EXPLANATORY MEMORANDUM TO

THE LANCASHIRE COMBINED COUNTY AUTHORITY REGULATIONS 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.

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

2. Declaration

2.1 Minister McMahon, Minister of State in 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 Matthew Brannen in the Ministry of Housing, Communities and Local Government, email: GradSubmissions@levellingup.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 establishment, including governance arrangements, of the Lancashire Combined County Authority (LCCA). A combined county authority (CCA) is a new type of local authority which was created via the Levelling-up and Regeneration Act 2023 ("2023 Act"). Whilst a combined authority consists of all the local authorities within a particular area, a CCA has to include a minimum of one county council in a two-tier area, plus at least one other upper tier local authority. Unlike in a combined authority, district councils in two tier areas cannot be constituent members of a CCA. These Regulations provide that the LCCA will be made up of Lancashire County Council, Blackpool Borough Council and Blackburn with Darwen Borough Council ("the constituent councils"). It also provides for certain functions of local and public authorities to be exercised by the LCCA. Paragraphs 5.6 - 5.13 below set out what the legislation does in more detail, in relation to establishing LCCA.

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.

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 constituent councils.

5.3 The agreement was a non-Mayoral one which offered powers and funding to enable the Lancashire area to raise living standards for its communities by strengthening local leadership to act more flexibly and innovatively to respond to local need, including on transport, skills and regeneration. The 2023 Act enables the Secretary of State to make regulations to create a CCA and confer functions onto it. The Lancashire Combined County Authority Regulations 2024 use the powers available from the 2023 Act to implement the deal and establish the LCCA.

What was the previous policy, how is this different?

5.4 This is the first devolution agreement implemented within the CCA area. The purpose of the Regulations, in accordance with the agreement, is to establish LCCA, with governance arrangements, and confer transport, planning, housing and regeneration and economic functions onto it. The LCCA will be made up of the local authorities of Lancashire County Council, Blackpool Borough Council and Blackburn with Darwen Borough Council. The Regulations also confer a number of local authority and public authority functions on the LCCA to be exercised in relation to the LCCA area. The constituent councils have consented to the making of the Regulations.

5.5 Further powers on adult education, skills and training – including the devolution of the adult education budget - set out in the agreement will be devolved by future Regulations, subject to readiness conditions being met to provide assurance for the administration of these functions and budget. Most of the provisions of the Regulations will come into force on the day after the day on which the Regulations are made.

5.6 Responsibility for the vast majority of public service delivery will remain with the constituent councils. The LCCA will mainly use the functions conferred onto it to develop and implement strategic economic policy and programmes within the LCCA's area. There may be a small element of service delivery, such as subsidised transport.

<u>Part 2 - Establishment of a combined county authority for Lancashire</u>

5.7 Part 2 of the Regulations provides for the establishment and naming of the combined county authority and defines its functions generically.

5.8 Schedule 1 of the Regulations outlines the constitution of the LCCA. It sets out the membership, voting arrangements, and payments of allowances for the members of the CCA.

5.9 The Regulations contain an element of bespoke local transport governance provision. Blackpool Transport Services Limited (BTS Ltd), a limited company wholly owned

by Blackpool Borough Council, provides bus services to Blackpool and the surrounding area, as well as operating the Blackpool Tramway. For questions relating to any decision which could result in a financial liability accruing to BTS Ltd or any question which could have an impact on BTS Ltd which is significant, material and direct (as defined in the LCCA constitution), the majority must include the member of LCCA appointed by Blackpool Borough Council. BTS Ltd is defined by reference to its company registration number, but also includes any successor to its bus undertaking that is a public transport company within the meaning of section 72 of the Transport Act 1985 or to the tramways undertaking maintained by Blackpool Borough Council under Head B of Part 12 of the County of Lancashire Act 1984.

5.10 Schedule 1 also sets out provision about proceedings, remuneration, records and the making of standing orders, and that the LCCA overview and scrutiny committee Chair must be an independent person.

Part 3 – Housing, Regeneration and Planning

5.11 Part 3 of the Regulations relates to the housing, regeneration and planning functions under the Housing and Regeneration Act 2008 to be conferred on the LCCA, which are exercisable concurrently with the Homes and Communities Agency[1]. Powers will be exercisable only within the area of the constituent councils of the LCCA and apply to the providing of housing, regeneration of land, land acquisition and disposal. Powers are to be exercised for the purpose 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.

