

The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017

About this report

Section 105B of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”)¹ sets out the procedure for making orders under Section 105A of the 2009 Act.

The 2009 Act requires 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 the following: 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 (Fire and Rescue Functions) Order 2017 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)² to enable coordination and integration of economic development, regeneration and transport functions.
- 1.2. 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.

2. Devolution Agreements

- 2.1. The then Chancellor of the Exchequer and leaders of the Greater Manchester Combined Authority³ signed a devolution agreement on 3 November 2014. The agreement will devolve new powers and responsibilities to the Greater Manchester Combined Authority, and adopting a directly elected Mayor for the area overseen by the Greater Manchester Combined Authority.

¹ Inserted by Section 7 of the Cities and Local Government Devolution Act 2016.

² Subsequently amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960).

³ Described as being “the ten Greater Manchester councils and Mayor, who work with other local services, businesses, communities and other partners to improve the city-region”.

- 2.2. At Summer Budget 2015, the Government announced further progress in devolving powers to the Greater Manchester Combined Authority. This included putting the Fire and Rescue Service under the control of the new directly-elected Mayor, establishing a Greater Manchester Land Commission, granting the Mayor more powers over planning, and inviting discussion of how central government and the city region might collaborate further on children's services and employment programmes.
- 2.3. At Autumn Statement/Spending Review 2015, the government agreed a further package of devolution to Greater Manchester. This included giving the Mayor the power to implement a Community Infrastructure Levy to support development and regeneration, and supporting the Greater Manchester Combined Authority to develop and implement an integrated approach to preventative services for children and young people.
- 2.4. At Budget 2016, a fourth devolution agreement was signed with the Greater Manchester Combined Authority. This included working to devolve criminal justice powers and control over the adult education budget to the Greater Manchester Combined Authority, and supporting the establishment of a Life Chances Investment Fund.
- 2.5. The provision for the position of an elected Mayor was set out by the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448) in March 2016. The Order 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.
- 2.6. The first election for the position of Mayor of Greater Manchester is to take place on 4 May 2017, and the elected Mayor will take office on 8 May 2017. The separate position of PCC for Greater Manchester, and the fire and rescue authority as currently constituted, will be abolished when the elected Mayor takes office.
- 2.7. The provisions in this Order confer on the Greater Manchester Combined Authority the functions of a fire and rescue authority as agreed in the devolution agreement, and requires that the Mayor exercise these functions.
- 3. Conferral on the Greater Manchester Combined Authority of public authority functions under section 105A of the 2009 Act (Other public authority functions)**
 - 3.1. 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.
 - 3.2. Section 105A(3)(a) of the 2009 Act enables an order under section 105A(1) (a) to provide for the combined authority to have the function instead of the public authority.

- 3.3. Section 105A(4)(b) of the 2009 Act provides that an order may include provision abolishing the public authority in a case where as a result of the order, it will no longer have any functions.
- 3.4. 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.
- 3.5. These powers have been exercised to amend or modify the application of provisions in: the Local Government Act 1972; the Greater Manchester Act 1981; the Local Government and Housing Act 1989; the Crime and Disorder Act 1998; the Local Government Act 2003; the Fire and Rescue Services Act 2004; the Pipelines Safety Regulations 1996; the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries)(England and Wales) Regulations 2003; the Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009; the Community Right to Challenge (Fire and Rescue Authorities and Rejection of Expressions of Interest) (England) Regulations 2012; the Local Government Pension Scheme Regulations 2013; the Explosives Regulations 2014; and the Control of Major Accident Hazards Regulations 2015.

4. Effect of the Order, and considerations informing the Secretary of State's decision

Background

- 4.1. The functions of a fire and rescue authority are set out in the Fire and Rescue Services Act 2004. Other legislation confers additional functions on fire and rescue authorities. Where legislation confers functions on a metropolitan county fire and rescue authority, these references are modified or amended to include the Greater Manchester Combined Authority as a fire and rescue authority.
- 4.2. The Fire and Rescue Services Act 2004 requires fire and rescue authorities to make provision to promote fire safety, fight fires, and assist at road traffic accidents and other emergencies. Section 21(7) of the 2004 Act requires fire and rescue authorities to have regard to the Fire and Rescue National Framework ("the Framework") which is prepared and issued by the Secretary of State. Fire and rescue authorities are also required to produce an integrated risk management plan and annual assurance statement for their area, as well as producing contingency plans, by the Civil Contingencies Act 2004.
- 4.3. The devolution agreements referred to in Section 2 provided that all the responsibilities set out above should be transferred to the Greater Manchester Combined Authority, as the fire and rescue authority for the area, and that these functions should be exercised by the Mayor.

