EXPLANATORY MEMORANDUM TO
THE BARNSLEY, DONCASTER, ROTHERHAM AND SHEFFIELD COMBINED AUTHORITY ORDER 2014

2014 No. [XXXX]

THE WEST YORKSHIRE COMBINED AUTHORITY ORDER 2014

2014 No. [XXXX]

THE HALTON, KNOWSLEY, LIVERPOOL, ST HELENS, SEFTON AND WIRRAL COMBINED AUTHORITY ORDER 2014

2014 No. [XXXX]

THE COMBINED AUTHORITIES (CONSEQUENTIAL AMENDMENTS) ORDER 2014

2014 No. [XXXX]

1. This grouped explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Orders establish the following combined authorities for the exercising of transport, economic development and regeneration functions across the areas concerned:

- Barnsley, Doncaster, Rotherham and Sheffield Combined Authority;
- West Yorkshire Combined Authority; and
- Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None.

4. Legislative Context

4.1 Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) provides for the establishment of combined authorities which take on the functions and responsibilities for economic development and regeneration from the relevant councils and, where one exists in the area, the functions of the Integrated Transport Authority (ITA). Combined authorities are corporate bodies with their own legal identity, which can provide a mechanism for governing and managing the economic development, regeneration and transport functions across a larger

area than that of an individual local authority – that is, across a functional economic area.

4.2 The proposed establishment of a combined authority is voluntary for the authorities involved. Under section 108 of the 2009 Act and section 82 of the Local Transport Act (the LTA 2008), where authorities wish to consider establishing a combined authority they must undertake reviews of the effectiveness and efficiency of transport and arrangements to promote economic development and regeneration in these areas and a review of governance arrangements. Following these reviews the authorities may publish a scheme for the establishment of a combined authority for the area.

4.3 Before establishing a combined authority, the Secretary of State is required to consult all authorities which are within the proposed area of the combined authority, and other persons considered appropriate. The Secretary of State may make an order establishing a combined authority if the Secretary of State considers that doing so is likely to improve:

- the exercise of statutory functions relating to transport in the area;
- the effectiveness and efficiency of transport in the area;
- the exercise of statutory functions relating to economic development and regeneration in the area; and
- economic conditions in the area.

The Secretary of State is also required to have regard to the need:

- to reflect the identities and interests of local communities, and
- to secure effective and convenient local government.

4.4 Parliamentary approval (through affirmative resolutions in each House) is required before the Order can be signed establishing the combined authority.

4.5 The 2009 Act also enables subsequent changes to the boundaries of an existing combined authority (through local government areas being added or removed) and dissolution of a combined authority's area. Any such changes would need to be preceded by the authorities concerned undertaking a governance review and publishing a scheme; the Secretary of State consulting such authorities and others as he considers appropriate; and the Secretary of State considering that the above statutory tests and conditions are met if the changes were made.

4.6 The establishment of these combined authorities requires a number of general consequential amendments to the Transport Act 1968 (the 1968 Act) to take account of the abolition of the Integrated Transport Authorities and their replacement by combined authorities. These are contained in the Combined Authorities (Consequential Amendments) Order 2014. There are separate consequential amendments required to the 1968 Act for West Yorkshire because of their decision to abolish their Passenger Transport Executive as part of their move to a combined authority. These are contained Schedule 2 to the West Yorkshire Combined Authority Order.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

The Minister for Local Government has made the following statement regarding Human Rights:

In my view the provisions of the Barnsley, Doncaster, Rotherham and Sheffield (Combined Authority) Order 2014; the West Yorkshire (Combined Authority) Order 2014; the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral (Combined Authority) Order 2014; and the Combined Authorities (Consequential Amendments) Order 2014 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 As the Government made clear in its' response[1] to the review undertaken by Lord Heseltine on how more effectively to promote growth and create wealth in the UK[2] , it wants to see a future where local authorities put economic development at the heart of all they do, collaborating, including with private sector partners, across a functional economic area. Establishing a combined authority is one way in which local authorities across a functional economic area can deepen and intensify their collaboration for promoting economic growth.

