

Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No.

LOCAL GOVERNMENT, ENGLAND

**The Tees Valley Combined Authority (Functions and
Amendment) Order 2016**

Made - - - -

Coming into force - -

8th May 2017

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

The Secretary of State, having 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 section 104(10) 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 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.

(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. Section 114 was amended by section 23 of and paragraphs 17 and 26 of Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 105 was amended by sections 6, 9 and 14 of the Cities and Local Government Devolution Act 2016. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016. Sections 107D was inserted by section 4 of the Cities and Local Government Devolution Act 2016. Section 117(2), (2A) and (3) was substituted by section 13 of the Localism Act 2011 (c. 20). Section 117 was amended by paragraph 24 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

(b) Section 109 was amended by sections 6 and 12 of the Cities and Local Government Devolution Act 2016.

(c) Section 113 was amended by sections 12, 14 and 23 of and paragraph 24 of Schedule 5 to the Cities and Local Government Devolution Act 2016.

Citation and commencement

1. This Order may be cited as the Tees Valley Combined Authority (Functions and Amendment) Order 2016 and comes into force on 8th May 2017.

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);

“the Combined Authority” means the Tees Valley Combined Authority, a body corporate established by the 2016 Order(d); and

“the Mayor” means the mayor for the area of the Combined Authority(e).

Power to pay grant

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

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

(3) Paragraph (4) applies where, in exercising functions under paragraph (1), 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 highways 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) In complying 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 highways functions.

(6) For the purposes of the exercise by the Combined Authority of the functions specified in paragraph (1), section 31 of the 2003 Act has effect as if—

(a) in subsection (1)—

(i) for “A Minister of the Crown” there were substituted “The Combined Authority”,

(ii) for “local authority in England and Wales” there were substituted “constituent council”,

(a) subsection (2) were omitted;

(b) in subsections (3) and (4), for the “the person paying it” there were substituted “the Combined Authority”;

(c) subsection (6) were omitted.

(7) In this article “local highway authority” has the meaning given by section 329(1) of the 1980 Act.

(a) 2000 c.38.

(b) 2003 c.26.

(c) S.I. 2016/449

(d) The Tees Valley Combined Authority was established by the 2016 Order. Article 3(2) provides that “the combined authority is to be a body corporate and is to be known as the Tees Valley Combined Authority.

(e) Article 3 to S.I.2016/933 provides for there to be a mayor for the area of the Combined Authority.

Local Transport

- 4.—(1) The following are exercisable by the Combined Authority in relation to the 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) Omit article 6 of the 2016 Order(b).

Housing

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

General functions of the TVCA exercisable only by the Mayor

- 6.—(1) Subject to paragraph (2), the functions(d) of the TVCA under the following enactments are general functions 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) Members and officers of the TVCA may assist the Mayor in the exercise of the functions mentioned in paragraph (1).
- (3) 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)(f).

Funding

- 7.—(1) The constituent councils must ensure that the costs of the Combined Authority reasonably attributable to the exercise of the function mentioned in article 5 is met.
- (2) Any amount payable by each of the constituent councils to ensure that the costs of the Combined Authority referred to in paragraphs (1) 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

(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 170D(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 paragraph 2 of the Schedule to the Transport (Wales) Act 2006 (c.5), the Local Transport Act 2008 (c.26), sections 7 to 9, paragraphs 41 and 42 of Schedule 4 and Part 1 of Schedule 7, and the Local Democracy, Economic Development and Constructions Act 2009 (c.20), paragraph 96 of Schedule 6. Section 109 was amended by paragraph 3 of the Schedule to the Transport (Wales) Act 2006, the Local Transport Act 2000, section 9, and the Local Democracy, Economic Development and Constructions Act 2009 (c.20), paragraph 97 of Schedule 6. Section 112 was amended by the Local Transport Act 2008, sections 10 and 11 and Part 1 of Schedule 7, and the Equality Act 2010, paragraph 48 of Schedule 26.

(f) 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 Cities and Local Government Devolution Act 2016.

such agreement, in proportion to the total resident population of the Combined Authority which resides in that council at the relevant date as estimated by the Statistics Board(a).

Amendment of the Tees Valley Combined Authority Order 2016

- 8.**—(1) The Tees Valley Combined Authority Order 2016 is amended as follows—
- (2) In article 2 (interpretation) after the definition of “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) at the end of paragraph 1(2) insert “or if the member has been appointed as the Deputy Mayor and that member is acting in place of the Mayor at a meeting”;
- (b) paragraph 2 (chairman and vice-chairman) is omitted(b); and
- (c) in paragraph 3 (proceedings)—
- (i) for sub-paragraph (1) substitute—
- “(1) Subject to the following sub-paragraphs, any questions that are to be decided by the Combined Authority are to be decided by—
- (a) a majority of the members appointed by the constituent councils and substitute members, acting in place of those members, present and voting on that question at a meeting of the Combined Authority, and
- (b) the Mayor being present and voting with that majority.”,
- (ii) in sub-paragraph (2) after “unless” insert “the Mayor and”,
- (iii) for subparagraph (3)—
- “(3) Each member of the Combined Authority, or, where relevant, each substitute member acting in that member’s place, is to have one vote and no member of the Combined Authority is to have a casting vote, and
- (iv) For sub-paragraph (6) substitute—
- “(6) Questions relating to the following matters require the following in order to be carried—
- (a) a unanimous vote in favour by all five members, or substitute members acting in place of those members, appointed by the constituent councils, and
- (b) the Mayor to be present and voting in favour.”; and
- (d) In paragraph 4—
- (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—
- “(11)The Combined Authority may establish an independent remuneration panel to recommend allowances payable to members appointed to the Combined Authority, members of any committee or sub-committee of the Combined Authority and the Mayor.
- (12) 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; or

(a) Section 25 of the Statistics and Registration Service Act 2007 (c. 18) provides that the Statistics Board is responsible for the functions in section 19 of the Registration Service Act 1953 (c. 37).

(b) 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.

(b) is disqualified from being or becoming a member of the Combined Authority.

(13) The Combined Authority may pay the expenses incurred by an independent remuneration panel established under paragraph (12)(a) or (3)(b) in carrying out its functions and may pay the members of the panel such allowances or expenses as the Combined Authority may determine.

(14) An independent remuneration panel must produce a report in relation to the Combined Authority, making recommendations—

as to the responsibilities or duties in respect of which the following should be available—

- (i) special responsibility allowance;
- (ii) travelling and subsistence allowance; and
- (iii) co-optees' allowance;

(b) as to whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated;

(c) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed; and

(d) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

(15) A copy of a report made under paragraph (14) shall be sent to each authority in respect of which recommendations have been made.”

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

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	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 of the constitution 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. 2016/933). The Combined Authority was established by the Tees Valley Combined Authority Order 2016 (S.I. 2016/449) (the 2016 Order).

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to exercise specified functions of a local authority under sections 104, 105 and 105A of the 2009 Act, and power to exercise specified functions of any other public authority under section 105A of that Act.

The Secretary of State may provide for there to be a mayor for the area of a combined authority where the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority) and any existing combined authority consent under section 107B(3) of the 2009 Act.

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 (the Area) to be a function of the combined authority. The function is to be exercisable only 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 in relation to the exercise of its highways functions.

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. 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(1) of the Housing Act 1985 (periodical review of housing needs) to be exercisable by the Combined Authority in relation to the Area. 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, enables members and officers of the Combined Authority to assist the Mayor in the exercise of those functions and provides that 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).

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 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.