

DRAFT STATUTORY INSTRUMENTS

2017 No.

LOCAL GOVERNMENT, ENGLAND

TRANSPORT, ENGLAND

**The Tees Valley Combined Authority (Functions and
Amendment) Order 2017**

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104(1)(a), 105(1) and (3), 105A(1)(a), (b), (2) and (3), 107D(1), (7)(a), (b) and (c), 114(1) and (3) and 117(5) of the Local Democracy, Economic Development and Construction Act 2009^(a) (“the 2009 Act”).

The Secretary of State, having had regard to a scheme prepared and published under section 112 of the 2009 Act^(b), considers that—

- (a) the making of this Order is likely to improve the exercise of statutory functions in the area to which this Order relates, and
- (b) any consultation required by section 113(2) of the 2009 Act^(c) has been carried out.

In making this Order, the Secretary of State has had regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government.

In accordance with sections 104(10), 105(3A) and 105B(2)^(d) of the 2009 Act the councils whose areas are comprised in the area of the Tees Valley Combined Authority and the Tees Valley Combined Authority have consented to the making of this Order.

(a) 2009 c. 20. Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, the Cities and Local Government Devolution Act 2016 Act (c. 1) (“the 2016 Act”). Section 105 was amended by sections 6, 9 and 14 of the 2016 Act. Section 105A was inserted by section 7 of the 2016 Act. Sections 107D was inserted by section 4 of the 2016 Act. Section 114 was amended by section 23 of and paragraphs 17 and 26 of Schedule 5 to the 2016 Act. Section 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was also amended by paragraph 29 of Schedule 5 to the 2016 Act.

(b) Section 112 was amended by section 6 of, and paragraphs 17 and 23 of Schedule 5 to, the 2016 Act.

(c) Section 113 was amended by sections 12 and 14 of and paragraph 24 of Schedule 5 to the 2016 Act.

(d) Section 105B was inserted by section 7 of the 2016 Act.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117(2) of the 2009 Act.

Citation and commencement

1.—(1) This Order may be cited as the Tees Valley Combined Authority (Functions and Amendment) Order 2017.

(2) Save as provided for in paragraph (3), this Order comes into force on 8th May 2017.

(3) Article 8(3)(d)(ii) comes into force on the day after the day on which the Order is made.

Interpretation

2. In this Order—

“the 2000 Act” means the Transport Act 2000(**a**);

“the 2003 Act” means the Local Government Act 2003(**b**);

“the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009;

“the 2016 Order” means the Tees Valley Combined Authority Order 2016(**c**);

“combined area” means the area of the Combined Authority;

“Combined Authority” means the Tees Valley Combined Authority, established by the 2016 Order(**d**);

“constituent councils” means the councils for the local government areas of Darlington, Hartlepool, Middlesbrough, Redcar and Cleveland and Stockton-on-Tees; and

“Mayor” means the mayor for the combined area(**e**).

Power to pay grant

3.—(1) The functions of a Minister of the Crown specified in section 31 of the 2003 Act (power to pay grant) are functions of the Combined Authority that are exercisable in relation to the combined area.

(2) The functions are exercisable by the Combined Authority concurrently with a Minister of the Crown.

(3) Paragraph (4) applies where, in exercising functions under paragraphs (1) and (2), the Combined Authority determines an amount of grant to be paid towards expenditure incurred or to be incurred by a constituent council in relation to the exercise of its highway functions.

(4) In determining that amount, the Combined Authority must have regard to the desirability of ensuring that the council has sufficient funds to facilitate the effective discharge of those functions.

(5) To comply with paragraph (4), the Combined Authority must take into account any other sources of funding available to the council for expenditure incurred or to be incurred in relation to the exercise of its highway functions.

(6) For the purposes of the exercise by the Combined Authority of the functions referred to in paragraphs (1) and (2), section 31 of the 2003 Act has effect as if—

(a) in subsection (1)—

(a) 2000 c.38.

(b) 2003 c.26.

(c) S.I. 2016/449.

(d) Article 3 of the 2016 Order establishes the Tees Valley Combined Authority, and article 3(2) provides that it is to be a body corporate and is to be known as the Tees Valley Combined Authority.

(e) Article 3 to S.I. 2016/783 provides for there to be a mayor for the area of the Combined Authority.

