EXPLANATORY MEMORANDUM TO

THE BUCKINGHAMSHIRE COUNCIL, SURREY COUNTY COUNCIL AND WARWICKSHIRE COUNTY COUNCIL (HOUSING AND REGENERATION FUNCTIONS) REGULATIONS 2025

2025 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 His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Minister McMahon, Minister of State for Local Government and English Devolution in the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Tim Bowden, co-Deputy Director of the Governance Reform and Democracy Unit in the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Coralie Blatchford-Neave at the Ministry of Housing, Communities and Local Government, gradsubmissions@communities.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations provide for the conferral of housing and regeneration public authority functions to be exercised by Buckinghamshire Council, Surrey County Council, and Warwickshire County Council concurrently with the Homes and Communities Agency.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The Government has emphasised its commitment to transferring power out of Westminster and into local communities, handing power to those with local knowledge and who are incentivised to drive progress forward.

5.2 On 6 March 2024, devolution framework agreements were made between the previous Government and Buckinghamshire Council[1], Surrey County Council[2], and Warwickshire County Council[3]. These three agreements offered powers to enable the local authorities to improve the economic, social and environmental well-being of people within the community by strengthening local leadership to shape local skills provisions and utilise land assembly and compulsory purchase to drive area-based regeneration and build more affordable homes.

5.3 The Buckinghamshire Council, Surrey County Council and Warwickshire County Council (Housing and Regeneration Functions) Regulations 2025, using the powers available from the Cities and Local Government Devolution Act 2016 ("the 2016 Act"), implement these agreements and confer housing and regeneration functions, which currently sit within the Homes and Communities Agency,[4] on the local authorities. This is the first time that powers in the 2016 Act have been used to confer functions on individual local authorities. Functions relating to adult education, skills and training set out in the agreements – including the devolution of the Adult Skills Fund – will be conferred by future Regulations made by the Secretary of State for Education, subject to readiness conditions being met.

What was the previous policy, how is this different?

5.4 These are the first devolution agreements to be implemented within the area of these three local authorities. The purpose of the Regulations, in accordance with the agreements, is to confer Homes and Communities Agency public authority functions on Buckinghamshire Council, Surrey County Council, and Warwickshire County Council, to be exercised in relation to their respective local government areas. Conferral of these functions has been part of other devolution statutory instruments conferring functions on Combined Authorities and Combined County Authorities, such as the Lancashire Combined County Authority Regulations 2024[5] and the East Midlands Combined County Authority Regulations 2024[6]. The provisions of the Regulations will come into force on the day after the day on which the Regulations are made. Buckinghamshire Council, Surrey County Council and Warwickshire County Council have consented to the making of these Regulations.

The Buckinghamshire Council, Surrey County Council and Warwickshire County Council (Housing and Regeneration Functions) Regulations 2025

5.5 The Regulations relate to the housing, regeneration and planning functions under the Housing and Regeneration Act 2008 ("2008 Act") to be conferred on Buckinghamshire Council, Surrey County Council, and Warwickshire County Council. The powers are exercisable concurrently with the Homes and Communities Agency, and will be exercisable only within the local authorities' respective local

[1] www.gov.uk/government/publications/buckinghamshire-level-2-devolution-framework-agreement
[2] www.gov.uk/government/publications/surrey-level-2-devolution-framework-agreement
[3] www.gov.uk/government/publications/warwickshire-level-2-devolution-framework-agreement
[4] In 2018, the trading name for the Homes and Communities Agency became Homes England.
[5] SI 2024/[XXX]
[6] SI 2024/232

government areas. The powers relate to the provision of housing, regeneration of land, and acquisition and disposal of land. Powers are to be exercised for the purposes of: improving the quality and supply of housing; securing the regeneration of land or infrastructure; the development and/or continued well-being of communities; and, achieving sustainable development and good design.

5.6 In the case of Surrey County Council and Warwickshire County Council, for any compulsory land acquisition to take place using powers in the 2008 Act, the consent of the district council in which the land sits will be required.

Schedule

5.7 The schedule makes the necessary modifications to apply, or disapply, legislation to Buckinghamshire Council, Surrey County Council, and Warwickshire County Council in consequence of the provisions above.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 16 of the 2016 Act enables the Secretary of State to confer a function of a public authority on a local authority, to be exercised concurrently with the public authority.

6.2 Section 17 of the 2016 Act provides that the Secretary of State may make Regulations under section 16 providing that the relevant local authority consents, and that the Secretary of State considers that doing so meets the statutory test, i.e. making the Regulations is likely to improve the economic, social and environmental well-being of some or all of the people who live and work in the relevant local authority's area.

Why was this approach taken to change the law?

6.3 This is the only possible approach to implementing the agreements between the local authorities and government.

7. Consultation

Summary of consultation outcome and methodology

7.1 The 2016 Act does not require that the Secretary of State or the local authorities carry out a public consultation. On 5 December 2024, however, the local authorities submitted to the Secretary of State supporting information on their potential use of the new public authority functions, including feedback gathered through their engagement with local stakeholders, providing context for the Secretary of State to consider when deciding whether conferral of the proposed functions meets the statutory test. The outcome of the engagement demonstrated local support for the conferral of the functions upon each of the local authorities.

7.2 Buckinghamshire Council engaged with health, education and skills, and business and private sector partners. All were supportive of Buckinghamshire Council taking on the functions.

7.3 Surrey County Council engaged with delivery partners including district and borough councils, higher education and further education representatives, and business leaders. Partners were supportive of Surrey County Council taking on the functions, identifying potential benefits for growth, and opportunities to support local authorities unlocking stalled sites and bringing forwards new development.

7.4 Warwickshire County Council engaged with district and borough councils, as those they work most closely on delivery with, and have committed to engaging with business and wider stakeholder groups on a case-by-case basis if exercising the functions. The group were supportive of the conferral of these functions as a welcome addition to the range of tools that are available to bring forward development.

8. Applicable Guidance

8.1 No guidance is necessary to accompany these Regulations. The government continues to work with the local authorities to support their implementation of the devolution agreements.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no, or a low level of impact on businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because these Regulations do not relate to the legislation governing the establishment or running of businesses, charities or voluntary bodies, and do not impose any requirements on these organisations.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is that conferring functions on the local authorities could contribute to improving the local economy by driving regeneration, delivering housing and community infrastructure to support local social needs, and/or supporting green infrastructure priorities. The statutory test requires the Secretary of State to consider that conferring the functions on the local authorities is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area. The Secretary of State is satisfied that this test is met for Buckinghamshire Council, Surrey County Council, and Warwickshire County Council in relation to the provisions of the Regulations.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is that the local authorities are required under the English Devolution Accountability Framework to put in place mechanisms to ensure that local leaders and institutions are transparent and accountable, work closely with local businesses, seek the best value for taxpayers' money, and maintain strong ethical standards.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Section 17(6) of the 2016 Act provides that, at the same time as laying a draft of a statutory instrument containing Regulations under section 16(1) of the 2016 Act before Parliament, the Secretary of State must also lay a report explaining the effect of

these Regulations which confer public authority functions on the local authorities, and why the Secretary of State considers it appropriate to make the Regulations.

11.2 There are no other matters of special interest to Parliament.

12. European Convention on Human Rights

12.1 Minister McMahon, Minister of State for Local Government and English Devolution in the Ministry for Housing, Communities and Local Government has made the following statement regarding Human Rights:

"In my view the provisions of the Buckinghamshire Council, Surrey County Council and Warwickshire County Council (Housing and Regeneration Functions) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (''relevant European Union Acts'').