EXPLANATORY MEMORANDUM TO THE DURHAM, GATESHEAD, NEWCASTLE UPON TYNE, NORTH TYNESIDE, NORTHUMBERLAND, SOUTH TYNESIDE AND SUNDERLAND COMBINED AUTHORITY ORDER 2014

2014 No. XXXX

1. This 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 Order establishes the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority for the exercising of transport, economic development and regeneration functions across the area concerned.

3. Matters of special interest to the Joint 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. 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 2008 (the 2008 Act), 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 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.

4.5 The establishment of this combined authority requires a number of general consequential amendments to the Transport Act 1968 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 (S.I. 2014/XXXX).

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 Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland (Combined Authority) 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

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

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 that 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. Within the area for which the Order is establishing a Combined Authority, the Government has already agreed one City Deal (Newcastle City Deal) and is in the final stage of negotiating another (Sunderland City Deal).

7.4 Moreover, building on the success of City Deals, the Government is committed to negotiating a Growth Deal 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[3] 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.

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

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 this Order, 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 authority proposed by the local authorities covering the functional economic area. Establishing the Combined Authority 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 area concerned.

7.8 The details of the Combined Authority reflect both the local circumstances, and the joint working and collaboration arrangements envisaged by the local authorities concerned. Each of the local authorities in the area will be a constituent member of the Combined Authority – the County Council of Durham, the Council of the Borough of Gateshead, the Council of the City of Newcastle Upon Tyne, the Council of the Borough of North Tyneside, Northumberland County Council, the Council of the Borough of South Tyneside, and the Council of the City of Sunderland. The Combined Authority will work seamlessly with the Local Enterprise Partnership for the area (the North East Local Enterprise Partnership), and the Partnership will appoint members to the Combined Authority. It is open to the Combined Authority to agree that members appointed to it by the North East Local Enterprise Partnerships may have voting rights.

8. Consultation outcome

8.1 An eight week consultation ending on 2nd January 2014 was undertaken, inviting views from the statutory consultees – the County Council of Durham, the Council of the Borough of Gateshead, the Council of the City of Newcastle Upon Tyne, the Council of the Borough of North Tyneside, Northumberland County Council, the Council of the Borough of South Tyneside, the Council of the City of Sunderland and the Tyne and Wear Integrated Transport Authority – and others whom the Secretary of State considered it appropriate to consult. These included the Local Enterprise Partnership (the North East Local Enterprise Partnership) and the other neighbouring councils. 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 of the statutory consultees and the Local Enterprise Partnership support the establishment of the Combined Authority. Five of the councils

submitted a joint response, which provided evidence about the improvements the Combined Authority would bring and how the Combined Authority and Local Enterprise Partnership would work together. One of the statutory consultees – the Council of the City of Sunderland – supported in principle the establishment of the Combined Authority but made representations requesting a delay in its establishment until it had worked through some practical details of the operation of the Combined Authority with the other constituent councils. Subsequent to the consultation, the Leader of the Council of the City of Sunderland responded to the Department stating that "all of the outstanding issues have now been resolved to the degree that I am now comfortable to sign up to the creation of the Combined Authority."

8.3 There was also wide support from the local business sector, including local transport providers, local public service delivery organisations, Parish and Town Councils and around half of the members of the public that responded. The councils provided a local consultation report summarising the results of their local consultation. The local authorities reported that the vast majority of responses were positive. They centred on efficiency of service delivery, the value of coordination across a larger area and the need for a single voice.

8.4 A number of respondents suggested a change to the name from that which was consulted upon (the Northumberland, Durham and Tyne and Wear Combined Authority). Some neighbouring local authorities and the Tees Valley Local Enterprise Partnership asked the Government not to include "North East" in the name for risk of confusion. The Government therefore has decided on the name in the Order, to which the statutory consultees have now all consented, of "The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority". It is open to the Combined Authority to decide its own "branding" including any brand name it wishes to use locally.

8.5 The main concern within the Government's consultation and the local consultation report was about the Combined Authority representing an additional layer of bureaucracy. The Government considers that these concerns do not take account of the light touch administrative arrangements to which councils are committed for the Combined Authority. There were also concerns regarding the accountability of the Combined Authority and several respondents proposed that it should be mandatory for the Combined Authority to have an overview and scrutiny committee. The Order, to which the constituent councils have consented, now requires the Combined Authority to have an overview and scrutiny committee, which can be made up of members across the parties, thus increasing transparency and accountability.

8.6 There were also some concerns about the impact on rural communities and that the Combined Authority would adversely affect the provision of rural transport. 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.

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 This Order will have no impact on business, charities or voluntary bodies. An Impact Assessment has not been prepared for this instrument.

10.2 The establishment of the Combined Authority may lead to very modest start-up costs for the public sector. Longer term the Combined Authority 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 Authority the economic performance of their area is improving.

13. Contact

Ruth Miller at the Department for Communities and Local Government can answer questions on these instruments. Contact details are Tel: 030 3444 2547, Ruth.Miller@communities.gsi.gov.uk.