EXPLANATORY MEMORANDUM TO

THE NEWCASTLE UPON TYNE, NORTH TYNESIDE AND NORTHUMBERLAND COMBINED AUTHORITY (ESTABLISHMENT AND FUNCTIONS) ORDER 2018

2018 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 Her Majesty.

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

2. Purpose of the instrument

2.1 This Order establishes a new combined authority for the area of Newcastle upon Tyne, North Tyneside and Northumberland ("the Combined Authority") including provision for a directly elected Mayor ("the Mayor"), and for the date of the first and subsequent elections to the role of Mayor and the term of office. The Order further provides for certain functions of the Combined Authority's constituent councils and certain public authority functions to be exercised by the new mayoral combined authority and for some to be exercisable only by the Mayor. As a consequence of the establishment of the Combined Authority, the Order removes the local government areas of Newcastle upon Tyne, North Tyneside and Northumberland from the area of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority and renames it the Durham, Gateshead, South Tyneside and Sunderland Combined Authority.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Articles 8 and 9 of the Order require the Combined Authority and the Durham, Gateshead, South Tyneside and Sunderland Combined Authority to appoint a joint transport committee to exercise the transport functions of the two combined authorities so as to maintain integrated transport across the whole of the North East. Provision is made for this in exercise of the power under section 114(1) of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act"). This is on the basis that the establishment of the committee is incidental to, consequential upon or supplemental to an order under sections 103 and 106 of the 2009 Act changing the boundary of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority and establishing the Combined Authority.

3.2 Articles 11 and 12 of the Order make amendments and modifications to section 9 of the Transport Act 1968 and section 108 of the Transport Act 2000 to ensure the Combined Authorities' functions under these provisions are exercised through the joint transport committee. These provisions are made in exercise of powers under section 117(5) of the 2009 Act as amended by paragraph 29(3) of Schedule 5 to the Cities and Local Government Devolution Act 2016 ("the 2016 Act") which provides

that an order under part 6 of the 2009 Act may "include provision amending, applying (with or without modifications), disapplying, repealing or revoking any enactment whenever passed or made".

3.3 The report required by section 105B(9) of the 2009 Act is published alongside this Explanatory Memorandum

3.4 This Order is to come into force the day after the day on which it is made. The local authorities involved, namely the constituent councils of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority, are agreed that the arrangements should come into force as soon as practicable. A deed of co-operation has been signed and sealed between the eight authorities (the existing combined authority and the seven constituent councils) and they are actively making preparations for the Order to come into force as soon as practicable. The order coming into force on the day after the day on which it is made will also maximise the time that the interim mayor is in office before the mayor is elected on 2 May 2019.

Other matters of interest to the House of Commons

3.5 This entire instrument applies only to England.

3.6 The instrument applies only to England as it is entirely concerned with local government areas in England. Section 103(2) of the 2009 Act provides that a combined authority may be established in relation to local government areas in England. The instrument does not give rise to minor or consequential effects outside England.

3.7 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter; or the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament; or the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.

3.8 The Department has reached this view because it considers that the primary purpose of the provisions in this instrument relate to local government, which is within the devolved legislative competence of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales.

4. Legislative Context

4.1 Part 6 of the 2009 Act provides for the establishment of combined authorities for the areas of two or more local authorities in England. They are bodies corporate that may be given power to exercise specified functions of a local authority and power to exercise specified functions of any other public authority. Mayoral combined authorities are chaired by a mayor who is elected by the local government electors for the area of a combined authority.

4.2 The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority was established in April 2014 by the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (S.I. 2014/1012).