- (i) the reference to a Minister of the Crown were a reference to the Combined Authority;
 - (ii) the reference to a local authority in England were a reference to a constituent council;
 - (b) subsection (2) were omitted;
 - (c) in subsections (3) and (4), the references to the person paying it (the grant) were references to the Combined Authority;
 - (d) subsection (6) were omitted.
- (7) In this article “highway functions” means the functions exercisable by a constituent council (in whatever capacity) in relation to the highways for which they are the highway authority.

Local transport

- 4.**—(1) The following are exercisable by the Combined Authority in relation to the combined area—
- (a) the functions of the constituent councils contained in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985(a); and
 - (b) the functions of the constituent councils as local transport authorities contained in Part 2 (local transport) of the 2000 Act.
- (2) The functions mentioned in paragraph (1) are exercisable by the Combined Authority instead of by the constituent councils.
- (3) Article 6 of the 2016 Order is omitted(b).

Housing

- 5.**—(1) The function of the constituent councils under section 8 of the Housing Act 1985 (periodical review of housing needs)(c) is exercisable by the Combined Authority in relation to the combined area.
- (2) The function is exercisable concurrently with the constituent councils.

General functions of the Combined Authority exercisable only by the Mayor

- 6.**—(1) The following functions of the Combined Authority are general functions(d) exercisable only by the Mayor—
- (a) section 31 of the 2003 Act (power to pay grant);
 - (b) sections 108 (local transport plans), 109 (further provision about plans: England) and 112 (plans and strategies: supplementary) of the 2000 Act(e).
- (2) The Mayor may only exercise functions mentioned in paragraph (1)(b) if—
- (a) the Mayor has laid before the Combined Authority, in accordance with standing orders of the Combined Authority—
 - (i) a draft of the local transport plan;

(a) 1985 c.67.

(b) Article 6 of the 2016 Order provides for the delegation of specified transport functions of the constituent councils to the Combined Authority.

(c) 1985 c. 68. Section 8 was amended by paragraph 62 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42) and section 124 of the Housing and Planning Act 2016 (c. 22).

(d) Section 107D(2) of the 2009 Act provides that in Part 6 of that Act references to “general functions”, in relation to a mayor for the area of a combined authority, are to any functions exercisable by the mayor other than PCC functions.

(e) Section 108 was amended by sections 7 to 9 of, paragraph 42 of Schedule 4 and Part 1 of Schedule 7 to, the Local Transport Act 2008 (c.26) and paragraph 96 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20). Section 109 was amended by section 9 of the Local Transport Act 2000 and paragraph 97 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c.20). Section 112 was amended by sections 10 and 11 and Part 1 of Schedule 7 to the Local Transport Act 2008 and paragraph 48 of Schedule 26 to the Equality Act 2010.

- (ii) a draft of the local transport plan with any alterations; or
 - (iii) a replacement of the local transport plan;

stating that the Mayor is proposing to exercise the Mayor's functions under sections 108 or 109 of the 2008 Act; and
 - (b) the consideration period for the document has expired without the Combined Authority having rejected the proposal.
- (3) For the purpose of subsection (2)—
- (a) the “consideration period” for a document is the period of 21 days beginning with the day on which the document is laid before the Combined Authority in accordance with standing orders of the Combined Authority; and
 - (b) the Combined Authority rejects a proposal if it resolves to do so on a motion—
 - (i) considered at a meeting of the Combined Authority; and
 - (ii) agreed to by at least three-fifths of the members of the Combined Authority appointed by the constituent councils or substitute members acting in place of those members, present and voting.
- (4) Members and officers of the Combined Authority may assist the Mayor in the exercise of the functions mentioned in paragraph (1).
- (5) For the purposes of the exercise of the general functions mentioned in paragraph (1) the Mayor may do anything that the Combined Authority may do under section 113A of the 2009 Act (general power of EPB or combined authority)(a).

Funding

7.—(1) The constituent councils must ensure that any reasonably incurred costs of the Combined Authority are met to the extent that the Combined Authority has not decided to meet these costs from other resources available to it.

(2) Subject to paragraph (4), the constituent councils must meet the costs of the expenditure reasonably incurred by the Mayor in, or in connection with, the exercise of the functions specified in articles 3 and 4 (in relation only to the functions in sections 108, 109 and 112 of the 2000 Act that relate to plans) to the extent that the Mayor has not decided to meet these costs from other resources available to the Combined Authority.