5.12 Part 3 of the Regulations also confers powers on to the LCCA under the Town and Country Planning Act 1990 and the Housing Act 1985 for the acquisition and appropriation of land for planning and public purposes. These powers are exercisable concurrently with the LCCA's constituent councils.

5.13 For any compulsory land acquisition to take place using powers in the 2008 Act, 1990 Act or 1985 Act, the consent of the LCCA member, or substitute member, representing the constituent council in which the land sits will be required. If the land sits within either the Yorkshire Dales National Park or a district council's area, the consent from these parties will also be required.

Part 4 – Transport

5.14 Part 4 of the Regulations gives LCCA a range of powers and functions to take overall responsibility for planning, delivering, maintaining and improving transport infrastructure and services in the LCCA area. LCCA will take on the local transport authority powers and functions currently held by the constituent councils. These powers and 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. By assuming these powers and functions, LCCA will become the local transport authority for the area, with the constituent councils remaining the local highways and traffic authority for their respective areas.

5.15 With the exception of the creation and delivery of the area's local transport plan (Sections 108 to 113), all transport functions being transferred to the LCCA in these Regulations under the Transport Act 1985 and Transport Act 2000 will be subject to a

[1] In 2018, the trading name for the Homes and Communities Agency became Homes England.

transition period ending 31 March 2026, during which these functions will be held concurrently by the LCCA and the constituent councils. The transition period provides flexibility for LCCA to choose the appropriate time to transfer individual functions from constituent councils to the new institution, rather than having to transfer them immediately or all at the same time. This will enable the new institution to exercise the functions in step with its development of capacity and capability. After the transition period, these functions will be held by, and be exercisable exclusively by LCCA.

5.16 LCCA will hold the following local transport functions under Part 2 of the Transport Act 2000:

- the creation and delivery of the area's local transport plan (Sections 108 to 113). The CCA's local transport plan will be subject to a unanimous vote in favour by all members of the CCA appointed by the constituent councils.
- bus partnerships (Sections 113C to 123 and 138A to 138S) and ticketing schemes (Sections 134C to 138); and
- bus franchising schemes, if they are introduced (Sections 123A to 123X). The CCA will need to seek the approval of the Secretary of State to prepare a franchising assessment (Section 123C).

5.17 LCCA will hold the functions of the constituent councils as a licensing authority for workplace parking levy schemes. These functions will be held concurrently with the constituent councils and exercisable by the LCCA only with the consent of the constituent council(s) where the function is to be exercised.

5.18 LCCA will also have responsibility for local passenger transport services, including concessionary fare schemes through Parts 4 & 5 of the Transport Act 1985.

5.19 Currently, BTS Ltd, a limited company wholly owned by Blackpool Borough Council, provides vital bus services to Blackpool and the surrounding area, as well as operating the Blackpool Tramway. BTS Ltd is a public transport company within the meaning of section 72 of the Transport Act 1985 and its affairs should be conducted at all times in accordance with provisions of the Transport Act 1985 where relevant.

5.20 The Regulations ensure that ownership and operation of BTS Ltd and all associated assets can remain with Blackpool Borough Council, as constituent councils including Blackpool Borough Council will retain the relevant powers under Parts 4 and 5 of the Transport Act 1985 to operate a public transport company, holding these concurrently with the CCA. The powers and functions to be held concurrently are those in relation to:

- passenger transport areas (Sections 57 to 62);
- public transport companies (Sections 63 to 79);
- the provision, maintenance and operation of bus stations (Section 81);
- entering into agreements providing subsidies for passenger services deemed necessary (Sections 88 to 92); and
- making grants for transport facilities and services (Section 106 and 106A).

5.21 These regulations give LCCA a range of highways and traffic authorities functions held concurrently by the constituent councils.

5.22 LCCA will have the function of paying grants to its constituent councils (Section 31, Local Government Act 2003). This will enable LCCA to pay funds to constituent

councils, including any local transport funding which the CCA receives from Government. LCCA must have regard to the desirability of ensuring that the constituent councils have sufficient funds to facilitate the effective discharge of their highways functions. LCCA may also use this function to fund the delivery of any local transport schemes it chooses to delegate to a constituent council. This function is exercisable concurrently by the Minister of the Crown and LCCA.

5.23 These Regulations provide that LCCA will be a constituent authority of the Transport for the North sub-national transport body, instead of the constituent councils.

Part 5 – Additional functions

5.24 The Regulations provide that the LCCA is given powers to prepare an assessment of the economic conditions of the area. It also confers data sharing functions on the LCCA. These functions are exercisable concurrently with the constituent councils.

