

**EXPLANATORY MEMORANDUM TO**  
**THE COMBINED AUTHORITIES (BORROWING) REGULATIONS 2018**  
**2018 No. [XXXX]**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 These Regulations confer additional borrowing powers on the six mayoral combined authorities that have each agreed debt caps with HM Treasury to allow them to borrow in respect of all their existing functions.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 This entire 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 entire 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 purposes 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 provides for the establishment of combined authorities for the areas of two or more local authorities in England. They are bodies corporate that may be given power to exercise specified functions of a local authority, and power to exercise specified functions of any other public authority. Mayoral combined

authorities are chaired by a mayor for the area of the combined authority who is elected by the local government electors for the area of a combined authority.

- 4.2 Part 1 of the Local Government Act 2003 (“the 2003 Act”) makes provision in respect of capital finance and accounts of local authorities. Section 1 of the 2003 Act provides for local authorities to be able to borrow for purposes relevant to their statutory functions and for the prudent management of their affairs. Section 23(1) defines local authorities for the purposes of Part 1 as including principal councils, the Greater London Authority, waste disposal authorities, fire and rescue authorities and police and crime commissioners.
- 4.3 Section 23(5) of the 2003 Act provides for the application of Part 1 of that Act to a combined authority established under section 103 of the 2009 Act, with the limitation that those authorities may only borrow using the section 1 power for a purpose relevant to their transport functions and in relation to any other function which is specified by the Secretary of State in regulations. Section 23(6) provides that a function of a combined authority may only be specified in regulations with the consent of each county council the whole of, or part of whose area is within the area of the combined authority, each district council whose area is within the combined authority area and the combined authority itself.
- 4.4 There are six combined authorities with elected mayors:
- The Cambridgeshire and Peterborough Combined Authority (CPCA) was established by the Cambridgeshire and Peterborough Combined Authority Order 2017 (S.I. 2017/251), which also included provisions for the position of an elected mayor for the CPCA and the conferral of functions on the CPCA, some of which are exercisable individually by the Mayor;
  - The Greater Manchester Combined Authority (GMCA) was established by the Greater Manchester Combined Authority Order 2011(S.I. 2011/908); the position of elected Mayor for the GMCA was established by the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448); and the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267), Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), Greater Manchester Combined Authority (Fire and Rescue Functions) Order (S.I. 2017/469), Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), and Greater Manchester Combined Authority (Public Health Functions) Order 2017 (S.I. 2017/1180) conferred further functions on the GMCA, some of which are exercisable individually by the Mayor. Section 23(1)(k) of the 2003 Act was modified by S.I. 2017/469<sup>1</sup> to include the GMCA as a fire and rescue authority in the definition of joint authority for the purposes of the borrowing power conferred by section 1 of that Act. The section 1 borrowing power also applies to the GMCA as a waste disposal authority (from 1st April 2018 when it will assume the relevant functions) by virtue of article 10 of S.I. 2017/612, which has effect so that any enactment (including the 2003 Act) is adapted so that any reference to a waste disposal authority is treated as including the GMCA. The Mayor of the GMCA also has the section 1 borrowing power in

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<sup>1</sup> Paragraph 5 of Schedule 1 to S.I. 2017/469.

the capacity of exercising police and crime commissioner (PCC) functions over the combined authority area;<sup>2</sup>

- The Liverpool City Region Combined Authority (LCRCA) was established by the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority Order 2014 (S.I. 2014/865); the position of elected Mayor for the LCRCA was established by the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/782) and the Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430) conferred further functions on the LCRCA, some of which are exercisable individually by the Mayor;
- The Tees Valley Combined Authority (TVCA) was established by the Tees Valley Combined Authority Order 2016 (S.I. 2016/449); the position of elected Mayor for the TVCA was established by the Tees Valley Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/783) and the Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250) and Tees Valley Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/431) conferred further functions on the TVCA, some of which are exercisable individually by the Mayor;
- The West Midlands Combined Authority (WMCA) was established by the West Midlands Combined Authority Order 2016 (S.I. 2016/653); the position of elected Mayor for the WMCA was established by the West Midlands Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/933) and the West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510) conferred further functions on the WMCA, some of which are exercisable individually by the Mayor; and
- The West of England Combined Authority (WECA) was established by The West of England Combined Authority Order 2017 (S.I. 2017/126), which also included provisions for the position of an elected mayor for the WECA and the conferral of functions on the WECA, some of which are exercisable individually by the Mayor.