7.2 A combined authority brings together across the functional economic area decision making on the closely interconnected issues of transport (including taking over all functions, property, rights, and liabilities of any integrated transport authority which is abolished), economic development and regeneration. It provides a stable, efficient, and accountable form of governance both to underpin the local authorities' collaboration and to facilitate that partnership with business, particularly with the Local Enterprise Partnership for the area, which is essential for the effective promotion of economic growth.

7.3 Accordingly, a combined authority can provide the robust local governance necessary to deliver the outcomes envisaged in the City Deals (City Deals are bespoke agreements between central government and cities, creating the conditions to help businesses grow and boost local economies) which the Government is agreeing with a number of areas. The Government has already agreed City Deals in all three areas for which the Orders establish combined authorities.

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[1] Government's response to the Heseltine Review Cm 8587, March 2013
[2] No stone unturned in pursuit of growth, October 2012

7.4 Moreover, building on the success of City Deals, the Government is committed to negotiating a Growth Deal[3] with every Local Enterprise Partnership, enabling the Partnerships to seek freedoms, flexibilities and influence over resources from Government, and a share of the new Local Growth Fund to target their identified local growth priorities. In its initial guidance on Growth Deals the Government emphasises the importance of there being robust and effective governance arrangements to underpin partnerships and deliver collective decisions. In its guidance, whilst recognising that a combined authority might not be right for all places, the Government identifies that a combined authority may provide the necessary governance arrangements for Growth Deals.

7.5 The 2009 Act provides that where local authorities come forward with locally led proposals for a combined authority, the Secretary of State may, if certain statutory conditions are met and if Parliament approves, make an Order opening the way for the local authorities to establish their proposed combined authority, facilitating their collaboration and joint working across the functional economic area. The Government's approach to the establishment of a combined authority is one of localism. Whilst the Secretary of State will consider the circumstances of each particular case, his policy is that where local authorities come forward with a proposal for a combined authority which commands wide local support, he will, if he considers that the statutory conditions are met, invite Parliament to approve the Order establishing the proposed combined authority to enable the local authorities to give full effect to their ambitions for joint working.

7.6 The 2009 Act also allows changes to a combined authority after it has been established – so councils can leave a combined authority, additional councils can join, or the combined authority can be abolished. The Secretary of State's approach to any proposal to changes to existing combined authorities will be one of localism. This means that where any council wishes to leave the combined authority and the statutory conditions are met the Secretary of State will seek Parliamentary approval to the Order enabling the council to leave.

7.7 In the case of the Orders laid in draft, the Secretary of State, after undertaking the statutory required consultations, is satisfied both that the statutory conditions are met and that there is extensive local support for the combined authorities proposed in each case by the local authorities covering the functional economic area concerned. Accordingly, he is seeking Parliamentary approval to the Orders establishing the three proposed combined authorities which in each case will materially strengthen collaboration and joint working between the local authorities and with their Local Enterprise Partnership on economic development, regeneration and transport, thereby promoting more effectively economic growth and prosperity for the areas concerned.

[3] Growth Deals: Initial Guidance for Local Enterprise Partnerships: HM Government: July 2013

7.8 The details of each Combined Authority will reflect both the local circumstances, and the joint working and collaboration arrangements envisaged by the local authorities concerned. Two of the Combined Authorities will involve local authorities – "non-constituent councils" – outside the area of the Combined Authority, recognising that the areas of these local authorities have an economic interdependence with the area of the Combined Authority, even though they are also part of another functional economic area. Chesterfield Borough Council and the district councils of Bassetlaw, Bolsover, Derbyshire Dales and North East Derbyshire are non-constituent councils of the Barnsley, Doncaster, Rotherham, and Sheffield Combined Authority. The City of York is a non-constituent council of the West Yorkshire Combined Authority. In all cases the combined authority will work seamlessly with the Local Enterprise Partnership for the area, and other than in the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority, the Partnership will appoint members to the combined authorities. It is open to a combined authority to agree that members appointed to it by non-constituent councils or Local Enterprise Partnerships may have voting rights.