4.3 This Order cites the following powers:

- Section 103(1) of the 2009 Act (Combined authorities and their area): the Secretary of State may by order provided for the creation of combined authorities.
- Section 104(1)(a) of the 2009 Act (Constitution and functions: transport): the Secretary of State may by order make provisions about the constitutional arrangements of a combined authority, this includes membership, remuneration, voting powers and executive arrangements of a combined authority.
- Section 105(1) of the 2009 Act (Constitution and functions: local authority functions generally): the Secretary of State may by order provide for a function of a local authority that is exercisable in relation to the combined authority's area to be exercisable by the combined authority in relation to the combined authority's area.
- Section 105(3) of the 2009 Act (Constitution and functions: local authority functions generally): the Secretary of State may by order make provision for the costs of a combined authority to be met by its constituent councils, and the basis on which the amount payable by each constituent council is determined.
- Section 105A(1)(a), (1)(b), (2) and (3)(b) of the 2009 Act (Other public authority functions): the Secretary of State may by order provide for a function of a public authority, that is exercisable in relation to a combined authority's area, to be a function of the combined authority, and to make provision by order conferring on a combined authority in relation to its area a function corresponding to a function that a public authority has in relation to another area. An order under subsection (1)(a) or 1(b) may include further provision about the exercise of the function, including provision for the exercise of the function to be subject to conditions or limitations. Subsection 3(b) provides that an order under subsection (1)(a) may include provision for the function to be exercisable by the combined authority concurrently with the public authority.
- Section 106(1)(b): the Secretary of State may by order change the boundary of the area of an existing combined authority by removing from its area the whole of the area administered by a county council or district council.
- Section 107A(1) of the 2009 Act (Power to provide for election of mayor): the Secretary of State may by order provide for the creation of the position of a mayor for the area of a combined authority with the consent of the constituent councils of the combined authority (each district council or county council whose area is within the area of the combined authority).
- Section 107D(1), (7)(a), (b), (c), (d) and (e) of the 2009 Act (Functions of mayors: general): the Secretary of State may by order provide for any function of a mayoral combined authority to be a function exercisable only by the mayor; such an order may provide certain conditions or limitations on the exercise of functions; such an order may provide for members or officers of the combined authority to assist the mayor in the exercise of general functions; confer ancillary powers on the mayor for the purposes of the exercise of general functions; and authorise the mayor to appoint one person as the mayor's political adviser.

- Section 114 of the 2009 Act (Incidental etc provision): the Secretary of State may by order make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under this Part or for giving full effect to such an order.
- Section 115(1) of the 2009 Act: the Secretary of State may make provision by order for the transfer of property, rights and liabilities for the purpose of, or in consequence of, an order under Part 6 of the 2009 Act.
- Section 117(5) of the 2009 Act (Orders): an order under Part 6 of the 2009 Act may include provision amending, applying (with or without modifications), dis-applying, repealing or revoking any enactment whenever passed or made.
- Paragraphs 3 and 4 of Schedule 5A to the 2009 Act enable the Secretary of State to make provision by order about the overview and scrutiny committee(s) and audit committee of a combined authority, including: membership; voting rights; the person who is to be chair of such a committee; the appointment of a scrutiny officer; the circumstances in which matters may be referred to an overview and scrutiny committee; obligations on persons to respond to reports or recommendations made by an overview and scrutiny committee; the publication of reports, recommendations or responses; and the information which must, or must not, be disclosed to an overview and scrutiny committee.
- Paragraph 3 of Schedule 5B to the 2009 Act provides that the Secretary of State may make provision for the dates on which and years in which mayoral elections for the area of a combined authority may or must take place, the intervals between elections for the return of a mayor and the term of office of a mayor.

4.4 Orders under section 105 and 105A may make provision for the function to be exercisable by the combined authority either generally or subject to such conditions or limitations as may be specified in the order.

5. Extent and Territorial Application

5.1 This instrument extends to England and Wales as the relevant powers being exercised extend to England and Wales.

5.2 The territorial application of this instrument is set out in Section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

6.1 Jake Berry MP, Parliamentary Under Secretary 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 Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The Government made a commitment in its 2017 manifesto that "for combined authorities that are based around our great cities, we will continue to support the adoption of elected mayors". The Government considers such devolution will boost economic growth, increase public service efficiency, improve Britain's weak productivity, and rebalance the economy, including contributing to the Northern Powerhouse. Devolution aims to create accountable and effective institutions at the right scale – across a strategic economic geography – and to ensure that these local areas have the powers that they need to drive growth and deliver for their citizens.

7.2 This Order is a significant step in the implementation of the devolution deal that the Government announced it was minded to agree with the North of Tyne councils (Newcastle upon Tyne, North Tyneside and Northumberland) at Budget 2017,[1] and which was launched on 24 November 2017.[2] When the four councils south of the Tyne (Durham, Gateshead, South Tyneside and Sunderland) chose not to participate in the agreed North East devolution deal in September 2016, the Government was clear that it would continue to work with those committed to devolution. The councils south of the Tyne are free to come forward with further proposals to Government at any time.

