EXPLANATORY MEMORANDUM TO

THE GREATER MANCHESTER COMBINED AUTHORITY (AMENDMENT) ORDER 2015

2015 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 amends the Greater Manchester Combined Authority Order 2011 (S.I. 2011/908) ("the 2011 Order").

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. These are bodies corporate for a geographical area of two or more local authority areas and have functions relating to transport, economic development and regeneration delegated to them by their constituent local authorities. They are led by their members, the majority of whom must be elected members of the constituent local authorities.

4.2 The 2009 Act specifies the process that must be followed before a combined authority can be established. The local authorities undertake a governance review and publish a scheme setting out how the combined authority will function. The Secretary of State must consult appropriate authorities, and if the Secretary of State considers that a number of statutory conditions are met, may lay a draft order which includes provisions setting out how the combined authority would operate. The order must be approved by each House of Parliament before it can be made by the Secretary of State, and the combined authority is established.

4.3 Section 104(1)(a) of the 2009 Act allows the Secretary of State to make by order in relation to a combined authority any provisions that may be made in relation to an integrated transport authority under section 85 of the Local Transport Act 2008.

4.4 The Secretary of State may make changes to existing combined authority arrangements for an area, under section 113 of the 2009 Act. Before making such an order the following steps must have been taken:

- the authorities concerned undertake a governance review and publish a scheme under section 112 of the 2009 Act.
- the Secretary of State consults such authorities mentioned in section 111(2) of the 2009 Act and others as he considers appropriate, as required in section 113(2) of the 2009 Act;
- the Secretary of State considers that making the change(s) meets the statutory conditions (required in section 113(1) of the 2009 Act) – that the changes would be likely to be improve:
    - the exercise of statutory functions relating to economic development or regeneration in the area;
    - the exercise of statutory functions relating to transport in the area;
    - the effectiveness and efficiency of transport in the area; or
    - economic conditions in the area.
- under section 113(3) of the 2009 Act, 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.
- Parliamentary approval (through affirmative resolutions in each House) is required before an order can be made which makes the changes to the existing arrangements.

4.5 A draft of this Order has been prepared following:

- the publication on 19th December 2014 of a governance review and scheme (available at http://www.manchester.gov.uk/gmca) under section 112 of the 2009 Act by the Greater Manchester Combined Authority;
- the Secretary of State consulting statutory consultees on a draft of this Order between 23rd January and 13th February 2015; and
- the Secretary of State considering that the proposed changes would be likely to lead to the improvements specified in paragraph 4.4 and having regard to the matters in paragraph 4.4.

4.6 Article 4 of the Order allows for the appointment of an additional member of the Greater Manchester Combined Authority, who will chair the Combined Authority and be known as the Interim Mayor. The Order provides for the eligibility criteria, appointment process, payment of allowances, term of appointment and procedures concerning resignation and termination for the Interim Mayor; and amends the voting provisions for the Combined Authority.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 The Minister for Housing and Planning has made the following statement regarding Human Rights:

In my view the provisions of the Greater Manchester Combined Authority (Amendment) Order 2015 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 The Government wants to see more locally-led joint working by councils and considers that a combined authority is one option for supporting this. Where to promote economic growth across an area each local authority concerned agrees on a combined authority and there is wide local support for that authority which meets the statutory tests, the Government's policy is to seek Parliament's approval to the necessary legislative order establishing that authority. Similarly, where all parties locally wish to make changes to an existing combined authority, and where those changes would meet the necessary statutory conditions, the Government will seek Parliament's approval to make those changes.

7.2 On 3rd November 2014 the Government and Greater Manchester concluded a devolution agreement which provided for an offer of powers and budgets from Government on the basis that Greater Manchester will deliver certain reforms and measures, including Greater Manchester adopting a model of a directly elected mayor covering the whole of the Greater Manchester area. The agreement provides that "as an interim stage, as soon as Parliamentary time allows, steps will be taken to amend the Combined Authority order to create an eleventh leader as Chair, who will be the appointed Mayor until a Mayor is elected." As this is an interim governance arrangement to be replaced when primary legislation is in place to enable a mayor to be directly elected for Greater Manchester, this position is to be known as the Interim Mayor.

7.3 On 19th December 2014 the Greater Manchester Combined Authority published in accordance with the 2009 Act a scheme with proposals for amending the 2011 Order. The proposed amendments would provide for the appointment of an eleventh member to the Combined Authority who would be chair of the Combined Authority and be known as the "Interim Mayor". Before preparing this scheme, the Combined Authority, as required by the 2009 Act, reviewed its governance arrangements.

