
STATUTORY INSTRUMENTS

2017 No. 126

**LOCAL GOVERNMENT, ENGLAND
TRANSPORT, ENGLAND**

The West of England Combined Authority Order 2017

Made - - - - 8th February 2017

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by sections 103(1), 104(1)(a), 105(1) and (3), 105A(1)(a) and (b), (2) and (3)(b), 107A(1) and (2), 107D(1), (7)(a), (b), (c), (d) and (e) and (8)(b), 113D(1), 114(1) and (3) and 117(5) of, paragraph 3 of Schedule 5A to, and paragraph 3 of Schedule 5B to, the Local Democracy, Economic Development and Construction Act 2009(1)(“the 2009 Act”).

The Secretary of State, having had regard to a scheme prepared and published under section 109 of the 2009 Act(2), 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 110(2) of the 2009 Act has been carried out.

The Secretary of State is satisfied that the area to which this Order relates meets the conditions set out in section 103(2) and (5) of the 2009 Act.

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 the need to secure effective and convenient local government(3).

In accordance with sections 104(10), 105(3A) and 105B(2)(4) of the 2009 Act, the councils for the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire have consented to the making of this Order.

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- (1) 2009 c. 20. Section 103 was amended by sections 12 and 14 of the Cities and Local Government Devolution Act 2016 (“the 2016 Act”) (c. 1). Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, 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. Section 107A was inserted by section 2 of the 2016 Act. Section 107D was inserted by section 4 of the 2016 Act. Section 114 was amended by Schedule 5 to the 2016 Act. Subsections (2), (2A) and (3) of section 117 were substituted by section 13 of the 2011 Act, and section 117(5) was inserted by paragraph 29 of Schedule 5 to the 2016 Act. Schedules 5A and 5B were inserted by Schedules 3 and 1 respectively to the 2016 Act.
 - (2) Section 109 was amended by sections 6 and 12 of the 2016 Act.
 - (3) Section 110(4) of the 2009 Act requires the Secretary of State when making an order to establish a combined authority to have regard to the need to reflect the identities and interests of local communities, and to secure effective and convenient local government.
 - (4) Section 105B was inserted by section 7 of the 2016 Act.

In accordance with section 105B(9) of the 2009 Act, the Secretary of State has laid before Parliament a report explaining the effect of this Order and why the Secretary of State considers it appropriate to make 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.

Accordingly, the Secretary of State makes the following Order:

PART 1

General

Citation and commencement

- 1.—(1) This Order may be cited as the West of England Combined Authority Order 2017.
- (2) This Order comes into force as provided for in the following paragraphs.
- (3) Parts 1, 2, 3, 6 and 8 come into force on either—
 - (a) 1st February 2017, or
 - (b) if the Order is made on or after 1st February 2017, on the day after the day on which the Order is made.
- (4) Parts 5 and 7 come into force on 8th May 2017.
- (5) Part 4 comes into force on 8th May 2018.

Interpretation

2. In this Order—
 - “the 1985 Act” means the Housing Act 1985(5);
 - “the 1989 Act” means the Local Government and Housing Act 1989(6);
 - “the 1990 Act” means the Town and Country Planning Act 1990(7);
 - “the 1999 Act” means the Greater London Authority Act 1999(8);
 - “the 2000 Act” means the Transport Act 2000(9);
 - “the 2003 Act” means the Local Government Act 2003(10);
 - “the 2004 Act” means the Planning and Compulsory Purchase Act 2004(11);
 - “the 2008 Act” means the Housing and Regeneration Act 2008(12);
 - “the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009;
 - “the 2011 Act” means the Localism Act 2011(13);

(5) 1985 c. 68.
(6) 1989 c. 42.
(7) 1990 c. 8.
(8) 1999 c. 29.
(9) 2000 c. 38.
(10) 2003 c. 26.
(11) 2004 c. 5.
(12) 2008 c. 17.
(13) 2011 c. 20.

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

“Combined Authority” means the West of England Combined Authority as constituted by article 3;

“constituent councils” means the councils for the local government areas of Bath and North East Somerset, Bristol City and South Gloucestershire;

“Corporation” means a corporation established by the Secretary of State in accordance with the provisions in section 198 of the 2011 Act following the designation of an area of land by the Combined Authority;

“the HCA” means the Homes and Communities Agency⁽¹⁴⁾; and

“Mayor”, except in the term “Mayor of London”, means the mayor for the Combined Authority as provided for by article 5.

PART 2

Establishment of a combined authority for the West of England; election of the Mayor; funding

Establishment

3.—(1) There is established as a body corporate a combined authority for the areas of the constituent councils.

(2) The combined authority is to be known as the West of England Combined Authority.

(3) The functions of the combined authority are those functions conferred or imposed upon it by this Order or by any other enactment (whenever passed or made), or as may be delegated to it by or under this Order or any other enactment (whenever passed or made).

Constitution

4. Schedule 1 (which makes provision about the constitution of the Combined Authority) has effect.

Mayor

5.—(1) There is to be a mayor for the Area.

