EXPLANATORY MEMORANDUM TO

THE SUSSEX AND BRIGHTON COMBINED COUNTY AUTHORITY REGULATIONS 2026

[2026] 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 Miatta Fahnbulleh, Parliamentary Under Secretary of State for Devolution, Faith and Communities at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Tim Bowden, Deputy Director for English Devolution, Oversight and Governance, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Officials at the Ministry of Housing, Communities and Local Government can be contacted with any queries regarding the instrument via NewDevoDeals@communities.gov.uk. telephone: 0303 444 0000

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 Sussex and Brighton Combined County Authority ('SBCCA') comprising of the three upper tier authorities in Sussex and Brighton: Brighton and Hove City Council, East Sussex County Council and, West Sussex County Council. These Regulations provide for a directly elected mayor for SBCCA, for certain functions of local and public authorities to be conferred on SBCCA, and for certain specified functions of SBCCA 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 is committed to transferring power out of Westminster and into the hands of those who know their areas best. Devolution means that key decisions about transport, strategic planning and housing, adult skills and employment support, and economic regeneration will be made locally by local leaders who understand local needs and priorities and are answerable to local voters.

5.2 In July 2024, the government invited areas without devolution arrangements to put forward proposals for how they would like to take on devolution in their area. Following the publication of the English Devolution White Paper on 16 December 2024, these areas had the opportunity to apply to join the government's Devolution Priority Programme. This Programme aimed at providing a fast-track to creating mayoral combined authorities or combined county authorities. The local council leaders from Brighton and Hove City Council, East Sussex County Council and West Sussex County Council applied to join the Devolution Priority Programme to establish a mayoral combined county authority over their council areas. The geographical area of SBCCA will be made up of the areas of Brighton and Hove City Council, East Sussex County Council and West Sussex County Council. These constituent councils have consented to the making of the Regulations.

5.3 Following public consultation, the Minister for Local Government and Devolution considered that the statutory tests for establishing a combined county authority (CCA) had been met and decided to make these Regulations establishing SBCCA. (Further details on the consultation are given in section 7).

5.4 The purpose of the proposed Regulations is to establish SBCCA, and provide for the election of a mayor for the area. The Regulations confer an initial set of local and public authority functions to SBCCA in anticipation of a further standardised set of functions being conferred to SBCCA and their mayor via the English Devolution and Community Empowerment Bill (EDCEB) when it comes into force, subject to parliamentary approval and Royal Assent.

5.5 The Regulations also establish the office of SBCCA mayor, with the first mayoral elections scheduled to take place on 4 May 2028.Certain functions are to be exercisable only by the mayor, and others by the SBCCA (which will be chaired by the mayor). This is in accordance with provisions in the Levelling-up and Regeneration Act 2023 ("the 2023 Act"). The 2023 Act allows for the creation of CCAs, and for CCA areas to agree to the establishment of a CCA, the election of a mayor and for functions within the CCA area to be exercised by the mayor.

What was the previous policy, how is this different?

5.6 This is the first devolution agreement for Sussex and Brighton. These Regulations establish a new combined county authority for Sussex and Brighton which will be led by an elected mayor. The purpose of the Regulations is to establish SBCCA and its governance arrangements and

confer certain functions so that SBCCA can operate effectively as soon as it is established.

5.7 Most of the provisions in the Regulations will come into force on the day after the day on which the Regulations are made. Mayoral functions will come into force the day the mayor assumes office i.e. 8 May 2028 (this date being the first Monday after the 2028 mayoral elections).

5.8 Responsibility for the vast majority of public service delivery will remain with the constituent councils for example, social care and refuse collection. There may be a small element of service delivery taken forward at combined county authority level, such as subsidised transport (e.g. local bus services that are currently subsidised by the councils).

Part 2 Establishment of the Combined County Authority

5.9 Part 2 of the Regulations provides for the establishment of the combined county authority and defines where its functions are derived from. It also modifies the CCA's financial reporting requirements until the end of March 2027.

Part 3 Election of mayor

5.10 Part 3 of the Regulations provides for the election of a mayor and the appointment of a political adviser.

Part 4 Transport

5.11 Part 4 of Regulations confers powers and functions for local transport planning. SBCCA will take on the local transport plan powers and functions currently held by the constituent councils, allowing for progressively stronger alignment between strategic spatial, economic and transport planning functions, ultimately delivering better outcomes for people and places. These powers and functions include the responsibility to develop and implement a Local Transport Plan. SBCCA will have powers to pay grants to constituent councils.