5.25 Part 5 also confers on the LCCA the local authority general power of competence function in relation to economic development and regeneration.

5.26 This part of the Regulations also makes incidental provisions as if the LCCA were a local authority, to give it powers under the Local Government Act 1972; for example, the power to prosecute and defend legal proceedings. The LCCA also has the power to undertake research and collect information under section 88 of the Local Government Act 1985. Section 13 of the 1989 Act (voting rights of members of certain committees) has effect for the LCCA.

5.27 This section also provides for employees of LCCA to be part of the pension scheme administered by Lancashire County Council.

Part 6 – Funding

5.28 Under the Regulations, the constituent councils are required to meet the reasonably attributable costs of the LCCA in the exercise of its functions, to the extent that these costs are not met by other resources. The amount payable by each constituent council will be determined by apportioning costs between them in agreed proportions or, if agreement cannot be reached, in the following shares: Lancashire County Council - 2/3; Blackpool Borough Council - 1/6; Blackburn with Darwen Council - 1/6.

5.29 The cost of functions relating to transport may be met by a levy issued by the LCCA to its constituent councils. The amount would be formally decided as part of the budget setting process for each constituent council.

Schedules

5.30 Schedules 2 and 3 make the necessary modifications to apply, or disapply, legislation to the LCCA in consequence of the provisions above.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 9 of the 2023 Act provides for the establishment of a CCA for an area that is wholly within England and consists of at least one county council in a two-tier area and at least one other upper tier local authority, such as a unitary authority. CCAs 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. Prior to the 2023 Act coming into force, the concept of a CCA did not exist in law, and it was not possible to establish one.

6.2 Section 45 of the 2023 Act provides that, where one or more authorities wish to establish a CCA, 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 CCA.

6.3 Section 46 of the 2023 Act also provides that the Secretary of State may make regulations to establish a CCA only if:

- the Secretary of State considers that doing so is likely to improve the economic, social and environmental well-being of some or all of the people who live and work in the area;
- the Secretary of State considers that doing so is appropriate having regard to the need to secure effective and convenient local government; and to reflect the identities and interests of the local communities;
- the Secretary of State considers that doing so will achieve the specific purposes of the CCA set out in the proposal submitted by the relevant authority or authorities;
- the constituent councils consent; and
- any consultation required has been carried out.

6.4 The Secretary of State has reviewed the responses to the consultation and taken the view that these tests have been met and that no further consultation is required.

Why was this approach taken to change the law?

6.5 This is the only possible approach to implementing both the agreement between the constituent councils making up the area and government, and subsequent proposal submitted to Secretary of State by the constituent councils following a public consultation which Secretary of State considers meets the statutory tests.

7. Consultation

Summary of consultation outcome and methodology

7.1 Section 46(3) of the 2023 Act requires that the Secretary of State must carry out a public consultation unless the constituent councils have done so on a proposal for a CCA and its functions. On 15 March 2024, the three constituent councils submitted their final proposal to the previous Secretary of State, having considered the responses to the local consultation they undertook. The consultation was conducted between 1 December 2023 and 26 January 2024 (eight weeks), and the mechanisms used are outlined in paras 7.3,7.4 and 7.5 below.

7.2 In undertaking the consultation, the councils engaged with Ipsos UK, a major multi-specialist research company, to ensure that best practice was followed throughout the consultation process, providing quality assurance advice, and carrying out an independent analysis which has been reviewed by all councils. The outcome of the consultation demonstrated local support for the proposal as a whole. The report is publicly available via the councils' websites.[2]

7.3 The consultation saw the creation of an online consultation portal, established by the constituent councils, to allow residents, businesses, community and voluntary groups, and other organisations within the CCA area, as well as general members of the public, to express their views. The portal included an online response form for people

[2] https://council.lancashire.gov.uk/documents/s229924/Appendix%20C.pdf

to respond to the devolution deal. Alternative methods of engaging included hard copy response forms; an address for written letters and paper response forms; a dedicated email address for electronic mail; and the option for accessible and alternative version of the devolution literature, upon request. Additionally, hardcopies of the response forms were made available in all libraries across Lancashire, and the LCCA's constituent councils ran a communication campaign prior to, and during, the consultation campaign.

7.4 A number of engagement activities took place during the consultation, including online events, in person events, and promotion of the consultation to target audiences through emails and newsletters. Social media activity included active presence across a range of platforms.

7.5 A total of 53 events and drop-in sessions were held across the area, catering to both businesses and the public, with at least one physical event in each district council area. An estimated 1,500 people took part in these. A diverse range of engagement methods were used and encompassed both in-person and online formats.