## **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 Jake Berry MP, Parliamentary Under Secretary of State at the Ministry of Housing, Communities and Local Government, has made the following statement regarding Human Rights:

“In my view the provisions of the Combined Authorities (Borrowing) Regulations 2018 are compatible with the Convention rights.”

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<sup>2</sup> Article 3 of S.I. 2017/470 provides that the mayor is to be treated as a PCC for the purposes of any enactment that has effect in relation to PCCs.

## 7. Policy background

### *What is being done and why*

- 7.1 These Regulations implement a commitment, made by the Chancellor of the Exchequer, the Rt Hon Philip Hammond MP, in his Autumn Statement in November 2016, to extend the borrowing powers of mayoral combined authorities in England who have agreed debt caps with HM Treasury. The commitment was: “The government will give mayoral combined authorities powers to borrow for their new functions, which will allow them to invest in economically productive infrastructure, subject to agreeing a borrowing cap with HM Treasury.”
- 7.2 The six mayoral combined authorities have now each agreed a debt cap with HM Treasury. These debt agreements bring in to effect annual maximum limits on their long-term external debt. “External debt” refers to the closing balance for actual gross borrowing plus other long-term liabilities as defined in The Prudential Code for Capital Finance in Local Authorities. Short-term external debt (i.e. less than 12 months) does not count towards the agreed limits.
- 7.3 These Regulations list these six combined authorities and confer additional borrowing powers to allow them to borrow in respect of all their existing functions. In common with all combined authorities, the mayoral combined authorities already have borrowing powers for transport. The extension of borrowing powers will fulfil the Chancellor’s aim of the mayoral combined authorities being able to invest in economically productive infrastructure.
- 7.4 The further functions that these Regulations extend borrowing to vary between the mayoral combined authorities, as each mayoral combined authority has a bespoke set of powers depending on the devolution deals that were negotiated with the Government. In general terms, these further functions relate to housing, regeneration and economic development, and are listed below for each of the mayoral combined authorities. The mayoral combined authorities also exercise some local authority functions, largely related to the administration of the combined authority, as a result of primary and secondary legislation that confers functions on all combined authorities, or on all mayoral combined authorities.
- 7.5 For the CPCA these Regulations confer borrowing powers for purposes relevant to further functions which include:
- Powers from the Local Government Act 1972 to encourage visitors and provide conference and other facilities;
  - Powers from the Highway Act 1980 in relation to agreements;
  - Functions from the Education Act 1996 in relation to education and training for persons over compulsory school age;
  - Power from the Local Government Act 2003 to pay grants to local authorities; and
  - The general power of competence from the Localism Act 2011.
- 7.6 For the GMCA these Regulations confer borrowing powers for purposes relevant to further functions which include:
- Powers from the Local Government Act 1972 to acquire land, encourage visitors and provide conference and other facilities and entertainments;

