

The Greater Manchester Combined Authority (Functions and Amendment) Order 2017

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 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) 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, Manchester, Oldham, 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 there to be an elected mayor, and for the mayor to take on the existing role of the 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 4th May 2017 and the Mayor will take office on 8th May 2017, from which date the separate position of the Police and Crime Commissioner is abolished. The Greater Manchester Combined Authority (Functions and Amendment) Order 2016, which was made in late December 2016, conferred a number of new powers on the Combined Authority, and specified that some of these would be exercisable by the Mayor individually.

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) 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 105A(4) provides that an order made under Section 105A(1)(a) of the 2009 Act may provide that a scheme may be prepared for the transfer of property, rights and liabilities from any public authority to the combined authority and abolish the public authority if all of its functions have been transferred.

2.6 Section 107D(1) and (7)(c) provide that the Secretary of State may by order make provision for any function of a mayoral combined authority to be a function exercisable only by the Mayor and such an order may confer ancillary powers on the Mayor for the purposes of the exercise of general functions.

2.7 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.

2.8 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 Effect of the order; considerations informing the Secretary of State’s decision

3.1 Mayoral Development Corporations

3.1.1 Part 8, Chapter 2 of the Localism Act 2011 (“the 2011 Act”) provides the Mayor of London with powers to designate mayoral development areas leading to the creation of mayoral development corporations (MDCs). These include powers in relation to:

- the designation of mayoral development areas;
- the exclusion of land from mayoral development areas;
- the transfer of property etc to mayoral development corporations;
- the functions in relation to Town and Country Planning;
- the removal or restriction of planning functions;
- discretionary relief from non-domestic rates;
- reviews;
- the transfers of property, rights and liabilities;
- dissolution: final steps;
- guidance by the Mayor; and
- directions by the Mayor.

3.1.2 Schedule 21 to the 2011 Act provides the Mayor of London with functions in relation to mayoral development corporations, including:

- to provide for the membership of mayoral development corporations;
- for the terms of appointment of members;
- for staff;
- for remuneration of members and staff;
- for committees of mayoral development corporations; and
- for proceedings and meetings.

3.1.3 The Devolution Deal agreed between Greater Manchester leaders and the Government in July 2015 stated that the new directly elected Mayor would have a power to create new mayoral development corporations for the area to “*help drive regeneration and progress on complex schemes*”.

3.1.4 Greater Manchester consulted on the proposal for the Mayor of London’s MDC powers to be conferred onto the GMCA, to be exercisable by the Mayor individually with consent of the GMCA member(s) representing the area(s) of the proposed MDC. Of the 50 respondents who expressed a view on the Combined Authority’s housing and regeneration proposals (which included the proposal to enable the Mayor to propose Mayoral Development Corporation) within the first scheme, 37 (74%) were supportive. Of the 17 key stakeholders, 12 (71%) were supportive (including the Homes and Communities Agency); and 1 key stakeholder did not support the proposals. The National Housing Federation stated ‘*we strongly support planning, housing and regeneration powers being devolved to GMCA*’ and the HCA expressed support for the establishment of a Mayoral Development Corporation.

3.1.5 Having had regard to the governance review and scheme, and the summary of consultation responses provided by the GMCA, the Secretary of State considers that conferring the power to designate mayoral development areas onto the GMCA, to be exercised by the Mayor, is appropriate and will enable the GMCA and the Mayor to take control of the regeneration of the area and drive local growth.

3.2 Waste Disposal Authority functions

3.2.1 Section 10 of the Local Government Act 1985 allowed for Greater London and metropolitan boroughs to form a single authority to discharge the waste disposal functions for the area. The Waste Regulation and Disposal (Authorities) Order 1985 established the Greater Manchester Waste Disposal Authority covering the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, and Trafford – that is nine of the ten local government areas within the Greater Manchester Combined Authority; Wigan has continued to make its own arrangements for waste disposal.

