EXPLANATORY MEMORANDUM TO

THE HULL AND EAST YORKSHIRE COMBINED AUTHORITY ORDER 2024

2024 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.

2. Declaration

2.1 Jim McMahon, Minister of State at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Evi Bell, Deputy Director and Head 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 Kathy Billington 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 The Order provides for the establishment, including governance arrangements, of the Hull and East Yorkshire Combined Authority ('HEYCA'), of which Hull City Council and the East Riding of Yorkshire Council will be the constituent councils. The Order provides for a directly elected mayor of HEYCA, as well as providing for certain functions of local and public authorities to be conferred on the HEYCA, and for certain specified functions of the HEYCA to be exercisable only by the mayor.

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 skin in the game. As part of this, government committed to introducing an English Devolution Bill as part of the King's Speech on 17 July 2024.

5.2 On 22 November 2023, a devolution agreement was reached between the previous government and the councils of Hull City and the East Riding of Yorkshire. The Local Democracy, Economic Development and Construction Act 2009 enables the Secretary of State to make an Order to create a combined authority and confer functions onto it. The Hull and East Yorkshire Combined Authority Order 2024 uses the powers available from the 2009 Act to implement this agreement and establish a combined authority for the area. It also establishes the office of the HEYCA mayor, with the first mayoral election taking place on 1 May 2025.

5.3 The Order confers a number of local authority and public authority functions on the HEYCA to be exercised in relation to the HEYCA area, as reflected in the devolution agreement, as well as setting out the governance arrangements for HEYCA. Certain functions are to be exercisable by the mayor individually, and others by the HEYCA (which is chaired by the mayor).

5.4 Further powers on adult education, skills and training set out in the agreement – including the devolution of the adult skills fund – will be conferred by a further Order made by the Secretary of State for Education, subject to readiness conditions being met.

What was the previous policy, how is this different?

5.5 This is the first devolution agreement implemented within the area of Hull and East Yorkshire. The purpose of the Order, in accordance with the agreement, is to establish HEYCA, with governance arrangements, and confer transport, planning, housing and regeneration and economic functions onto it. HEYCA will be made up of the local authorities of Hull City Council and East Riding of Yorkshire Council ('the constituent councils'). Conferral of such functions has been part of other devolution statutory instruments, such as the North East Mayoral Combined Authority (Establishment and Functions) Order 2024 (2024 No. 24) and the East Midlands Combined County Authority Regulations 2024 (2024 232).

Part 2 Establishment of a combined authority for Hull and East Yorkshire and election of the mayor

5.6 This part of the Order provides for the establishment and naming of the combined authority and defines generically its functions. It also provides for there to be an election for the mayor for the area of the combined authority and sets the date of the first and subsequent dates of this election.

5.7 Schedule 1 of the Order outlines the constitution of HEYCA. It sets out the membership, voting arrangements and payments of allowances for the members of the combined authority.

Part 3 Transport

5.8 HEYCA will be given a range of functions currently held by the constituent councils taking overall responsibility for planning, delivering, maintaining and improving transport infrastructure and services across the area. These functions include the responsibility to develop and implement a local transport plan, responsibilities relating to local transport services and ticketing, selected highways and traffic authority functions and grant paying powers to bus operators and constituent councils.

5.9 The Order provides that HEYCA will be a constituent authority of the Transport for the North sub-national transport body, instead of the constituent councils.

Part 4 Housing, regeneration and planning

5.10 HEYCA will be given the housing, regeneration and planning functions from the Housing and Regeneration Act 2008, exercisable concurrently with Homes England[1].

5.11 HEYCA will be given functions for the acquisition and appropriation of land for planning and public purposes from the Towns and Country Planning Act 1990 and the Housing Act 1985 exercisable concurrently with the combined authority's constituent councils. The consent of the lead member for each constituent council whose area contains any part of the land subject to the proposed compulsory acquisition is needed.

Part 5 Mayoral Development Corporation

5.12 This part of the Order grants the mayor the same functions as the Mayor of London has in relation to Mayoral Development Corporations (MDCs) to create, run and dissolve MDCs within HEYCA's area, subject to the modifications set out in Schedule 4 to this Order. The consent of the lead member for any constituent council whose area contains any part of the land to be designated as a Mayoral development area is needed.