- Functions from the Highways Act 1980 in relation to agreements;
- Functions from the Road Traffic Regulation Act 1984 relating to traffic light signals, pedestrian crossings and traffic reports;
- Duty from the Housing Act 1985 to review housing needs and the functions to acquire land;
- Duty from the Road Traffic Act 1988 to promote road safety;
- Functions from the Town and Country Planning Act 1990 in relation to acquiring land;
- Duty from the Further and Higher Education Act 1992 to provide for named individuals;
- Functions from the Environment Act 1995 in relation to air quality;
- Functions from the Education Act 1996 in relation to education and training for persons over school age and promotion of high standards of achievement;
- Functions from the Road Traffic Reduction Act 1997 relating to road traffic regulation orders and powers;
- Powers from the Greater London Authority Act 1999 to develop a mayoral spatial development strategy;
- Power from the Local Government Act 2000 to promote wellbeing;
- Power from the Transport Act 2000 to pay grants to bus service operators;
- Power from the Local Government Act 2003 to pay grants to local authorities;
- Duties from the Education and Skills Act 2008 that relate to education;
- Powers from the Town and Country Planning Order 2008 in relation to a mayoral spatial development strategy;
- Powers from the Housing and Regeneration Act 2008 that relate to the provision of housing, regeneration of land, infrastructure and sustainable development;
- Duty from the 2009 Act to prepare an assessment of economic conditions; and
- Functions from the Localism Act 2011 including the functional power of competence and the power to designate mayoral development areas.

7.7 For the LCRCA these Regulations confer borrowing powers for purposes relevant to further functions which include:

- Powers from the Local Government Act 1972 encourage visitors and provide conference and other facilities;
- Functions from the Highways Act 1980 in relation to agreements;
- Functions from the Road Traffic Regulation Act 1984 relating to traffic light signals, pedestrian crossings and traffic reports;
- Duty from the Housing Act 1985 to review housing needs;
- Duty from the Road Traffic Act 1988 to promote road safety;

- Functions from the Town and Country Planning Act 1990 in relation to acquiring land;
- Functions from the Education Act 1996 in relation to education and training for persons over school age;
- Functions from the Road Traffic Reduction Act 1997 relating to road traffic regulation orders and powers;
- Powers from the Greater London Authority Act 1999 to develop a mayoral spatial development strategy, and from the Town and Country Planning Order 2008 in relation to such a strategy;
- Power from the Local Government Act 2003 to pay grants to local authorities;
- Powers from the Housing and Regeneration Act 2008 that relate to the provision of housing, regeneration of land, infrastructure and sustainable development;
- Duty from the 2009 Act to prepare an assessment of economic conditions; and
- Functions from the Localism Act 2011 including the functional power of competence and the power to designate mayoral development areas.

7.8 For the TVCA these Regulations confer borrowing powers for purposes relevant to further functions which include:

- Powers from the Local Government Act 1972 to encourage visitors and provide conference and other facilities;
- Duty from the Housing Act 1985 to review housing needs;
- Functions from the Education Act 1996 in relation to education and training for persons over compulsory school age;
- Power from the Local Government Act 2003 to pay grants to local authorities;
- Duty from the 2009 Act to prepare an assessment of economic conditions;
- Functions from the Localism Act 2011 including the power to designate mayoral development areas and the functional power of competence

7.9 For the WMCA these Regulations confer borrowing powers for purposes relevant to further functions which include:

- Powers from the Local Government Act 1972 to encourage visitors and provide conference and other facilities and entertainments;
- Functions from the Highways Act 1980 in relation to agreements;
- Duty from the Road Traffic Act 1988 to promote road safety;
- Powers from the New Roads and Street Works Act 1991 and the associated Street Works (Sharing and Costs of Works) (England) Regulations 2000 in relation to highway works;
- Functions from the Environment Act 1995 in relation to air quality;
- Functions from the Education Act 1996 in relation to education and training for persons over school age;
- Functions from the Road Traffic Reduction Act 1997 relating to traffic reports;

- Power from the Transport Act 2000 to pay grants to bus service operators;
- Power from the 2003 Act to pay grants to local authorities;
- Powers from the Traffic Management Act 2004 and the associated Traffic Management Permit Scheme (England) Regulations 2007 relating to the management of permits for road works;
- Functions from the Health Act 2006 relating to smoke-free premises, place and vehicles;
- Powers from the Housing and Regeneration Act 2008 that relate to the provision of housing, regeneration of land, infrastructure and sustainable development;
- Duty from the 2009 Act to prepare an assessment of economic conditions;
- Functions from the Localism Act 2011 including the functional power of competence and the power to designate mayoral development areas; and
- Functions from the Anti-Social Behaviour, Crime and Policing Act 2014 relating to anti-social behaviour.