8. Consultation outcome

The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority

8.1 An eight week consultation ending on 7th October 2013 was undertaken, inviting views from the statutory consultees - the metropolitan borough councils of Barnsley, Doncaster and Rotherham and Sheffield City Council, and the South Yorkshire Integrated Transport Authority – and others whom the Secretary of State considered it appropriate to consult. These included the three Local Enterprise Partnerships concerned (the Sheffield City Region Local Enterprise Partnership; Derby, Derbyshire, Nottingham and Nottinghamshire (D2N2) Local Enterprise Partnership and Leeds City Region Local Enterprise Partnership; the five district councils proposed to be non constituent councils in the Combined Authority (Bassetlaw, Bolsover, Chesterfield, Derbyshire Dales and North East Derbyshire districts); the other neighbouring councils, and the county councils of Nottinghamshire and Derbyshire. Local authorities consulted were invited to draw the consultation to the attention of the members of the public, local businesses and their representative bodies and the voluntary sector.

8.2 All the statutory consultees, non-constituent councils and the Sheffield City Region Local Enterprise Partnership supported the establishment of the Combined Authority. In their response the councils concerned reaffirmed that the Combined Authority "commands overwhelming support of local partners" and the Local Enterprise Partnership commented that in their view "it is safe to conclude that there is overwhelming support for this proposal [the Combined Authority]".

8.3 However, the statutory consultees and five non-constituent councils asked for the name of the Combined Authority to be the "Sheffield City

Region Combined Authority", rather than as then proposed "The South Yorkshire Combined Authority"; these nine councils saw as an alternative the name "The Barnsley, Doncaster, Rotherham, Sheffield and North East Midlands Combined Authority". The Government believes that references to a "City Region" are misleading and inappropriate, implying an additional tier of government which neither exists – a combined authority is a mechanism for existing local authorities to collaborate, not a separate, independent layer of governance – nor has a place in the traditions of this country. The Government also considered that any reference to North East Midlands would not be possible, since the area of the Combined Authority does not include the North East Midlands, and statute requires that the area of a combined Authority can only include the areas of the constituent councils. Accordingly, and having regard to the councils' opposition to referring to "South Yorkshire", the Government has decided on the name in the Order, to which the statutory consultees have now all consented, of "the Barnsley, Doncaster, Rotherham, and Sheffield Combined Authority".

8.4 The nine councils also made a number of representations about the powers and operation of the Combined Authority, including that the Combined Authority should be able to exercise its powers other than in relation to its area. The Government considers that the 2009 Act would not permit this. The constituent councils have now consented to the Order which includes the Combined Authority being able to rely on the general power of competence under section 1 of the Localism Act 2011 for the purposes of economic development. The Order also requires the Combined Authority to have an overview and scrutiny committee, thus increasing transparency and accountability.

8.5 Nottinghamshire and Derbyshire county councils, Derby City Council, and the D2N2 Local Enterprise Partnership also supported in principle the establishment of the Combined Authority, but expressed concerns that the overlap of areas involving the non-constituent councils could lead to additional complexities which could prove damaging to the long term economic development of their area. Nottinghamshire County Council made representations that the establishment of the Combined Authority should be delayed. Subsequently, there have been discussions involving the councils' Chief Executives resulting, the Department has been informed, in agreements to put in place clear structures for future joint working in order to overcome the complexities of any overlap. Accordingly, the Government considers there is no case for delaying the establishment of the Combined Authority.

8.6 Other responses among the 21 received included three from parish councils expressing concerns that the establishment of the Combined Authority would mean that the interests of smaller areas would be overlooked and smaller local communities could lose identity to larger centres. An issue was also raised that rural and urban areas of the Combined Authority would have different needs. The Government believes that these concerns do not fully recognise the decision making processes of the Combined Authority, and that the focus of the Combined Authority will be on matters which currently

through largely voluntary partnerships are already addressed at the Local Enterprise Partnership level.

The West Yorkshire Combined Authority

8.7 An eight week consultation ending on 2nd January 2014 was undertaken, inviting views from the statutory consultees – the metropolitan district councils of Bradford, Calderdale, Kirklees and Wakefield and Leeds City Council and West Yorkshire ITA – and others whom the Secretary of State considered it appropriate to consult. These included the three neighbouring Local Enterprise Partnerships (Leeds City Region Local Enterprise Partnership, Sheffield City Region Local Enterprise Partnership and York, North Yorkshire and East Riding Enterprise Partnership); the non–constituent council of the City of York; and district and borough councils neighbouring the proposed Combined Authority area. Local authorities consulted were invited to draw the consultation to the attention of the members of the public, local businesses and their representative bodies and the voluntary sector.