7.3 The North of Tyne devolution agreement provides for a new mayoral combined authority and for powers to be conferred on the new mayoral combined authority, with certain powers to be exercised by the mayor, as well as devolving significant budgets, including an investment fund of £600 million over 30 years. The agreement also provides for the establishment of a joint transport committee to exercise the transport functions of both the new mayoral combined authority and the existing combined authority – known as the North East Combined Authority (NECA) – so as to maintain integrated transport across the whole of the North East. When the "minded to" devolution deal was launched in November 2017, the Government explained this was on the basis that the deal would be formally concluded on the establishment of the new mayoral combined authority.

7.4 On 14 December 2017 the councils for Newcastle upon Tyne, North Tyneside and Northumberland published their proposals in a statutory scheme,[3] pursuant to sections 109 and 112 of the 2009 Act:

- to amend the boundary of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority by removing the local government areas of Newcastle upon Tyne, North Tyneside and Northumberland;
- to establish a new mayoral combined authority for the area of Newcastle upon Tyne, North Tyneside and Northumberland;
- to provide for certain functions to be exercised by the new mayoral combined authority and for some to be exercisable only by the mayor of the combined authority; and

[1] https://www.gov.uk/government/topical-events/autumn-budget-2017
[2] https://northoftynedevolution.com/deal/
[3] https://northoftynedevolution.com/wp-content/uploads/2017/12/North-of-Tyne-devolution-scheme.pdf

- to establish a joint transport committee to exercise the transport functions of the two combined authorities so as to maintain integrated transport across the whole of the North East.

7.5 Prior to the publication of their scheme, the three councils had prepared a governance review[4] and, pursuant to the provisions of the 2009 Act, had come to the conclusion that their proposals would be likely to improve the exercise of statutory functions in relation to the areas of the Combined Authorities. The three councils then undertook a public consultation on the proposals in their scheme (see section 8) and, as required by the 2009 Act, the authorities affected by the Order have consented to the making of the Order in accordance with sections 104(10), 105(3A)(a), 106(3A), 107D(9) and 110(1)(b) of the 2009 Act.

7.6 The Secretary of State is satisfied that the statutory conditions for the Order provided for in sections 110 and 113 of the 2009 Act have been met. These conditions include:

- having considered the councils' consultation and summary of responses, no further consultation is necessary, as their consultation is sufficient;
- making an order to change the boundary of the existing combined authority and amend their constitution accordingly would be: likely to improve the exercise of statutory functions in the area; and appropriate, having regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government; and
- making an order to establish a new mayoral combined authority with the functions proposed by the three councils would be: likely to improve the exercise of statutory functions in the North of Tyne area; and appropriate, having regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government, and where the functions are local authority functions, that they can be appropriately exercised by that combined authority.

7.7 The Order confers a number of local authority and public authority functions on the Combined Authority to be exercised in relation to the local government areas that make up the combined authority area, as reflected in the devolution agreement. Certain functions are to be exercisable by the mayor individually, and others by the Combined Authority that will be chaired by the Mayor once elected on 2 May 2019, and by an appointed interim mayor prior to that election. The first term of office of the elected Mayor is to be five years, with subsequent elections in May 2024, and then every four years thereafter.

7.8 The Order provides that there will also be two members of the Combined Authority appointed from each constituent council – Newcastle upon Tyne, North Tyneside and Northumberland – and one of these members will be a voting member. The North East Local Enterprise Partnership (NELEP) will also nominate a non-voting member to the Combined Authority, who may be granted voting rights by the Combined Authority. The Order provides that decisions are to be made by simple majority, except for matters defined in the Order as those that require a unanimous decision of the voting members appointed by the constituent councils. If the Mayor does not vote with the majority of voting members then the Mayor may seek a review of that decision, and the decision will be taken again.