7.10 For the WECA these Regulations confer borrowing powers for purposes relevant to further functions which include:

- Powers from the Local Government Act 1972 to acquire land, encourage visitors and provide conference and other facilities and entertainments;
- Functions from the Highways Act 1980 in relation to agreements;
- Functions from the Housing Act 1985 and the Town and County Planning Act 1990 in relation to acquiring and disposal of land;
- Functions from the Education Act 1996 in relation to education and training for persons over school age;
- Powers from the Greater London Authority Act 1999 to develop a mayoral spatial development strategy, and from the Town and County Planning Order 2008 in relation to such a strategy;
- Power from the Local Government Act 2003 to pay grants to local authorities;
- Powers from the Housing and Regeneration Act 2008 that relate to the provision of housing, regeneration of land, infrastructure and sustainable development;
- Duty from the Local Democracy, Economic Development and Construction Act 2009 to prepare an assessment of economic conditions; and
- Functions from the Localism Act 2011 including the general power of competence and the power to designate mayoral development areas.

## **8. Consultation outcome**

8.1 In contrast to the legislation surrounding the establishment of a combined authority or the conferral of local authority functions on a combined authority, a consultation is not required for expanding the borrowing powers of a combined authority. The legislation does require the consent of the combined authority and each council in the area of the combined authority to a function being specified in regulations in relation to which that combined authority may borrow money, and the consent of the six

combined authorities and the 38 councils within the area of those combined authorities has been provided.

- 8.2 However, as consultations have been undertaken in combined authority areas that have referred to borrowing, they are described below.
- 8.3 The CPCA undertook a consultation in relation to proposals contained in the scheme<sup>3</sup> that the CPCA prepared and published using provisions from the 2009 Act. The CPCA prepared this scheme in relation to the devolution agreement negotiated with the Government.<sup>4</sup> The scheme proposed that CPCA should have borrowing powers for a purpose relevant to any of its functions.
- 8.4 The consultation ran for 6 weeks from 8 July to 23 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/251, as most of the proposals consulted on have already been provided for in legislation. This Explanatory Memorandum also set out that the Government would seek Parliament's approval to further legislation related to the extension of borrowing.
- 8.5 The consultation was undertaken via a survey, an Ipsos MORI telephone poll, and direct face-to-face sectoral and business engagement. The survey was run and analysed independently by Cambridgeshire County and Peterborough City Councils and could be responded to via an open online survey on the council websites, by paper survey, or by email. In total, the survey received over 1500 responses and Ipsos MORI's telephone poll received 2280 responses. The Councils produced a summary of responses to the consultation<sup>5</sup> and published a separate annex relating to the telephone poll.<sup>6</sup>
- 8.6 Around three fifths of respondents to the online survey (59 per cent) tended to support or strongly support the proposal relating to decision making that a majority of the Combined Authority members, including the Mayor, must agree to proposals around borrowing, funding and costs of the Combined Authority. In the online survey, consultees were asked whether they supported the proposal that decisions on funding infrastructure projects should be made locally by the Combined Authority and Mayor rather than by Government in Westminster. Of the 1576 responses that were received to that question, 980 respondents (62 per cent) tended to support or strongly support the proposal, 371 respondents (24 per cent) opposed or tended to oppose, and 225 respondents (14 per cent) neither supported nor opposed, did not know or left the question unanswered. The summary of consultation responses does not record any other points in relation to borrowing.
- 8.7 The GMCA undertook a consultation in relation to proposals contained in a scheme that the GMCA prepared and published using provisions from the 2009 Act. The GMCA prepared this scheme<sup>7</sup> following negotiation of devolution agreements<sup>8</sup> with the Government. The scheme proposed that GMCA should have borrowing powers for any purpose relevant to the exercise of its functions.