3.2.2 The Waste Regulation and Disposal (Authorities) Order 1985 allowed for the Waste Disposal Authority to carry out various functions across the area including:

- duty to dispose of controlled waste collected in its area;
- duty for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of waste so deposited; and
- provide licenses for Waste Disposal

3.2.4 The GMCA consulted on a proposal to integrate the powers of the Waste Disposal Authority into the GMCA. 278 respondents responded to this part of the consultation; of the 231 that expressed a view, 179 (77%) were supportive the proposal and 52 (23%) were not. Key stakeholders were supportive – of the 19 that expressed a view, 18 supported the proposal. The Greater Manchester Waste Disposal Authority welcomed its integration believing that *‘by being part of a wider and more formal GM arrangement we will be able to deliver better outcomes for the citizens of Greater Manchester, demonstrating the “stronger together” principle in practice.’*

3.2.6 Having had regard to the governance review and scheme and the summary of consultation responses provided by the GMCA, the Secretary of State considers that the transfer of the functions of the Waste Disposal Authority Function, will lead to an improvement in the exercise of these statutory functions, by providing the GMCA with powers to act across a large area for waste disposal and supporting Greater Manchester's public sector reform agenda.

3.3 Enabling the Mayor to pay grants

3.3.1 The Government has committed to give the Greater Manchester Combined Authority Mayor the responsibility for a devolved and consolidated transport budget, the Housing Investment Fund and the reformed “earn back” investment fund. These will be paid to the Combined Authority supported by agreements between the Government and Combined Authority; and decisions will be made by the Mayor. This Order confers onto the Combined Authority, a power to be exercisable by the Mayor, to pay grants to constituent councils, using the powers under section 31 of the Local Government Act 2003, mirroring powers held by Ministers. For the purposes of this Order, the power is being conferred to allow the Mayor to be able to pay grant to the constituent councils for functions for which they are the Highways Authority, and when doing so the Mayor must have regard to the desirability of ensuring that the council has sufficient funds to facilitate the effective discharge of those functions and take account of the other sources of funding available to fund the exercise of its highways functions.

3.3.2 261 respondents commented on the GMCA's transport proposals in the second scheme, of which 183 (70%) were supportive, 48 (18%) were not, and 30 neither supported nor did not support. Of the 26 key stakeholders that commented on the proposals in the scheme, only 2 were unsupportive, citing concerns that nothing will change.

3.3.3 Having had regard to the governance review and scheme and the summary of consultation responses provided by the GMCA, the Secretary of State considers that the conferral of the Secretary of State's function to pay grants to local authorities will lead to an improvement in the exercise of these statutory functions, by providing the GMCA with the power to pay grants across the area for transport, and other functions.

4 Consultation

4.1 The Combined Authority has undertaken two consultations, which between them, included proposals on all of the matters within this order. The Combined Authority's consultations were in relation to proposals in two governance reviews and two schemes; and GMCA provided summaries of responses to the two consultations to the Secretary of State. In each case, the Combined Authority led the consultation, which was delivered in conjunction with constituent local authorities and other partners (such as, for example, the fire and rescue authority), who managed public communications locally. The first consultation ran for 8 weeks from 21 March to 18 May 2016 and the second consultation ran for 6 weeks from 4 July to 15 August 2016.

5 Material considered by the Secretary of State

- Greater Manchester Combined Authority phase 1 Governance Review
- Greater Manchester Combined Authority phase 1 Scheme
- Greater Manchester Combined Authority summary of consultation responses – phase 1
https://www.greatermanchester-ca.gov.uk/download/meetings/id/999/16_gmca_consultation_-_governance_review_and_scheme_phase_1
- Greater Manchester Combined Authority phase 2 Governance Review
- Greater Manchester Combined Authority phase 2 Scheme
- Greater Manchester Combined Authority summary of consultation responses – phase 2
https://www.greatermanchester-ca.gov.uk/download/meetings/id/1222/8_gmca_phase_2_consultation_outcome