[4] https://northoftynedevolution.com/wp-content/uploads/2017/12/Governance-review.pdf

7.9 The Order also provides for the funding of the Combined Authority. It requires the constituent councils to meet any costs reasonably incurred by the Combined Authority, to the extent these costs are not to be met by other resources. It also provides for the constituent councils to meet any costs reasonably incurred by the Mayor in, or in connection with, the exercise of mayoral functions where the Mayor has decided not to meet these costs from other resources available to him. These other available resources may include a council tax precept which the Mayor has power to issue to meet costs relating to mayoral functions. The Order provides that the Mayor must agree with the Combined Authority, in advance of incurring the expenditure, expenditure needed to meet the costs of exercising mayoral functions which are to be funded by the constituent councils. The Order then provides that the constituent councils may agree the respective proportions they will pay; in absence of this agreement, the councils will meet the costs through equal shares.

7.10 The Order permits the Mayor to appoint one person to act as political adviser, for the period of the Mayor's term; or until the Mayor leaves office, if the Mayor leaves before the end of their term. This ensures the Mayor has access to political advice, in addition to, and separately from appropriate officer support, and within proportionate resource.

7.11 This Order makes specific provision, as described in the following paragraphs, to confer on the Combined Authority functions which cover: housing and regeneration (7.12 - 7.15); education and skills (7.16); and transport (7.17 – 7.18).

7.12 The devolution deal includes the commitment that the Combined Authority will support the accelerated delivery of housing. To support this ambition, the Order provides that the Combined Authority be considered a local housing authority under the Housing Act 1985. This will then require the Combined Authority to carry out periodical reviews of housing needs and consider housing conditions in the area as well as the needs of the area with respect to the provision of further housing. There is an associated power of compulsory purchase that the Mayor will be able to exercise, subject to the consent of the Combined Authority members appointed by the constituent councils whose area contains the area of land to be compulsorily acquired, and the consent of the Secretary of State.

7.13 The Order also provides that the public authority functions of the Homes and Communities Agency (HCA) in sections 5-12 of the Housing and Regeneration Act 2008, including powers of land acquisition and disposal, are conferred on the Combined Authority. The compulsory purchase powers are to be exercised by the Mayor, subject to the consent of the Combined Authority members appointed by the constituent councils whose area contains the land in question. As is the case when the HCA exercises these powers, the Mayor may only implement a Compulsory Purchase Order with the consent of the Secretary of State. All HCA powers are to be exercised to improve the supply and quality of housing, to secure regeneration or development of land or infrastructure, and to support the creation, regeneration or development of communities in the area. The functions are to be held concurrently with the HCA. It should be noted that on 11 January 2018, the HCA's non-regulation arm adopted its new trading name Homes England. Homes England continues to be constituted as the HCA under the Housing and Regeneration Act 2008.

7.14 Additionally this Order provides for the conferral of functions corresponding to the public authority functions of the Greater London Authority (GLA), exercised by the Mayor of London, to designate mayoral development areas and so create a Mayoral

Development Corporation (MDC). These functions are conferred on the Combined Authority to be exercised by the Mayor, and conferring these functions is the first step in establishing an MDC in the area of the new combined authority; a further order is necessary to create such a body if the Mayor decides to exercise these functions. The Mayor would need the consent of the Combined Authority members appointed by the constituent councils whose area contains the proposed mayoral development area, and would also need the consent of the Northumberland National Park Authority if the Mayor was proposing the MDC should become the local planning authority in the area of the National Park.

7.15 In support of the Combined Authority's role to promote the area and attract business and innovation to the region, the Order provides that the Combined Authority can exercise, concurrently with the constituent councils, the functions of the constituent councils relating to the power to encourage visitors and provide conference and other facilities, the provision of cultural activities and entertainments, the duty to prepare an assessment of economic conditions, and a power of competence in relation to economic development and regeneration.

7.16 The Order provides that the Combined Authority will have a range of local authority powers over education, skills and training for 16 plus learners, to be exercised concurrently with the constituent councils.

7.17 To reflect the devolution deal, the Order also provides for the establishment of a joint transport committee with members from the Combined Authority and the existing combined authority to exercise all the transport functions of the two combined authorities, and produce a joint transport plan for the two combined authorities.

7.18 It is also provided that a joint overview and scrutiny committee and an audit committee will be established for this transport joint committee. The establishment of the transport joint committee means that some constitutional changes are needed to the existing combined authority, and these are also provided for in the Order.

7.19 The Combined Authority will also have the functional power of competence from the 2009 Act, which is also exercisable by the Mayor. This provision has the effect of confirming the Mayor's power to do things appropriate or incidental to those functions exercisable by the Mayor.