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<sup>3</sup> [https://www.eastcamb.gov.uk/sites/default/files/agendas/fc280616\\_R39%20Ap4.pdf](https://www.eastcamb.gov.uk/sites/default/files/agendas/fc280616_R39%20Ap4.pdf)

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/600239/Cambridgeshire\\_and\\_Peterborough\\_Devolution\\_Deal.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/600239/Cambridgeshire_and_Peterborough_Devolution_Deal.pdf)

<sup>5</sup> [https://www.cambridge.gov.uk/sites/default/files/devolution\\_consultation\\_summary.pdf](https://www.cambridge.gov.uk/sites/default/files/devolution_consultation_summary.pdf)

<sup>6</sup> [https://www.cambridge.gov.uk/sites/default/files/devolution\\_consultation\\_online\\_survey\\_results.pdf](https://www.cambridge.gov.uk/sites/default/files/devolution_consultation_online_survey_results.pdf)

<sup>7</sup> [https://www.greatermanchester-ca.gov.uk/meetings/meeting/249/greater\\_manchester\\_combined\\_authority](https://www.greatermanchester-ca.gov.uk/meetings/meeting/249/greater_manchester_combined_authority)

<sup>8</sup> <https://www.gov.uk/government/publications/devolution-to-the-greater-manchester-combined-authority-and-transition-to-a-directly-elected-mayor>



- 8.8 The consultation ran for 8 weeks from 21 March to 18 May 2016. It has already been the subject of the Explanatory Memorandums to S.I. 2017/612 and S.I. 2016/1267, as most of the proposals consulted on have already been provided for in legislation.
- 8.9 For this consultation, the GMCA provided each local authority and partner organisation with a toolkit to aid local engagement, in line with their individual communication strategies. The consultation received 237 responses, with 169 from members of the public, 19 from public bodies, 7 from businesses, 14 from representative bodies, 4 who were classified as other and 24 who provided no details. The GMCA's summary of responses to the consultation<sup>9</sup> includes a demographic analysis of respondents and analysis of responses together with the GMCA's response to the consultation.
- 8.10 100 respondents provided comments on finance and borrowing proposals, and 43 were supportive, 13 were not supportive, and 44 raised points that were not in connection to the specific issues raised. Of the 100 respondents, 12 were key stakeholders. Of these key stakeholders, 8 were supportive of the proposals, no one was unsupportive and 4 raised points that were not in connection with the specific issues.
- 8.11 The summary of responses to the consultation records that the 13 respondents to the consultation who were not supportive could have their comments characterised in the following way: 6 against lending and borrowing; 2 disagreed with the powers; 2 made other comments; 1 said finances needs to be accountable; 1 related to investment ideas and the need to raise revenue; 1 was on spend locally and minimising inequalities; and 1 was political content. Specific concerns expressed in relation to this policy area included views such as "We should always aim to live within our means. Councils should be transparent and not make any large financial commitments without public consultation". Supportive comments included: "Granting GM additional powers to raise money from the capital and other markets is to be welcomed. Borrowing to fund investment in infrastructure and property, in the right circumstances, can be a sensible long term way of investing in the future".
- 8.12 The GMCA, in response to these comments, said "GM is committed to making most effective use of public funds. To achieve this, we believe greater collaboration and alignment of budgets will enable us to better target our resources, reduce duplication, achieve budget savings and improve the performance of our services: delivering value for money for the taxpayer. All GM constituent authorities and the GMCA are transparent in financial decision making and consultations on budget proposals are held."
- 8.13 The LCRCA undertook a consultation in relation to proposals contained in a scheme<sup>10</sup> that the LCRCA prepared and published using provisions from the 2009 Act. The LCRCA prepared this scheme following negotiation of devolution agreements<sup>11</sup> with the Government. The scheme proposed that LCRCA should have borrowing powers for any purpose relevant to the exercise of its functions.

