EXPLANATORY MEMORANDUM TO

THE GREATER MANCHESTER COMBINED AUTHORITY (FIRE AND RESCUE FUNCTIONS) (AMENDMENT) ORDER 2020

2020 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by The Home Office and is laid before Parliament by Command of Her Majesty.

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

2. Purpose of the instrument

2.1 This order allows for the delegation of fire and rescue functions in Greater Manchester from the Mayor of the Greater Manchester Combined Authority ("the GMCA"), to the Deputy Mayor for Policing and Crime. Provision is also included to give the Police and Crime Panel the authority to scrutinise fire and rescue functions in the Greater Manchester Combined Area.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 A previous version of this Order was published and laid in both Houses on 9 March 2020 and debated and approved in both Houses on 5 May 2020. The previous Order was considered by the Committee on 18 March 2020 as recorded in the 6th Report of Session 2019-2021. Regrettably, following the debates, the order was not made as a Ministerial signature was not secured as the result of an administrative error in the Home Office. The commencement provisions in the italic date information and article 1 have been amended in this draft Order and a free issue headnote has also been inserted to make it clear to users that this version is being laid to replace the previous Order (ISBN 978-0-11-119387-7). No other changes to the text of the draft Order have been made.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 This entire instrument applies to England only for the purposes of Standing Order No. 83T of the Standing Orders of the House of Commons relating to Public Business.

3.3 In the view of the Department, for the purposes of House of Commons Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this instrument would not be within the devolved legislative competence of any of the Northern Ireland Assembly as a transferred matter, the Scottish Parliament or the National Assembly for Wales if equivalent provision in relation to the relevant territory were included in an Act of the relevant devolved legislature.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is set out in Section 3 under "Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)".

5. European Convention on Human Rights

5.1 The Minister of State for Building Safety, Fire and Communities, Lord Stephen Greenhalgh has made the following statement regarding Human Rights:

"In my view the provisions of The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017 (S.I. 2017/469) provided for fire and rescue functions to be conferred on the GMCA, and for the GMCA to be the fire and rescue authority for the area for the purposes of the Fire and Rescue Services Act 2004. It provided for certain fire and rescue functions to be exercisable only by the mayor and allowed the mayor to arrange for those functions to be exercised by a committee of the GMCA. This order allows the mayor to make arrangements instead for those fire and rescue functions to be exercised by the Deputy Mayor for Policing and Crime.

6.2 This order amends the remit of the Greater Manchester Police and Crime Panel to include scrutiny of the exercise of those fire and rescue functions (whether they are exercised by the mayor or by the Deputy Mayor for Policing and Crime), in addition to their existing remit of PCC functions (which, in large part, are exercised by the Deputy Mayor for Policing and Crime). This therefore allows the Police and Crime Panel in Greater Manchester to scrutinise the delivery of all the main functions of the Deputy Mayor for Policing, Fire and Crime.

7. Policy background

What is being done and why?

7.1 In early 2018, the GMCA reviewed its governance arrangements in the light of the first 12 months of the Mayor's term of office. In particular it restated its overriding governance principles of:

i. Providing leadership and a strategic vision for the locality – experience and authority
ii High quality decision making – evidence and knowledge
iii Transparency – be clear about who is making which decision, ensure that the public understand the governance process
iv Accountability – how are the decision makers held to account and scrutinised.

7.2 It then considered how best to apply these principles to the execution of fire and rescue functions in the GMCA area. As part of the review, the Mayor established a whole service review of fire and rescue including leadership and culture. The review included consideration of the issues identified in the Kerslake Report on co-ordination

and communication between the emergency services (https://www.kerslakearenareview.co.uk/media/1022/kerslake_arena_review_printed_final.pdf). It is clear from that report that collaboration between the Fire Service and other public bodies must be improved.

7.3 In the light of the principles of good governance set out above and the recommendations of the Kerslake Review, the GMCA agreed that it would provide clearer, more transparent and accountable leadership of the fire functions and for the Mayor to be able to delegate those functions to the Deputy Mayor for Policing and Crime, and for the Scrutiny functions to sit with the Police and Crime Panel which would then become the Police, Fire and Crime Panel.

7.4 Strategic decision making remains with the Mayor, who is accountable both to the Police, Fire and Crime Panel (through Scrutiny) and directly to the public for the exercise of those functions.

7.5 GMCA were also aware of the new statutory duty on the emergency services to collaborate and were looking for ways for Police and Fire to work more closely together. Allowing the Mayor to delegate Fire functions to the Deputy Mayor for Policing and Crime will enable the Deputy Mayor to accelerate the pace of change, ensuring that collaboration is implemented more effectively and efficiently and strategic risks are reviewed across both services.

7.6 It also provides a single point of contact for the public and ensures quicker decision making at the appropriate level whilst ensuring delivery of the duty to collaborate that applies to all emergency services in the Police and Crime Act 2017. It will also provide for informed and rounded arrangements for prevention and more co-ordinated responses to manage the terror threat.

7.7 The Mayor retains those functions which he is required to exercise personally as set out in the GMCA Fire and Rescue functions Order. These functions are:

- The power to enter into arrangements under sections 13, 15 and 16 of the Fire and Rescue Services Act 2004 (reinforcement schemes etc)
- Appointing, or dismissing, the person responsible for managing the Fire and Rescue service i.e. the Chief Fire Officer; approving the terms of appointment of the Chief Fire Officer; and holding the Chief Fire Officer to account for managing the Fire and Rescue service.
- Approving the local risk plan – IRMP
- Approving the fire and rescue declaration – Annual Assurance Statement
- Approving Business Continuity Management plans
- Approving any arrangements with Category 1 and Category 2 under the Civil Contingencies Act 2004

7.8 In addition the functions in relation to the setting of the GMCA budget for the Mayor's general functions (including Fire), as provided for in the Combined Authorities (Finance) Order 2017 cannot be delegated and will also remain with the Mayor.

7.9 Save for those non-delegable functions, all other fire and rescue functions can be delegated to the Deputy Mayor for Policing and Crime by this order except the delegation of operational matters to the Chief Fire Officer as set out in the GMCA Constitution.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 This is the first instrument to amend the Greater Manchester Combined Authority (Fire and Rescue Functions) Order 2017, and consolidation is not considered necessary at this time.

10. Consultation outcome

10.1 This order has been made at the request of the Mayor, and with the approval of the Home Secretary. The Mayor's request came following the conclusion of his whole service review of fire and rescue including leadership and culture. The review also included consideration of the issues identified in the Kerslake Report on co-ordination and communication between the emergency services.

10.2 In accordance with the legal obligation set out in the Local Democracy, Economic Development and Construction Act 2009 the Mayor of Greater Manchester, the GMCA itself and the ten constituent councils whose areas are comprised in the area that is the combined authority have consented to the making of this Order.

11. Guidance

11.1 No guidance will be issued.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because of the low level of impact on businesses.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 As a locally led amendment, it will be for the GMCA to monitor and review the delivery of the fire and rescue functions by the Deputy Mayor. The Home Office will not be directly monitoring or reviewing the change.

15. Contact

15.1 Stuart Harwood at the Home Office Telephone: 02070353356 direct line telephone number or email: stuart.harwood@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jonny Bugg, Deputy Director for Fire Strategy and Reform, at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Stephen Greenhalgh, Minister of State for Building Safety, Fire and Communities at the Home Office can confirm that this Explanatory Memorandum meets the required standard.