7.20 To support the effective operation of the Combined Authority, it will also be able to exercise local authority powers relating to placing staff at the disposal of other authorities, the publication of information, and prosecuting and defending legal proceedings.

8. Consultation outcome

8.1 The three North of Tyne councils undertook a consultation in accordance with the requirements of the 2009 Act on the proposals contained in their scheme. They led the consultation that ran for seven weeks from 14 December 2017 to 5 February 2018, and then prepared a summary of consultation responses that they submitted to the Secretary of State on 23 February 2018.[5]

8.2 As their summary of consultation responses explains, the consultation exercise was undertaken via an online and paper survey as well as face-to-face public events and a

[5] https://northoftynedevolution.com/wp-content/uploads/2018/02/North-of-Tyne-devolution-consultation-report.pdf

number of bespoke sessions for stakeholders. The consultation exercise was promoted via print, radio, TV and online media as well as social media and press adverts. There was also a dedicated website to provide news and information about the devolution process, which generated over 6,000 visitors to the consultation page during the period of the consultation. The councils report that the approach used to undertake the consultation complied with the Cabinet Office Consultation Principles.[6]

8.3 The online consultation exercise was run and analysed by North Tyneside with support from Newcastle upon Tyne and Northumberland. As well as providing information regarding the proposals and devolution deal, the online consultation exercise included a survey with four closed-ended questions regarding key elements of the proposals in the scheme, asking respondents to indicate whether they agreed, disagreed or neither agreed nor disagreed. There were also four open-ended questions, relating to the same subject matter, which provided an opportunity for respondents to set out more detailed views on the proposals, if they wished to do so. As well as questions on the devolution proposals, there were six demographic questions to enable the councils to make sure they were consulting with and taking in to consideration the views of their diverse communities.

8.4 In total, 1,087 responses to the survey were received, with the vast majority being provided online. 902 (83 per cent) of these responses were from residents. All comments to the consultation were read and coded into themes. In total, the councils report that around 1,400 people or organisations took part in the consultation process.

8.5 The summary of the consultation responses reports that a majority of respondents agreed with the proposal to change how the region's councils work together. There were 1,082 responses to the survey question on governance that asked whether respondents agreed or disagreed with the proposals to change the way the councils in the North East work together in order for the devolution deal for the North of Tyne to be implemented. 541 (50 per cent) respondents agreed with the proposals, 129 (12 per cent) neither agreed nor disagreed with the proposals, and 412 (38 per cent) disagreed with the proposals. 601 (56 per cent) respondents opted to explain why they agreed, neither agreed nor disagreed, or disagreed with the proposals.

8.6 The summary reports that those who agreed with the proposals believed they will ensure a more strategic, co-ordinated and collaborative approach, which, with enhanced local powers, will attract increased investment to the area. Of those who disagreed, they felt the proposals would lead to division within the region and result in increased costs and bureaucracy.

8.7 Key business stakeholders including the NELEP, Confederation of British Industry North East, Entrepreneurs Forum, Federation of Small Business, North East Chamber of Commerce, North Tyneside Business Forum, Port of Tyne and Northumberland Business Support Limited supported devolution. Their preference was for a devolution covering the geography of all seven councils in the North East and saw the implementation of the North of Tyne devolution deal as an important first step. Other key stakeholders including Newcastle University, Northumberland Schools Forum, North East Poverty Task Group, Northumberland National Park Authority, Northumberland Association of Local Councils and the Newcastle Gateshead Initiative also supported the proposals for devolution.

[6] https://www.gov.uk/government/publications/consultation-principles-guidance

8.8 Others expressed concern over the deal, including Unison, Unite, who specifically raised concern over the impact of the deal on the NECA, and Historic England, who had reservations regarding the geography.

8.9 Durham, South Tyneside and Sunderland councils responded to the consultation. They were committed to continuing to support joint regional working across all disciplines to enable the growth of the regional economy, and were clear that any establishment of a new mayoral combined authority should not be to the detriment of the area south of the Tyne.

8.10 Of the 1,076 respondents to the question asking whether respondents agreed or disagreed with the proposals to help improve the quality and affordability of housing and infrastructure in the North of Tyne, 559 (52 per cent) agreed with the proposals, 169 (16 per cent) neither agreed nor disagreed with the proposals and 348 (32 per cent) disagreed with the proposals. 551 (51 per cent) opted to explain why they agreed, neither agreed nor disagreed, or disagreed with the proposals.