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<sup>9</sup> [https://www.greatermanchester-ca.gov.uk/download/meetings/id/999/16\\_gmca\\_consultation\\_-\\_governance\\_review\\_and\\_scheme\\_phase\\_1](https://www.greatermanchester-ca.gov.uk/download/meetings/id/999/16_gmca_consultation_-_governance_review_and_scheme_phase_1)

<sup>10</sup> <http://councillors.knowsley.gov.uk/documents/g6714/Public%20reports%20pack%2017th-Jun-2016%2013.00%20Liverpool%20City%20Region%20Combined%20Authority.pdf?T=10&StyleType=standard&StyleSize=none>

<sup>11</sup> <https://www.gov.uk/government/publications/liverpool-devolution-deal>

- 8.14 This consultation ran for 6 weeks from 24 June to 5 August 2016. It has already been the subject of the Explanatory Memorandum to S.I. 2017/430, as most of the proposals consulted on have already been provided for in legislation. This Explanatory Memorandum also set out that the Government would seek Parliament's approval to further legislation related to the extension of borrowing.
- 8.15 The LCRCA led the consultation, delivered in conjunction with all local authorities in the Liverpool City Region and the Local Enterprise Partnership. 930 responses were received, including 806 from members of the public, 24 from the business sector, 28 from the public sector, and 29 from the third sector. The LCRCA produced a summary of responses to the consultation<sup>12</sup> which included a statistical analysis of responses on each policy theme, pulling out key quotes from partners and stakeholders.
- 8.16 131 respondents left a comment under the finance part of the consultation. Of these, 76 (58 per cent) were positive whilst 22 (17 per cent) negative. 33 (25 per cent) comments raised issues that were not in connection to the proposals in the scheme that were the subject of the consultation. In their summary of consultation responses the LCRCA recorded that positive responses under the finance part of the consultation included reference to borrowing.
- 8.17 In common with the other mayoral combined authorities, the TVCA undertook a consultation in summer 2016 in relation to proposals contained in a scheme that the TVCA prepared and published using provisions from the 2009 Act<sup>13</sup>. The TVCA prepared this scheme following negotiation of a devolution agreement<sup>14</sup> with the Government. As the devolution agreement did not refer to borrowing powers, the TVCA did not make any proposals in their scheme in relation to borrowing, and so the matter did not form part of the consultation.
- 8.18 The WMCA undertook a consultation in relation to proposals contained in a scheme<sup>15</sup> that the WMCA prepared and published using provisions from the 2009 Act. The WMCA prepared this scheme following negotiation of a devolution agreement<sup>16</sup> with the Government. The scheme proposed that WMCA should have borrowing powers for any purpose relevant to the exercise of its functions.
- 8.19 The consultation ran for 7 weeks from 4 July to 21 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/510, as most of the proposals consulted on have already been provided for in legislation. The Explanatory Memorandum also set out that the Government would seek Parliament's approval to further legislation related to the extension of borrowing.
- 8.20 The WMCA led the consultation, which was delivered in conjunction with the seven constituent local authorities. 1309 digital responses were received and 19 paper responses. Of the 1328 responses received 63 per cent were from local residents and seven per cent from businesses; in addition 23 stakeholder representations were received. The WMCA's summary of responses<sup>17</sup> to the consultation includes analysis

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<sup>12</sup> <http://councillors.knowsley.gov.uk/documents/s44315/Item%206%20-%20Appendix%20One.pdf>

<sup>13</sup> <https://teesvalley-ca.gov.uk/wp-content/uploads/2016/06/TVCA-8-July-2016-Agenda-and-Papers.pdf>

<sup>14</sup> <https://www.gov.uk/government/publications/tees-valley-devolution-deal>

<sup>15</sup> <https://www.wmca.org.uk/media/1367/mayoral-wmca-scheme.pdf>

<sup>16</sup> <https://www.gov.uk/government/publications/west-midlands-devolution-deal>

<sup>17</sup> <https://www.wmca.org.uk/media/1357/mayoral-wmca-consultation-report-for-upload.pdf>

of two profile based questions and analysis of responses to each of the nine multiple choice questions and analysis of the additional free text responses.