(2) The first election for the return of a mayor is to take place on 4th May 2017.

(3) Subsequent elections for the return of a mayor for the Area must take place in every fourth year thereafter on the same day as the ordinary day of election.

(4) The term of office of the mayor returned at an election for the return of a mayor for the Area—

(a) begins with the fourth day after the day of the poll at the election for the return of a mayor for the Area; and

(b) ends with the third day after the day of the poll at the next election for the return of a mayor for the Area.

⁽¹⁴⁾ The HCA is a body corporate established under section 1 of the 2008 Act.

(5) In this article, “the ordinary day of election”, in relation to any year, means the day which is the ordinary day of election in that year of councillors for counties in England and districts in accordance with sections 37 and 37A of the Representation of the People Act 1983(15).

Funding

6.—(1) The constituent councils must meet any reasonably incurred costs of the Combined Authority, other than the costs mentioned in paragraph (4), to the extent that the Combined Authority has not decided to meet these costs from other resources available to the Combined Authority.

(2) Any amount payable by each of the constituent councils to ensure that the costs of the Combined Authority referred to in paragraph (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 such agreement, in proportion to the total resident population of the Area which resides in that council at the relevant date as estimated by the Statistics Board(16).

(3) The functions mentioned in articles 8(1), (4) and 9 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 (levies)(17) and in accordance with the Transport Levying Bodies Regulations 1992(18).

(4) Subject to paragraph (5), the constituent councils must meet the costs of the expenditure reasonably incurred in, or in connection with, the exercise of the functions specified in articles 7, 10, 12(1)(a) to (e), 13 and 23, to the extent that the Mayor has not decided to meet these costs from other resources available to the Combined Authority.

(5) In relation to the expenditure mentioned in paragraph (4), to the extent to which such expenditure is met by amounts payable under arrangements made under paragraph (2)—

- (a) the Mayor must agree with the Combined Authority the total expenditure mentioned in paragraph (4) in advance of incurring this expenditure; and
- (b) in the absence of the agreement specified in sub-paragraph (a), no such expenditure may be incurred.

(6) Section 39(1)(ab) of the Local Government Finance Act 1992(19) (precepting and precepting authorities) has effect in relation to the Combined Authority as if after “2009” there were inserted “other than the West of England Combined Authority”.

(7) For the purposes of paragraph (2) the relevant date in relation to a payment for a financial year is 30th June in the financial year which commenced two years prior to the financial year in which such payment is made.

(15) 1983 c. 2. Section 37 was amended by section 17 of, and Schedule 3 to, the 1999 Act and by section 60(1) of the Local Government and Public Involvement in Health Act 2007 (c. 28). Section 37A was inserted by section 60(2) of the Local Government and Public Involvement in Health Act 2007.

(16) 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).

(17) c. 41. Section 74 was amended by section 117 of and paragraph 72 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); section 20 of and paragraph 21 of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19); section 120 of and Schedule 24 to the Environment Act 1995 (c. 25); section 105 of the 1999 Act; section 109 of and paragraph 305(a) of Schedule 8 to the Courts Act 2003 (c. 39); section 53 of and paragraph 68 of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21); section 22 of and paragraph 16 of Schedule 1 to the Local Government and Involvement in Public Health Act 2007; sections 119 and 146 of and paragraphs 74 and 75 of Schedule 6 and Part 4 of Schedule 7 to the 2009 Act; section 99 of and paragraph 182(a) of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13); section 79 of and paragraphs 1 and 2 of Schedule 7 to the 2011 Act (c. 20); section 9 of the 2016 Act and by S.I. 1994/2825.

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

(19) Section 39 was amended by section 35 of the Local Government (Wales) Act 1994; sections 82 and 43 of and paragraph 1 of Part 1 of Schedule 34 to the 1999 Act; section 83 of the 2003 Act; section 53 of and paragraph 81 of Schedule 1 to the Fire and Rescue Services Act 2004; section 32 of and paragraph 10 of Schedule 2 to the Civil Contingencies Act 2004 (c. 36); section 26 of the Police Reform and Social Responsibility Act 2011; section 5 of the 2016 Act; and by S.I. 1999/3435.

PART 3

Transport

Power to pay grant

7.—(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 Area.

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

(3) Paragraph (4) applies where, in exercising the functions referred to in 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—

- (a) 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; and
- (b) the most recent determination by the Secretary of State of an amount of grant paid to the council for those purposes.

(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)—
 - (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 functions exercisable by a constituent council (in whatever capacity) in relation to the highways for which it is the highway authority.

(8) The exercise by the Combined Authority of the function specified in paragraph (1) on or before 7th May 2017 requires a unanimous vote in favour by all members of the Combined Authority appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the Combined Authority.

Local transport

8.—(1) Subject to paragraph (2), the following are exercisable by the Combined Authority in relation to the Area—

- (a) the functions of the constituent councils specified in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985(20); and
- (b) the functions of the constituent councils as local transport authorities specified in Part 2 (local transport) of the 2000 Act.