8.11 The summary reports that the majority of those consulted thought that the proposals to create a North of Tyne approach to housing and infrastructure development would be beneficial to local communities and the economy, and that of particular merit was the potential for local control of budgets and the decision-making process. The summary reports that where concerns were articulated, they were generally around the governance arrangements and their impacts on development and planning. The majority of stakeholders responded positively to these proposals.

8.12 Of the 1,071 respondents to the consultation question regarding the proposal to help improve educational attainment and increase the number of residents moving into work, 626 (58 per cent) agreed with the proposals, 291 (27 per cent) neither agreed nor disagreed with the proposals, and 154 (14 per cent) disagreed with the proposals. 519 (48 per cent) opted to explain why they agreed, neither agreed nor disagreed, or disagreed with the proposals.

8.13 The summary reports that respondents agreed that supporting education and skills was key to improving the life chances of young people, with caveats including ensuring education and businesses worked in partnership, that schools were supported, and that there were no additional costs. The summary also reports that the most prevalent concerns were about necessity, cost and effectiveness of the proposals as well as the possibility of a detrimental impact on those authorities in the north east not included in the proposals. In addition, the summary reported there were requests for more information and reassurances about the democratic process.

8.14 Of the 1,073 respondents to the consultation question that asked whether people agreed or disagreed with the proposals to maintain the current joint work on transport across the North East, 664 (62 per cent) respondents agreed with the proposals, 169 (16 per cent) neither agreed nor disagreed with the proposals, and 240 (22 per cent) disagreed with the proposals. 515 (48 per cent) opted to explain why they agreed, neither agreed nor disagreed, or disagreed with the proposals.

8.15 The summary reports that a majority of respondents agreed with the transport proposals and they felt it was important to maintain the current joint working on transport and highlighted the need for improvements to transport in the area. Of those who disagreed, the most commonly given reason was that it would involve additional costs and bureaucracy.

8.16 As statute requires, the Secretary of State was sent the summary of responses to the consultation prepared by the three councils, to which he has had regard when deciding the provisions to include in the Order. In accordance with the requirements at section 113(2) of the 2009 Act, the Secretary of State has also reviewed the consultation, and is of the view that no further consultation is necessary. The Secretary of State is satisfied that the consultation was sufficient in terms of its length (seven weeks); the mechanisms used (online, paper copy, and face-to-face); the promotional activity (including print, radio and online press, social media and website promotion) and stakeholder events, and the analysis undertaken by the councils.

8.17 The Secretary of State has taken the decision not to implement all of the proposals that formed part of the scheme. The scheme proposes that the new mayoral combined authority will have powers to control the Adult Education budget from 2019/20 onwards. The three councils have concluded that the most appropriate route for the successful devolution of these powers and budget is for them to be implemented for 2020/21 so a decision on the transfer of these powers will be made then by the Department for Education who lead on these powers.

8.18 It is also proposed that the Combined Authority be provided with additional borrowing powers. It is anticipated that after the Combined Authority is established they will be able to agree a debt cap with HM Treasury, and after this agreement regulations conferring these additional borrowing powers could then be made. This is the approach that was taken for the other mayoral combined authorities.

9. Guidance

9.1 No guidance is necessary to accompany this Order. The Government will work with colleagues in the area to support their implementation of the devolution deal.

10. Impact

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

10.2 As regards impact on the public sector, the establishment of the new Combined Authority with the powers devolved to it should lead to operational efficiencies that could lead to reduced costs. Indeed, the statutory tests require the Secretary of State to consider that establishing the combined authority is likely to improve the exercise of statutory functions in the areas to which an order relates and the Secretary of State is required to have regard to the need to secure effective and convenient local government. The Secretary of State is satisfied that these tests are met in relation to the provisions of the Order.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring & review

12.1 The Combined Authority will be required, under the devolution agreement reached with Government, to put in place an extensive programme of evaluation, agreed with HM Treasury, of the devolution agreement, including the new governance arrangements.

13. Contact

13.1 Kathy Billington at the Ministry of Housing, Communities and Local Government Telephone: 030 3444 4353 or email: Kathy.Billington@communities.gsi.gov.uk can answer any query regarding the instrument.