- 8.21 The consultation asked “To what extent do you agree or disagree that the Mayoral WMCA should get the functions highlighted above, and detailed in the ‘finance section’ of the Mayoral WMCA Functions Scheme, to deliver these ambitions?”, which included the ability to borrow. Of the 1302 responses to this section, 54 per cent agreed or strongly agreed, 35 per cent disagreed or strongly disagreed, and 145 did not know. This was the area where fewest respondents agreed the functions should be granted.
- 8.22 The most common theme in the free text responses to this question (22 per cent, 119 comments) was regarding respondents not wanting increases to taxation or for funds to come from existing budgets. Specifically in relation to borrowing, two respondents commented that the WMCA should only have the power to borrow, and not a Mayoral precept.
- 8.23 The WECA undertook a consultation in relation to proposals contained in a scheme<sup>18</sup> that the WECA prepared and published using provisions from the 2009 Act. The WECA prepared this scheme following negotiation of a devolution agreement<sup>19</sup> with the Government. The scheme proposed that WECA should have borrowing powers for “priority infrastructure projects, including but not limited to; transport, highways, housing, investment and economic regeneration, as relevant to the exercise of its functions, both mayoral and non-mayoral.”
- 8.24 The consultation ran for 6 weeks from 4 July to 13 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/126, as most of the proposals consulted on have already been provided for in legislation. The Explanatory Memorandum also set out that the Government would seek Parliament’s approval to further legislation related to the extension of borrowing.
- 8.25 The consultation was jointly led by the three councils that became the three constituent authorities of the WECA (Bath and North East Somerset, Bristol and South Gloucestershire). The councils invited residents and other stakeholders to participate in a survey. The survey received 2,011 responses and 14 organisations and individuals sent a response by email. The WECA’s summary of responses to the consultation<sup>20</sup> includes a demographic analysis of respondents and analysis of responses.
- 8.26 The survey was divided into four sections: decision making; place (transport and housing); people (adult education and skills); and business. There were 12 comments regarding concerns about long term finance in relation to proposals on adult education, skills and employment. There were no comments recorded in relation to borrowing.

## **9. Guidance**

- 9.1 No guidance is necessary to accompany these Regulations. The Government continues to work with the mayoral combined authorities to support their implementation of the devolution deals.

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<sup>18</sup> <https://democracy.bristol.gov.uk/documents/s5644/Appendix%203%20-%20Governance%20Scheme.pdf>

<sup>19</sup> <https://www.gov.uk/government/publications/west-of-england-devolution-deal>

<sup>20</sup> [https://democracy.bristol.gov.uk/documents/s6630/Devolution%20Consultation%20Final%20Report\\_Aug%202016.pdf](https://democracy.bristol.gov.uk/documents/s6630/Devolution%20Consultation%20Final%20Report_Aug%202016.pdf)

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 As regards impact on the public sector, enabling the mayoral combined authorities to borrow for further functions that have been conferred through earlier legislation will allow them to invest in economically productive infrastructure.
- 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 The combined authorities are required under the devolution agreements reached with Government to put in place an extensive programme of evaluation, agreed with HM Treasury, of the devolution agreements. The debt agreements that have been made with HM Treasury commit to regular monitoring and reviews and that either party can request a review.

## **13. Contact**

- 13.1 Ruth Miller at the Ministry of Housing, Communities and Local Government, Telephone: 030 3444 2547 or email: [ruth.miller@communities.gsi.gov.uk](mailto:ruth.miller@communities.gsi.gov.uk), can answer any queries regarding the instrument.