Considerations informing the Secretary of State's decision

- 4.4. In September 2015, Sir Howard Bernstein (Chief Executive of the Greater Manchester Combined Authority and Manchester City Council) wrote to Her Majesty's Treasury expanding on the proposed governance arrangements for fire and rescue functions. He noted that the Greater Manchester Combined Authority is "*committed to democratic accountability for fire and rescue being placed firmly with the Elected Mayor*", and that whilst he was in favour of the creation of a fire committee "*to provide for appropriate capacity*" he maintained that "*all strategic matters [relating to fire and rescue] are to be non-delegable*".
- 4.5. In order to take forward the changes proposed under the devolution deal, the Greater Manchester Combined Authority published a second Review and Scheme looking at incorporating responsibilities for fire and waste within a newly integrated Combined Authority, along with education, training, skills and employment functions, overview and scrutiny arrangements, and public sector equality duties.
- 4.6. In their Review, the Greater Manchester Combined Authority saw the transfer of fire and rescue responsibilities as "*an opportunity to improve the transparency of governance and decision-making arrangements*" that would "*improve accountability*". This would be realised by a "*a clear and visible line of democratic accountability through the Elected Mayor and Cabinet*".
- 4.7. The Greater Manchester Combined Authority subsequently undertook a consultation⁴ on the proposals set out in its second Review and Scheme, asking whether stakeholders and residents agreed that 'the Mayor takes responsibility for the functions of the Greater Manchester fire and rescue authority' and what impact they thought this might have on them.
- 4.8. 55% of respondents to the consultation were supportive of the proposals, whilst 27% were not supportive. Representations were made by key stakeholders, including the Office of the Police and Crime Commissioner, which saw the proposal as an opportunity to "*strengthen the political governance*" of fire and rescue, leading to "*improved strategic planning and decision making*". Greater Manchester Fire and Rescue Service and Greater Manchester Police highlighted the potential benefits of "*integration across services and strategic planning*" offered by the proposals.
- 4.9. Having had regard to the Review and Scheme, the summary of the consultation responses, and the letter from Sir Howard Bernstein, the Secretary of State considers that the transfer of fire and rescue functions to the Greater Manchester Combined Authority would support an improvement in the provision of fire and rescue services across Greater Manchester, by meeting the objective of providing direct electoral accountability for their provision, and by facilitating improved collaborative working across the emergency services in Greater Manchester, and that it is appropriate to propose to make an Order conferring these functions, under powers in section 105A(1)(a) of the 2009 Act.

⁴ Greater Manchester Combined Authority summary of consultation responses (26 August 2016)

5. Consultation

- 5.1. The Greater Manchester Combined Authority undertook consultation on proposals in its second Scheme and Review from 4 July to 15 August 2016, in conjunction with the ten local authorities in Greater Manchester and other partners. The Secretary of State considers that Greater Manchester Combined Authority's consultation on the second Scheme was sufficient in terms of its length, in that it ran for six weeks; the mechanisms used, in that online and paper copies of the consultation were offered, and both electronic and hard copy responses were welcomed; promotional activity for the consultation included posters, media releases, intranet articles, social media, direct emails to key stakeholders and reminders; and the summary provided demonstrates a robust analysis of the responses was undertaken.

6. Material considered by the Secretary of State

- 6.1. Letter from Sir Howard Bernstein to Her Majesty's Treasury (28 September 2015)
- 6.2. Greater Manchester Combined Authority governance review and scheme: Phase 2 (30 June 2016)
http://www.greatermanchester-ca.gov.uk/download/downloads/id/157/gmca_governance_review_and_scheme_phase_2.pdf
- 6.3. Greater Manchester Combined Authority summary of consultation responses (26 August 2016)
https://www.greatermanchester-ca.gov.uk/download/meetings/id/1222/8_gmca_phase_2_consultation_outcome