(3) Any amount payable by each of the constituent councils to ensure that the costs of the Combined Authority referred to in paragraphs (1) and (2) are met is to be determined by apportioning such costs between the constituent councils in such proportions as they may agree or, in default of such agreement, in the following shares between the constituent councils—

Darlington 15.80%

Hartlepool 14.67%

Middlesbrough 20.89%

Redcar and Cleveland 20.97%

Stockton-on-Tees 27.67%.

(4) In relation to the expenditure mentioned in paragraph (2)—

- (a) to the extent to which such expenditure is met by amounts payable under arrangements made under paragraph (3)—
 - (i) the Mayor must agree with the Combined Authority the total expenditure mentioned in paragraph (2) in advance of incurring this expenditure; and
 - (ii) in the absence of the agreement specified in paragraph (i), no such expenditure may be incurred;

(a) Section 113A was inserted by section 13 of the Localism Act 2011 and amended by section 23 of, and paragraph 25 of Schedule 5 to, the 2016 Act.

- (b) any precept issued in relation to such expenditure under section 40 of the Local Government Finance Act 1992^(a) is to be disregarded from any calculation of the costs of the expenditure.

(5) The functions mentioned in article 4 may be funded out of the levy issued by the Combined Authority to the constituent councils under section 74 of the Local Government Finance Act 1988^(b) and in accordance with the Transport Levying Bodies Regulations 1992^(c).

Amendment of the Tees Valley Combined Authority Order 2016

8.—(1) The 2016 Order is amended as follows.

(2) In article 2 (interpretation) after the definition of “the Local Enterprise Partnership” insert—

““Mayor” means the mayor for the area of the Combined Authority; and”.

(3) Schedule 1 (constitution) is amended as follows—

- (a) in paragraph 1(2) (membership), after “sub-paragraph 1” insert “or if that member has been appointed as the Deputy Mayor and is acting in place of the Mayor at a meeting”;
- (b) paragraph 2 (chairman and vice-chairman) is omitted^(d); and
- (c) for paragraph 3 (proceedings) there is substituted—

“Proceedings

3.—(1) Subject to the following sub-paragraphs, any questions that are to be decided by the Combined Authority are to be decided by a majority of the members present and voting on that question at a meeting of the Combined Authority, and such a majority must include the Mayor, or the deputy Mayor acting in place of the Mayor, and substitute members, acting in place of members.

(2) No business is to be transacted at a meeting of the Combined Authority unless the Mayor, or the deputy Mayor acting in place of the Mayor, and at least three members, or substitute members, appointed by the constituent councils are present at the meeting.

(3) Each member is to have one vote and no member is to have a casting vote.

(4) If a vote is tied on any matter it is deemed not to have been carried.

(5) Members appointed from the Local Enterprise Partnership shall be non-voting members of the Combined Authority.

(6) Questions relating to the following matters require a unanimous vote in favour by all members appointed by the constituent councils present and voting on that question (including substitute members acting in place of those members) and the Mayor (including the deputy mayor acting in place of the Mayor) to be carried at a meeting of the Combined Authority—

- (a) adoption of an investment plan;
- (b) setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder; and

(a) 1992 c. 14. Section 40 was amended by section 83 of the 1999 Act, paragraphs 7 and 17 of Schedule 17 to, the Localism Act 2011 and section 5 of the 2016 Act.

(b) c. 41. Section 74 was amended by paragraph 72 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); paragraph 21 of Schedule 60 to the Local Government (Wales) Act 1994 (c. 19); Schedule 24 to the Environment Act 1995 (c. 25); section 105 of the Greater London Authority Act 1999 (c. 29); paragraph 305(a) of Schedule 8 to the Courts Act 2003 (c. 39); paragraph 68 of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21); paragraph 16 of Schedule 1 to the Local Government and Involvement in Public Health Act 2007 (c. 28); paragraphs 74 and 75 of Schedule 6 and Part 4 of Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20); paragraphs 1 and 2 of Schedule 7 to the Police Reform and Social Responsibility Act 2011 (c. 13); paragraph 182(a) of Schedule 16 to the Localism Act 2011(c. 20); section 9(1)(a) , (b) and (2) of, and paragraphs 9 and 10 of Schedule 5 to the 2016 Act; and by S.I. 1994/2825.

