibilities and establish new governance arrangements to deliver them - were agreed between GMCA and the Government in November 2014, July 2015, November 2015, and March 2016 to confer a number of local authority and public authority functions on GMCA, for GMCA to be led by an elected mayor, and for the mayor to take on the existing role of Greater Manchester Police and Crime Commissioner.

1.3 The Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448) – which was made in March 2016 - provides for there to be a mayor for the area of the GMCA who will also take on the existing role of the Police and Crime Commissioner, and specifies the term of office for the mayor, the dates on which elections for the return of a mayor shall take place and the intervals between elections. The first election is to take place on 4 May 2017 and the mayor will take office on 8 May 2017, from which date the separate position of the Police and Crime Commissioner is abolished.

1.4 The provisions in this Order confer on the GMCA some of the functions set out in the deals, and put certain constitutional arrangements in place for the Authority.

2 Conferral on GMCA of public authority functions under section 105A of the 2009 Act (Other public authority functions)

2.1 Section 105A(1)(a) of the 2009 Act empowers the Secretary of State by order to make provision 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.

2.2 Section 105A(1)(b) of the 2009 Act further provides that the Secretary of State may by order make provision for 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.

2.3 Section 105A(2)(a) of the 2009 Act provides that an order may include further provision about the exercise of the function, including provision for the function to be exercisable by the public authority or combined authority subject to conditions or limitations specified in the order.

2.4 Section 105A(3) of the 2009 Act provides that the provision for the exercise of the function that may be included in an order under section 105A(1)(b) may include, in particular, provision for the function to be exercisable by the combined authority concurrently with the public authority.

2.5 Section 114 of the 2009 Act empowers the Secretary of State by order to make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under Part 6 of that Act or for giving full effect to such an order. Section 117(5) of the 2009 Act provides that 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. These powers have been used to modify the application of the provisions in the Housing Act 1985, the Local Government and Housing Act 1989, the Town and Country Planning Act 1990, the Greater London Authority Act 1999, the Planning and Compulsory Purchase Act 2004 and the Housing and Regeneration Act 2008 to the GMCA.

3 Effect of the order; considerations informing the Secretary of State's decision

3.1 Development of a spatial development strategy

3.1.1 Sections 334 to 338 of the Greater London Authority Act 1999 contain provisions relating to the preparation of a spatial development strategy for Greater London. These provisions require the Mayor of London to produce a spatial development strategy: an overall strategic plan for London, setting out an integrated economic, environmental, transport and social framework for the development of London for future years.

3.1.2 The Devolution Deal agreed between the Government and Greater Manchester on 3 November 2014 agreed that the new directly elected mayor would have powers to create a statutory spatial framework for Greater Manchester which would act as the framework for managing planning across the whole Greater Manchester area. In its governance review and scheme, published for consultation on 21 March 2016, GMCA proposed that the functions in Part 8 of the Greater London Act 1999 should be conferred on to the GMCA, to be exercisable by the Mayor subject to unanimous agreement from Combined Authority members. In material provided by the GMCA to the Secretary of State on 20 May 2016 on the intended use of the planning powers proposed for conferral to it, the GMCA explained that in 2014 its constituent councils decided to prepare a joint local plan for the area; delivery of this function would be improved by providing for the GMCA mayor to adopt a spatial plan equivalent to the Mayor of London's spatial development strategy which would cover planning issues that are better decided jointly by the combined and constituent authorities. The GMCA also explained that the area is a highly developed urban area, in which cross boundary cooperation is vital to identify strategic sites for housing and employment, to support Greater Manchester's vision for growth.

3.1.3 Respondents to GMCA's consultation on their detailed proposals for new functions to be conferred on the combined authority and constitutional changes, which ran from 21 March until 18 May 2016, were supportive on the GMCA's proposals around planning – of the 50 responses to planning / housing / regeneration issues within the scheme, 37 were supportive of the proposals; and 12 (71%) key stakeholders were supportive. Supportive comments included that: *“the spatial development strategy looks to be the right way to go in identifying sites and remove certain red tape for developers....”*, and – from the National Housing Federation – *“we strongly support planning, housing and regeneration powers being devolved to GMCA”*.

3.1.4 The Bruntwood and Peel property group responded that the plan *“has the potential to deliver sustainable growth and provide clarity and certainly to guide investment over the long term by the public and private sector and will given local communities a clear view on how GM's growth will be achieved...It is vital that [the spatial plan] is positively prepared on time and delivers the growth and rebalancing that Greater Manchester's wider and strategies embrace”*. Historic England thought that this was *“a unique opportunity to make sure that there is a long term plan that embraces change, enhances its important heritage assets and retains individual character identity, whilst optimising opportunities for growth”*.

3.1.5 Having had regard to the governance review and scheme, the summary of the consultation responses and additional material detailing intended use of the planning powers to be conferred provided by the GMCA on 20 May 2016, the Secretary of State considers that the conferral of the London Mayor's powers regarding a statutory spatial development strategy on the GMCA would support an improvement of spatial planning functions in Greater Manchester, by meeting the objectives of cross border co-operation, a more strategic approach to the identification of land for housing and employment, that it is capable of delivery across local authority boundaries, and that it is appropriate to propose to make an order conferring these functions, under powers in section 105A(1)(b) of the 2009 Act.

3.2 Land acquisition and disposal

3.2.1 Chapter 1 of the Housing and Regeneration Act 2008 (the 2008 Act) establishes the Homes and Communities Agency (HCA), and provides that the HCA will operate across England, with a view to meeting the needs of people in England, by:

- improving the supply and quality of housing;
- securing the regeneration or development of land or infrastructure;
- supporting in other ways the creation, regeneration or development of communities or their continued well-being; and
- contributing to the achievement of sustainable development and good design.