5.12 These functions will be held concurrently by SBCCA and the constituent councils until the Mayor takes office. This provides flexibility for SBCCA to continue existing functions and services and choose the appropriate time to transfer these functions from constituent councils to the new CCA, rather than having to transfer them immediately. This will enable the new CCA to exercise these functions effectively in step with its development of capacity and capability. Once the mayor takes office, functions related to the Local Transport Plan and power to pay grant will become exercisable only by the mayor under Part 5.

Part 5 mayoral Functions

5.13 Part 5 of the Regulations specifies those functions that are exercisable only by the mayor and provides that the members and officers of SBCCA may assist the mayor in the exercise of general functions. This Part only comes into force once the mayor has been elected.

Part 6 Funding

5.14 Part 6 provides that the constituent must ensure that the costs of SBCCA that are reasonably attributable to the exercise of its functions are met.

5.15 Constituent councils will also be required to meet the costs of expenditure reasonably incurred by the mayor in relation to mayoral functions, where the mayor has not decided to meet those costs from other resources available to SBCCA. Total expenditure related to mayoral functions to be met by constituent councils must be agreed by SBCCA in advance, and expenditure cannot be incurred which has not been previously agreed. The mayor may also issue a precept which must be taken into account when calculating the contributions to be made by the constituent councils.

5.16 The amount payable by each constituent council to ensure the costs of SBCCA and expenditure reasonably incurred by the mayor are met will be determined by apportioning costs between them in agreed proportions or, if agreement cannot be reached, in proportion of the total resident population of each constituent council.

Part 7 Additional Functions

5.17 The Regulations provide for the conferral of data sharing functions on the SBCCA. These functions are exercisable concurrently with the constituent councils. Part 7 also details incidental provisions relating to employee pensions, general power of competence for the purpose of economic development and other operational functions.

Schedule

5.18 The Schedule to the Regulations sets out the constitution of SBCCA. It sets out the membership, voting arrangements, and payments of allowances for the members of the CCA.

6. Legislative and Legal Context

How has the law changed?

6.1 The Regulations use powers in the 2023 Act to establish the SBCCA. Section 9 of the Act provides for the establishment for a CCA for an area that is wholly within England and consists of at least one two-tier county council and another 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.

6.2 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. The 2023 Act provides for the establishment of a CCA and is considered the appropriate legislative route to achieve the new devolution arrangements outlined in sections 5.1 and 5.2.

7. Consultation

Summary of consultation outcome and methodology

7.1 Section 46(3) of the 2023 Act requires the Secretary of State to carry out a public consultation before making regulations establishing a CCA and its functions.

7.2 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; and
- the constituent councils consent.

7.3 The Ministry of Housing, Communities and Local Government (MHCLG) ran an eight-week consultation. The consultation methods utilised by MHCLG included an online survey on the creation of the SBCCA, with options for participants to responding in writing, by email and post. A range of engagement activity was undertaken by MHCLG, including: an in-person event in Brighton; stakeholder run events attended by officials, a ministerial visit and dissemination of physical assets such as posters and flyers, to provide information on the consultation.

7.4 In total, 6,122 individuals and organisations participated in the consultation. The consultation summary was published on GOV.UK[1] on 17 July 2025.

7.5 The Secretary of State has reviewed the responses to the consultation and considers that the statutory tests outlined in section 7.2 have been met.[2]

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, charities and voluntary bodies.

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 legislation governing the

[1] https://www.gov.uk/government/consultations/sussex-and-brighton-devolution/outcome/sussex-and-brighton-devolution-consultation-response
[2] https://questions-statements.parliament.uk/written-statements/detail/2025-07-17/hcws848

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 is that conferring functions to SBCCA should lead to operational efficiencies that could lead to reduced costs. The statutory tests require the Secretary of State to consider that establishing and conferring the functions onto the SBCCA 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 this legislation is the accountability system described in the English Devolution Accountability Framework[3]. This system requires local authorities to put in place mechanisms to ensure that local leaders and institutions are transparent and accountable, work closely with local businesses, seek the best value for taxpayers' money, and maintain strong ethical standards.

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, and why the Secretary of State considers it appropriate to make the Regulations. 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 Miatta Fahnbulleh, Parliamentary Under Secretary of State for Devolution, Faith and Communities has made the following statement regarding Human Rights: "In my view the provisions of the Sussex and Brighton Combined County Authority Regulations 2026 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").

[3] https://www.gov.uk/government/publications/english-devolution-accountability-framework