EXPLANATORY MEMORANDUM TO

THE TRANSFER OF FUNCTIONS (DIGITAL GOVERNMENT) ORDER 2020

2020 No. 940

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order makes provision for, and in connection with, the functions under Chapter 1 of Part 5 of the Digital Economy Act 2017 (the "2017 Act") so that the majority of the functions of the Secretary of State are to be exercised concurrently with the Minister for the Cabinet Office and for one function to transfer outright from the Secretary of State to the Minister for the Cabinet Office.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is all of the United Kingdom.

4.2 The territorial application of this instrument is all of the United Kingdom.

5. European Convention on Human Rights

5.1 John Whittingdale has made the following statement regarding Human Rights:

"In my view the provisions of the Transfer of Functions (Digital Government) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 Part 5 of the 2017 Act makes provision for data sharing and access to information in relation to public service delivery, civil registration, debt, fraud, research, revenue authorities and statistics.

6.2 Ministerial responsibility for the policy coordination of Part 5 of the 2017Act transferred from the Department for Digital, Culture, Media and Sport to the Government Digital Service (part of the Cabinet Office) on 1 August 2020. It is therefore appropriate for the function under section 44(4)(d) of that Act relating to consultation to be transferred from the Secretary of State to the Minister for the

Cabinet Office and for the other functions of the Secretary of State under Part 5 to be exercised concurrently with the Minister for the Cabinet Office. The functions under Chapter 1 of Part 5 cannot be transferred by administrative action, which is why an Order is required under section 1 of the Ministers of the Crown Act 1975.

6.3 Section 1 of the Ministers of the Crown Act 1975 enables Her Majesty by Order in Council to provide for the transfer of functions between Ministers. The Order may make incidental, supplemental and consequential provision, including provision that amends legislation relating to the transferred function.

7. Policy background

What is being done and why?

7.1 Ministerial responsibility for the policy co-ordination of Part 5 of the 2017 Act transferred from the Department for Digital, Culture, Media and Sport to the Government Digital Service (part of the Cabinet Office) on 1 August 2020.

7.2 This Order therefore seeks to transfer the function under section 44(4)(d) of that Act that is not already available to the Minister for the Cabinet Office so that it may be exercised by the Minister for the Cabinet Office while allowing the other functions in Chapter 1 of Part 5 to be exercised concurrently with the Secretary of State

7.3 These changes affect Chapter 1 of Part 5 of the 2017 Act (public service delivery), reflecting the fact that policy on information sharing for public service delivery will be led by the Minister for the Cabinet Office (or the relevant devolved Ministers where appropriate).

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

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 No consolidation is required as a result of this Order.

10. Consultation outcome

10.1 There has not been a public consultation on this Order as no impact on business or the voluntary sector is foreseen.

11. Guidance

11.1 No guidance has been prepared in respect of this Order.

12. Impact

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

12.2 There is no impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

13. Regulating small business

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

14. Monitoring & review

14.1 No monitoring or review of this Order is planned.

15. Contact

15.1 Phil Earl at the Department for Digital, Culture, Media and Sport Telephone: 07384 907347 or email: phil.earl@dcms.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Earl, Deputy Director for Data Strategy, Implementation and Evidence, at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.

15.3 John Whittingdale at the Department for Digital, Culture, Media and Sport can confirm that this Explanatory Memorandum meets the required standard.