7.6 Overall, a total of 1,881 responses to the consultation were received. Of these, 186 were organisations and representative groups, and 1,695 were individuals (including 1,649 respondents to the online questionnaire who provided some level of demographic information). There were also 34 paper response forms and 51 responses via email to the dedicated consultation email address. The overall response to the consultation shows that there was a majority in favour of proposals. The councils undertook an Equalities Impact Assessment and assessed how the proposal might affect groups of people with each of the specific protected characteristics, which identified in each case that the impacts are likely to be positive or neutral.

7.7 The proposal set out eight priority areas of activity: innovation, trade and investment; skills and adult education; transport; net zero and climate change; digital and cyber; culture and tourism; housing and land; and delivery of ambitions for Lancashire. Key findings on each priority area are outlined below.

7.8 On innovation, trade and investment, responses to the consultation showed more support than opposition to these proposals. Amongst respondents, 59% were supportive and 29% opposed. Some respondents suggested that the newly formed LCCA would support attracting investment and growing Lancashire's manufacturing sector, and more broadly ensure the area is better positioned to take advantage of such opportunities. There were comments that the LCCA should focus on SMEs and local economies, and concern over whether there will be sufficient focus on inequality and social mobility.

7.9 On skills and adult education, responses to the consultation showed more support than opposition to these proposals, with 64% of respondents in favour and 25% opposed. Positive comments from stakeholders included "benefits children's education" and "a reduction in inequalities", although a negative comment doubted the proposal would improve the education of children and young people. Suggestions included to invest in schools and education, and more focus on adult education, apprenticeships and people with disabilities. Comments included having tailored approaches due to different needs across areas and providing more training for young people.

7.10 On transport, more respondents (62%) were supportive of the proposals than were opposed (27%). Members of the public comments on travel included suggesting the need for safe routes for pedestrians and cyclists and a greater focus on

pedestrianisation of town centres. There were comments raising concerns over funding levels and scale of ambition, as well as impact on rural transport provision.

7.11 On net zero and climate change, 56% of respondents agreed with these proposals, with 28% disagreeing. Some respondents thought the ambition expressed in the proposal was unrealistic and may not be affordable for residents, and some questioned whether devolution was necessary to achieve a focus on net zero and climate change.

7.12 On digital and cyber, 59% of respondents agreed with the proposals for digital and cyber, compared to 25% disagreeing. A greater proportion of those in younger age ranges agreed, with 74% of 25-34 year olds agreeing, and 69% of 24 and under agreeing. There were responses that devolution is not necessary to achieve these objectives.

7.13 On culture and tourism, 59% agreed with the proposals for culture and tourism, compared to 25% disagreeing. Some of those who were supportive expressed excitement over the potential impact on, for example, the local visitor economy and the possibility of partnership working across culture, heritage, sport, and communities.

7.14 On housing and land, 50% agreed with the proposals for housing and land, compared to 35% disagreeing. There were some comments that there could be more focus in the proposal on affordable housing, or that there could be negative impacts on the countryside and public services from housing development, as well as general opposition to the compulsory purchase of land.

7.15 On delivery of ambitions for Lancashire, more respondents (51%) agreed with the governance proposals than disagreed (32%). Comments were received that the LCCA could bring decision making closer to local communities, improve accountability and the better targeting of resources. One key concern from those who disagreed was about how the proposed LCCA could create an additional layer of local government, with high running and administration costs. District councils and parish councils in Lancashire were particularly concerned about governance, and the proposed delivery arrangements.

7.16 The Councils also published a response to the consultation on their websites in March 2024.

7.17 In accordance with the requirements set out in para 7.1 above, the Secretary of State has reviewed the consultation and summary of responses provided by the constituent councils and is of the view that no further consultation is necessary.

8. Applicable Guidance

8.1 No guidance is necessary to accompany these Regulations. The government continues to work with CCA's to support their implementation of devolution deals.

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 LCCA 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 on the CCA 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 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 CCAs 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 20(6) of the 2023 Act provides that, at the same time as laying a draft of a statutory instrument containing Regulations under section 19(1) of the 2023 Act before Parliament, the Secretary of State must also lay a report explaining the effect of these Regulations which confer public authority functions onto the CCA, 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, Parliamentary-Under Secretary of State at the Ministry for Housing, Communities and Local Government has made the following statement regarding Human Rights:

"In my view the provisions of the Lancashire Combined County Authority Regulations 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'').