8.8 All the statutory consultees, the Leeds City Region Local Enterprise Partnership and the non-constituent council of the City of York support the establishment of the West Yorkshire Combined Authority as did two of three parish and town councils, the business and voluntary and community sector and about half of the members of the public that responded. Responses from the constituent councils confirmed their view that the Combined Authority would improve transport, economic development and regeneration and deliver growth, and support West Yorkshire to fully realise its City Deal ambitions. To improve the transparency and accountability of the Combined Authority, the Order, to which the constituent councils have now consented, now provides that the Combined Authority must have an overview and scrutiny committee with members drawn from those councils.

8.9 The key concern raised was around the status of the City of York as a non-constituent council of the Combined Authority. North Yorkshire County Council stated explicitly that it did not wish to raise objections to the principle of the establishment of a Combined Authority across the areas of Bradford, Calderdale, Kirklees, Leeds and Wakefield, but were opposed to any "potential changes in governance which would undermine its ability to coordinate across the whole County of North Yorkshire its statutory functions in relation to economic development, highways and transport". Some residents also expressed concern about York being a "junior" member, and some misunderstood the impact on York's residents. The City of York's response supports its membership as a non-constituent authority and re-affirms its commitment to continue to work with North Yorkshire authorities. The Government considers that the concerns expressed about York's status are not material to the establishment of the West Yorkshire Combined Authority as specified in this Order, but instead relate to the potential future inclusion of York as a constituent council of the Combined Authority which cannot be achieved without changes to primary legislation.

8.10 An eight week consultation ending on 22nd January 2014 was undertaken, inviting views from the statutory consultees - the borough councils of Halton, Knowsley, Sefton, St Helens and Wirral, Liverpool City Council and Greater Merseyside Integrated Transport Authority – and others whom the Secretary of State considered it appropriate to consult. These included the Liverpool City Region Local Enterprise Partnership and the councils neighbouring the Combined Authority area. Local authorities were invited to draw the consultation to the attention of members of the public, local businesses and their representative bodies, and the voluntary sector.

8.11 All of the statutory consultees, the Local Enterprise Partnership and the neighbouring local authorities all support the establishment of the Combined Authority.

8.12 However, the statutory consultees asked for the name to be changed from that which was proposed in the consultation (The Greater Merseyside Combined Authority). Their responses were in support of a name that included the word "Liverpool", rather than "Merseyside". The six constituent authorities and the Local Enterprise Partnership stated their preference for "Liverpool City Region Combined Authority". Having taken account of all of the comments made, the Government has decided the name in the Order, to which the statutory consultees have now all consented, of "the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority".

8.13 Those that raised concerns principally focussed on the issue that certain local communities could lose identity, and resources, to Liverpool. St Helens, Southport and Widnes/Runcorn were specifically identified as such communities. Some respondents sought reassurance about local accountability and scrutiny arrangements, with concerns raised that the authority would be dominated by one party and would not be democratically accountable Those against had concerns about constitutional arrangements of the Combined Authority or its effects on local identities. The Government has now provided in the Order that it is mandatory for the Combined Authority to have an overview and scrutiny committee which can be made up of members across the parties.

9. Guidance

9.1 No guidance is planned to be issued given the Government's localist approach to combined authorities, which are a means, where local authorities wish to adopt this, for them to collaborate and work together for promoting local economic growth.

10. Impact

10.1 These Orders will have no impact on business, charities or voluntary bodies. An Impact Assessment has not been prepared for these instruments..

10.2 The establishment of the combined authorities may lead to very modest start-up costs for the public sector. Longer term the combined authorities should lead to operational efficiencies that could lead to reduced costs. Indeed, the statutory tests for the establishment of a combined authority require the Secretary of State to consider that doing so is likely to improve the exercise of statutory functions relating to economic development, regeneration and transport; the effectiveness and efficiency of transport and economic conditions.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The success criteria for this instrument will be the judgement made locally by the local authorities concerned on how through the combined authorities the economic performance of their areas is improving.

13. Contact

Kathy Billington or Helen Bamford at the Department for Communities and Local Government can answer questions on these instruments. Their contact details are:
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