Part 6 Mayoral functions

5.13 This part of the Order specifies those functions that are exercisable only by the mayor; provides that the mayor may enter into arrangements jointly with the constituent councils and local authorities for the discharge of the general functions of HEYCA which are exercisable only by the mayor; provides that the members and officers of HEYCA may assist the mayor in the exercise of general functions; and, that for the purposes of the exercise of these general functions, the mayor may do anything that HEYCA may do.

Part 7 Funding

5.14 This part of the Order sets out how the costs of HEYCA for the delivery of both its functions and mayoral functions are to be met where they are not met through other sources. These include the apportionment of costs amongst the constituent councils, the issuing of a mayoral precept, and the issuing of a levy to deliver the transport functions.

5.15 HEYCA is to have functions under the Business Rate Supplements Act 2009 to levy a "business rate supplement" to raise money for expenditure on projects that will promote economic development in its area. The functions are exercisable only by the mayor.

Part 8 Additional functions

5.16 This part of the Order provides that HEYCA will have functions to prepare an assessment of the economic conditions of the area and confers data sharing functions on HEYCA. These functions are exercisable concurrently with the constituent councils.

5.17 Part 8 also confers on HEYCA the local authority general power of competence function in relation to economic development and regeneration.

[1] Homes England (previously the Homes and Community Agency) is a body corporate established by section 1 of the Housing and Regeneration Act 2008.

5.18 This part also makes further incidental provision enabling the combined authority to operate effectively.

Schedules

5.19 Schedules 2 to 4 make the necessary modifications to apply, or disapply, legislation to HEYCA in consequence of the provisions above.

6. Legislative and Legal Context

How has the law changed?

6.1 Part 6 of the 2009 Act provides for the establishment of combined authorities for the areas of two or more local authorities in England. Combined authorities are "bodies corporate" which may be given powers to exercise specified functions of a local authority, and powers to exercise specified functions of any other public authority.

6.2 Section 109A of the 2009 Act, as introduced by section 65 of the Levelling Up and Regeneration Act 2023, provides that, where one or more authority wishes to establish a new combined authority, they may prepare a proposal and submit this to the Secretary of State. Before submitting their proposal, they must conduct a public consultation on the proposal and have regard to the results of the consultation in preparing their proposal for submission to the Secretary of State. The proposal must include details of the purposes to be achieved by the establishing of the combined authority.

6.3 Section 65 of the 2023 Act has also introduced changes to the statutory tests in section 110 of the 2009 Act. Sections 104A to C of the 2009 Act as introduced by section 64 of the 2023 Act allows the Secretary of State to, by Order, make provisions about nominating bodies, non-constituent members and associate members of a combined authority.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the changes outlined.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Secretary of State must also consider that, where a public consultation has been carried out in connection with the proposal and they have been provided with a summary of the consultation responses, no further consultation is necessary. Having had regard to the proposal submitted by the area, a summary of consultation responses and other supporting materials, the Secretary of State concluded that no further consultation was necessary.

7.2 The Secretary of State's decision was based on the constituent councils undertaking an eight-week consultation designed to engage with and elicit responses from a diverse range of stakeholders across HEYCA's proposed area, including businesses, residents, hard to reach communities, local organisations, voluntary groups, and the general public.

7.3 A range of means of communication to raise awareness of the devolution agreement and proposal, facilitate discussions and gather feedback from a variety of groups were used. Thise led to significant coverage in the local and regional media, and high visibility of the opportunities for people to find out more and have their say via the consultation.

7.4 The consultation survey was designed to provide a summary of all the key information contained within the devolution proposal, as well as providing guidance on where to access further information. The survey was structured around the key themes of the proposal – connectivity, productivity, inclusivity, and sustainability – along with seeking views on the overall agreement with government and the governance proposals, specifically around the introduction of a mayor for the area. The survey asked respondents a number of demographic questions to ensure that any issues of inequality could be identified and appropriately managed.

7.5 As well as promotion of the online survey on a variety of channels, the councils completed 61 face-to-face events across the whole area involving over 1,100 participants. In addition, paper surveys, with a freepost option, were provided as well as an online feedback form, email addresses for questions and feedback, and the ability for individuals and organisations to provide written feedback via letters.