7.4 In the governance review, the Combined Authority concluded that the introduction of an Interim Mayor would be a necessary first step to begin the process to support the devolution of powers. The appointment of an eleventh member to chair the Combined Authority's board would enhance the leadership capacity of the Combined Authority and support it to deliver the additional responsibilities provided under the devolution

agreement, and therefore support the promotion of economic development and transport in the area. The Order specifies the eligibility criteria that a person would need to satisfy in order to apply for and be appointed to the position of Interim Mayor. Applications will be invited and shortlisted by the Greater Manchester Combined Authority (i.e. nominated by a member of the Combined Authority) and ultimately the appointment is approved following a vote by the Greater Manchester Combined Authority members. The Order also provides for the Interim Mayor to be paid an allowance if the Greater Manchester Combined Authority has considered a report by an Independent Remuneration Panel and the allowance does not exceed the recommendation of that panel. The Association of Greater Manchester Authorities and the Greater Manchester Combined Authority have established a Joint Independent Remuneration Panel.

8. Consultation outcome

8.1 Prior to the consultation the Secretary of State formed a preliminary view that the provisions in the proposed Order would be likely to improve the exercise of statutory functions relating to economic development, regeneration or transport; the effectiveness and efficiency of transport and the economic conditions in the area.

8.2 The Secretary of State sought views from the following between 23 January and 13 February on a draft Order which, if made, would provide for the Interim Mayor:

- the metropolitan district councils within Greater Manchester: Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford, Wigan;
- the Greater Manchester Combined Authority;
- the Greater Manchester Local Enterprise Partnership; and
- the Business Leadership Council.

Additionally, the consultation document was placed on the Government's website at https://www.gov.uk/government/consultations/proposal-to-amend-the-constitution-of-the-greater-manchester-combined-authority. The consultation welcomed comments from members of the public and others.

8.3 We received 12 responses to the consultation, all of which responded to the three consultation questions:

- Question 1 – do you consider that enabling an additional board member to chair the Greater Manchester Combined Authority would be likely to improve the provision of transport in the area and its effectiveness and efficiency, the provision of economic development and regeneration in the area, or the economic conditions in the area? And if so, in what regards?

- Question 2 – how do you consider an additional board member may impact on the identities and interests of local communities and on securing effective and convenient local government?

- Question 3 – do you have any comments on the proposed constitutional arrangements as set out in Annex A of the consultation document. (A summary

of the proposed amendments to the constitution of the Greater Manchester Combined Authority was included at Annex A of the consultation document.)

8.4 **Question 1** All of the respondents considered that the proposed appointment of an additional member to chair the Greater Manchester Combined Authority would be likely to improve the provision of transport and its effectiveness and efficiency, the provision of economic development and regeneration, or the economic conditions in the area. Respondents considered that this additional leadership and capacity would strengthen the Combined Authority's exercise of its statutory functions relating to economic development, regeneration and transport, enable the Combined Authority to make faster progress in driving reform and growth and support an evolutionary approach to absorbing the additional powers.

8.5 **Question 2** None of the respondents to the consultation considered the proposed changes would have an adverse impact on the need to secure convenient and effective local government, or the interests and identities of local communities. Respondents considered that the changes would enable Greater Manchester to continue on its evolutionary and long history of collaboration, based on local agreement on what is best delivered by local authorities and the Combined Authority; and that delivering the improvements to transport and economic development in the area will improve the ability of people to access jobs and enhance skills.

8.6 **Question 3** All of the respondents agreed with the provisions in the draft Order. Four also suggested further provisions. Two suggestions, relating to the eligibility criteria for the Interim Mayor, have been incorporated into the draft Order. A third related to possible provisions about an elected mayor, and will be taken into account in the future further implementation of the devolution agreement. A further respondent sought confirmation that the Order will continue to specify a number of constitutional matters, which it will, for example, that the order would include reference to the continuous role of the ten districts and their Leaders forming the basis of the Cabinet.

8.7 In conclusion, the Secretary of State is satisfied that the governance review, scheme and responses to the consultation provide sufficient evidence that making the proposed change to the Greater Manchester Combined Authority's constitution to enable the appointment of an eleventh member to chair the Combined Authority (the Interim Mayor) is likely to improve:

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

In laying the draft Order, the Secretary of State also considers that there is sufficient evidence from the governance review, scheme and consultation responses that the amendments will support the continuation of effective and convenient local government and the identities and interests of local communities.

9. Guidance

9.1 No guidance will be issued.

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 Order.

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 the improvement in the economic performance of the combined authority by reason of the introduction of the eleventh member.

13. Contact

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

Kathy Billington Tel: 0303 444 4353 or Kathy.Billington@communities.gsi.gov.uk
Helen Bamford Tel: 0303 444 3125 or Helen.Bamford@communities.gsi.gov.uk