3.2.2 Chapter 2 of the 2008 Act gives the HCA powers:

- to provide housing or other land;
- for regeneration;
- for the development or effective use of land; and
- in relation to infrastructure.

3.2.3 In their scheme and governance review, published for consultation on 21 March 2016, the GMCA requested that the Secretary of State makes provision for certain functions of the HCA that are exercisable in relation to the GMCA's area to be functions of the GMCA. The functions are to be exercised concurrently with the HCA. The Greater Manchester Strategy 2013 sets out the GMCA's vision that the "Greater Manchester must be competitive... ensuring land is available in locations attractive to the market", and to promote housing growth.

3.2.4 Of the 17 responses on this issue to the GMCA's consultation from key stakeholders, 12 (71%) were supportive of the proposals. The National Housing Federation "*strongly support planning, housing and regeneration powers being devolved to GMCA*", and the HCA was supportive of the GMCA having these compulsory purchase powers – stating that "*the GMCA's CPO powers should be widely drawn... to ensure that the widest regeneration objectives can be achieved within the planning regime*".

3.2.5 The GMCA provided on 20 May 2016 additional information detailing the intended use of the planning powers proposed to be conferred on to it (see paragraph 3.1.2 above). The GMCA comment that it would seek to work with the Homes and Communities Agency to enable the prioritisation of schemes to improve the delivery of housing and meet the needs of the Greater Manchester area.

3.2.6 Having had regard to the governance review and scheme, the summary of consultation responses, and additional material detailing the intended use of the planning powers to be conferred on it provided by the GMCA on 20 May 2016, the Secretary of State considers that conferral of the land acquisition and disposal functions of the HCA, to be exercised concurrently with the HCA, will lead to an improvement in the exercise of these statutory functions, by providing the GMCA with powers to act across its area to enable housing and other development.

3.3 Transport

3.3.1 In its governance review and scheme, published for consultation on 21 March 2016, the GMCA proposed the conferral of Secretary of State powers under section 154 of the Transport Act 2000 to administer the Bus Service Operators Grant (BSOG) for services operated within Greater Manchester. BSOG is a grant paid to the operators of eligible bus services and community transport organisations to help them recover some fuel costs; BSOG helps operators keep fares down and enables operators to run services that might otherwise be unprofitable. The GMCA explained in the narrative which they provided to the Secretary of State on 9 May 2016 that the powers would be important to support their early engagement with bus operators in Greater Manchester, in anticipation of a possible move to the franchised model, which was agreed in the November 2014 devolution deal. The franchised model is to be enabled in separate legislation, subject to passage of the Bus Services Bill through Parliament. The GMCA's representations explain how having this power will *"mitigate against unpredictable and potentially disruptive market behaviour in any transition to a franchised network"* and explains how *"transfer of BSOG administration may act as a deterrent to encourage high levels of professional conduct in the market being maintained during this period."*

3.3.2 The GMCA has confirmed that *"the transfer of powers proposed is simply an administrative function and no changes will be made to the methodology involved in calculating each operator's BSOG award which is prescribed by the DfT"*, i.e., that in the GMCA taking on administration of the grant there will be no change in outcomes for operators, and explained how these powers would assist *"being able to gain valuable insight and the additional scrutiny may be able to encourage more efficient practices by the operators."* The increased knowledge will be particularly useful to the GMCA if they do decide to adopt a franchised model of bus service delivery.

3.3.3 A majority of consultation respondents engaged directly with the bus franchising proposals. Of the 57 responding to issues within the scheme, 44 (77%) were supportive whilst 13 (23%) were not. Of those responding, 9 agreed that there was a need to centrally manage and co-ordinate bus services, with only 1 respondent who considered that there was no such need.

3.3.4 Having had regard to the governance review and scheme, and the summary of the consultation responses and the material detailing the use of transport powers to be conferred on the combined authority provided by GMCA and Transport for Greater Manchester on 9 May 2016, the Secretary of State considers that the proposed concurrent exercise of the functions between GMCA and the Secretary of State would enable GMCA to prepare for the introduction of full bus franchising powers to be provided, subject to subsequent legislation, taking on a strategic, co-ordinating role in Greater Manchester, thus improving the exercise of these statutory functions.

4 Consultation

4.1 The GMCA undertook consultation on proposals in its scheme and governance review from 21 March to 18 May 2016, in conjunction with ten local authorities in Greater Manchester and other partners, aligned with a promotional campaign to raise awareness of the GMCA. A summary of responses compiled by GMCA is attached at Annex 3. The Secretary of State considers that GMCA's consultation on the first scheme was sufficient in terms of its length, in that it ran for 8 weeks; the mechanisms used, in that the GMCA offered online and paper copies of the consultation, and welcomed both electronic and hard copy responses ; the GMCA's promotional activity included posters, media releases, intranet articles, social media, direct emails to key stakeholders and reminders); and the summary provided demonstrates a robust analysis undertaken .

5 Material considered by the Secretary of State

- Greater Manchester Combined Authority Governance Review
- Greater Manchester Combined Authority Scheme
- Greater Manchester Combined Authority further explanatory material on:
 - Housing and planning supplied on 20 May 2016
 - Transport supplied on 9 May 2016
 - Education and skills first supplied on 9 May 2016, with a final version on 8 June 2016
- Greater Manchester Combined Authority summary of consultation responses