7.6 An independent assessment of the consultation found that over 5,880 individuals and organisations participated in it, including 4,610 completing the consultation survey and over 1,100 people attending drop-in events or organised meetings.

7.7 The overall response to the consultation showed broad support for the proposal in general, with the combined overall percentage of those who agreed or strongly agreed that the agreement addressed the priorities and challenges of the area being 53%, compared with those either disagreeing or strongly disagreeing being 35%. The consultation report is publicly available via the councils' website.[2]

7.8 The pattern of support was reflected across the themes of the proposal. On the connectivity theme 53% agreed that the area would benefit from a mayoral combined authority taking on these functions, whilst 36% disagreed.

7.9 On the productivity theme which focused on functions to help people and businesses get the skills and support to help them and support the region's economy, 51% agreed that the area would benefit from a mayoral combined authority taking on these functions, whilst 34% disagreed. Most stakeholder submissions were positive about the impact on productivity, focussing on skills, innovation and equipping the workforce. Those responses that were negative noted the challenging current economic backdrop.

7.10 On the inclusivity theme and its focus on functions related to housing and regeneration, 50% agreed that the area would benefit from a mayoral combined authority taking on these responsibilities, compared to 37% who disagreed. Positive comments focused on ensuring all communities would be included in future investments and given equal opportunities. Those that disagreed felt that local councillors didn't understand the housing needs of the area, there wasn't enough investment, and some areas could lose out over another. Housing affordability was a key issue within all the focus groups.

7.11 On the sustainability theme, 48% of respondents thought the area would benefit from a mayoral combined authority taking on these functions, whilst 35% disagreed. Those in agreement thought that the mayor would be in a position to have a better understanding of the environmental needs of the area and so take action across HEYCA, helping to create more jobs in the green sector. Businesses and organisations in particular identified sustainability, net zero, and environmental considerations as critical to the region's development agenda. Those who didn't agree felt there would be insufficient funding available to cover the projects that will improve sustainability,

[2] Document.ashx (hullcc.gov.uk)

lack of evidence and bureaucracy of the proposed arrangements preventing positive impact.

7.12 The consultation asked people to state how much they agreed or disagreed with the proposal's governance arrangements, including provision for an elected mayor and arrangements to provide for the combined authority's membership from constituent and non-constituent members. 47% of respondents agreed, compared to 39% who disagreed. Those who agreed with the proposed governance arrangements believed that HEYCA would be mutually beneficial for both areas, would result in increased local representation and improved knowledge of need, give the area a strong voice, and lead to additional funding. Those who disagreed expressed concerns about additional cost to taxpayers, a history of major differences between the two areas, introduction of an extra layer of bureaucracy, and too much of the power being concentrated with one person (the mayor).

7.13 A link to the independent consultation summary is here: Document.ashx (hullcc.gov.uk)

8. Applicable Guidance

8.1 This instrument does not require or implement any guidance.

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 impact, 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 this Order does not relate to legislation governing the establishment or running of businesses, charities or voluntary bodies and does 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 by conferring functions on HEYCA should lead to operational efficiencies that could lead to reduced costs. The statutory tests require the Secretary of State to consider that conferring the functions onto HEYCA 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, and the Secretary of State is required to have regard to the need to secure effective and convenient local government and reflect the identities and interests of local communities. The Secretary of State is satisfied that these tests are met in relation to the provisions of the Order.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 Combined authorities are required under the devolution agreements reached with the government to put in place an extensive programme of evaluation, agreed with HM Treasury.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 Section 105B of the 2009 Act provides that, at the same time as laying a draft of a statutory instrument containing an Order under section 105A of the 2009 Act before Parliament, the Secretary of State must also lay a report explaining the effect of this Order which confers public authority functions on a combined authority, and why the Secretary of State considers it appropriate to make the Order. That report is published alongside this memorandum.

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

12. European Convention on Human Rights

12.1 Jim McMahon, Minister of State at the Ministry of Housing, Communities and Local Government has made the following statement regarding Human Rights:

"In my view, the provisions of the Hull and East Yorkshire Combined Authority Order 2024 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'').