(c) S.I. 1992/2789, amended by S.I. 2012/213 and S.I. 2015/27.

(d) Section 107C(1) of the Local Democracy, Economic Development and Construction Act 2009 provides that the mayor for the area of a combined authority must appoint one of the members of the authority to be the mayor’s deputy.

- (c) such other plans and strategies as may be determined by the Combined Authority and set out in its standing orders.
- (7) The proceedings of the Combined Authority are not invalidated by any vacancy among its members or substitute members or by any defect in the appointment or qualifications of any member.
- (8) In sub-paragraphs (3) and (7), the reference to a member includes—
 - (a) the Mayor or the deputy Mayor acting in place of the Mayor;
 - (b) a constituent member or a substitute member acting in that member's place; and
 - (c) a member appointed from the Local Enterprise Partnerships who has been given voting rights by resolution of the Combined Authority";
- (d) in paragraph 4 (committees)—
 - (i) for sub-paragraph (3) there is substituted—

"(3) No business is to be transacted at a meeting of the overview and scrutiny committee unless at least two-thirds of the total number of members of the overview and scrutiny committee are present."; and
 - (ii) after sub-paragraph (10) there is inserted—

"Independent remuneration panel

- 4A.** The Combined Authority may establish an independent remuneration panel to recommend allowances payable to the Mayor.
- (2) An independent remuneration panel must consist of at least three members none of whom—
 - (a) is also a member of the Combined Authority or is a member of a committee or sub-committee of the Combined Authority; and
 - (b) is disqualified from being or becoming a member of the Combined Authority.
- (3) The Combined Authority may pay the expenses incurred by an independent remuneration panel established under sub-paragraph (1) in carrying out its functions and may pay the members of the panel such allowances or expenses as the Combined Authority may determine.
- (4) An independent remuneration panel must produce a report in relation to the Combined Authority, making recommendations as to any allowances payable to the Mayor.
- (5) A copy of a report made under paragraph (4) must be sent to the Combined Authority. "; and
- (e) for paragraph 7 (remuneration) there is substituted—
 - "7.—**(1) Subject to paragraph (2), no remuneration is payable by the Combined Authority to its members, other than allowances for travel and subsistence paid in accordance with a scheme drawn up by the Combined Authority.
 - (2) The Combined Authority may pay the Mayor such allowances as it may agree, in accordance with any recommendations made by its independent remuneration panel."

Signed by authority of the Secretary of State for Communities and Local Government

Date

Name
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of functions on and the amendment to the constitution of the Tees Valley Combined Authority, to reflect the appointment of a Mayor for the area of the Combined Authority following the making of the Tees Valley Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/783). The Combined Authority was established by the Tees Valley Combined Authority Order 2016 (S.I. 2016/449) (the 2016 Order). This Order has been made following the publication on 8th July 2016 of a scheme for the conferral of functions on the Combined Authority. This scheme is available at: <https://teesvalley-ca.gov.uk/wp-content/uploads/2016/07/Doc-B-Scheme-final-160716.pdf>.

Article 3 of the Order makes provision for the power of a Minister of the Crown to pay grant under section 31 of the Local Government Act 2003 exercisable in relation to the Combined Authority's area to be a function of the combined authority. The function is to be exercisable by the Mayor of the Combined Authority and the grant can only be paid towards expenditure incurred or to be incurred by a constituent council.

Article 4 of the Order makes provision for certain local transport functions of the constituent councils to be exercisable by the Combined Authority in relation to the area of the Combined Authority. The functions are exercisable by the Combined Authority instead of by the constituent councils. The article also omits article 6 of the 2016 Order which delegated those functions to the Combined Authority.

Article 5 of the order provides for the function of the constituent councils under section 8 of the Housing Act 1985 (periodical review of housing needs) to be exercisable by the Combined Authority in relation to the area of the Combined Authority. The function is exercisable concurrently with the constituent councils.

Article 6 of the Order sets out the functions of the Combined Authority which are to be only exercisable by the Mayor, and enables members and officers of the Combined Authority to assist the Mayor in the exercise of those functions.

Article 7 provides that the costs of the Combined Authority reasonably attributable to the exercise of the function mentioned in article 5 is funded by contributions from the Combined Authority's constituent councils.

Article 8 of the Order makes provision for the amendment of the constitution of the Combined Authority, to reflect the appointment of a Mayor for the area of the Combined Authority.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

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