

EXPLANATORY MEMORANDUM TO
THE WEST YORKSHIRE COMBINED AUTHORITY (ELECTION OF MAYOR
AND FUNCTIONS) ORDER 2021

2021 No. 112

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.

2. Purpose of the instrument

- 2.1 This Order provides for the establishment of a directly elected Mayor for the West Yorkshire Combined Authority (the “WYCA”) with the first election to be held on 6th May 2021 and amends certain governance arrangements of the WYCA. It also provides for certain functions of local and public authorities to be exercised by the WYCA, and for certain specified functions of the WYCA to be exercisable only by the Mayor.
- 2.2 This Order uses powers conferred on the Secretary of State by the 2009 Act to make provision in relation to the transfer of Police and Crime Commissioner (“PCC”) functions from the PCC for West Yorkshire to the WYCA from 10 May 2021 for exercise by the Mayor; and transfers the property, rights and liabilities of the PCC to the WYCA.

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 This entire instrument applies to England only because it is concerned with local government in a specific part of England.
- 3.3 The instrument does not have any minor or consequential effects outside England.
- 3.4 In the view of the Department, for the purposes of Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, 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 and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament and the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.
- 3.5 The Department has reached this view because it considers that the primary purposes 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. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is set out in Section 3 under “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)”.

5. European Convention on Human Rights

- 5.1 Luke Hall, Minister of State for Regional Growth and Local Government, has made the following statement regarding Human Rights:

“In my view the provisions of the West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 105(B)(9) of the Local Democracy, Economic Development and Construction Act 2009 (the ‘2009 Act’) requires a report to be laid before Parliament. That report is published alongside this memorandum.
- 6.2 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.
- 6.3 The West Yorkshire Combined Authority was established by the West Yorkshire Combined Authority Order 2014 (S.I. 2014/864).
- 6.4 This Order cites the following powers:
- Section 104(1) 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) and (3) of the 2009 Act (Constitution and functions: local authority functions generally): the Secretary of State may by order make any provision for a combined authority that may be made in relation to an economic prosperity board under section 91 of the 2009 Act, namely for a function of a local authority to be a function of the combined authority, and 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), (2), (3) and (7) 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) may include further provision about the

exercise of the function, including for the exercise of the function to be subject to conditions or limitations. If an order under subsection (1) contains a reference to a document specified or described in the order the document can be construed as reference to an amended document or a subsequent document that replaces that document.

- Section 107A of the 2009 Act (Power to provide for election of Mayor): the Secretary of State may by order provide for there to be a Mayor for the area of a combined authority.
- Section 107D(1), (5),(7) and (8) 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 for members or officers of the combined authority to assist the Mayor in the exercise of non-PCC functions and may confer ancillary powers on the Mayor for the purposes of the exercise of non-PCC functions, and may confer on the Mayor a general power of competence similar to that conferred on a combined authority under an order made under section 113D.
- Section 107E(1) to (4) of the 2009 Act (Joint exercise of general functions): the Secretary of State may by order make provision for, or in connection with, the entering into of arrangements under section 101(5) of the Local Government Act 1972 (joint committees) in relation to non-PCC functions of a Mayor for the area of a combined authority. Such a provision may include provision as to the membership of any joint committee and the appointment of members to a joint committee.
- Section 107F(1), (5) and (6) of the 2009 Act (Functions of Mayors: policing): the Secretary of State may by order provide for the Mayor for the area of a combined authority to exercise functions of a PCC in relation to that area.
- Section 114(1) and (3) 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 of the 2009 Act (Transfer of property, rights and liabilities): the Secretary of State may by order make provision for the transfer of property, rights and liabilities for the purposes of, or in consequence of, an order under this Part or for giving full effect to such an order.
- Section 116 of the 2009 Act (Consequential amendments): The Secretary of State may by order make such provision as the Secretary of State considers appropriate in consequence of any provision made by this Part.
- Section 117(1A) and (5) of the 2009 Act (Orders): an order under Part 6 of the 2009 Act may make different provision for different authorities or descriptions of authority or otherwise for different purposes and may include provision amending, applying (with or without modifications), disapplying, repealing, or revoking any enactment whenever passed or made.
- Paragraph 3 of Schedule 5B to the 2009 Act, which enables the Secretary of State to make provision for the timing of mayoral elections.
- Schedule 5C to the 2009 Act, which makes further provision for where an Order is made under 107F of the 2009 Act and provides various powers and

duties in relation to the detailed arrangements concerning the transfer of PCC functions from a PCC to a Mayor.

7. Policy background

What is being done and why?

- 7.1 In its 2019 manifesto, the Government outlined its ambition for full devolution across England¹. On 11 March 2020, Chancellor Rishi Sunak announced that a devolution deal had been agreed with West Yorkshire². The deal was agreed between the Government and constituent members of the WYCA, and provides for powers to be conferred on the WYCA and for a Mayor to be elected. The deal will also provide WYCA with investment funds of £38 million per year for 30 years, comprising over £1.1 billion in total to be invested by WYCA, alongside a range of other funding commitments.
- 7.2 This Order implements the West Yorkshire Devolution Deal. The Order will establish the office of Mayor of West Yorkshire with the first election to take place on 6 May 2021. The Mayor will also become Chair of the WYCA, the area of which comprises the local government areas of Bradford, Calderdale, Kirklees, Leeds, and Wakefield. The non-PCC Mayoral functions will come into force on the fourth day after the election of the Mayor. The Order transfers PCC functions for West Yorkshire to the WYCA, to be exercised by the Mayor. The Order also provides that the Mayor is to be treated, in relation to their PCC functions, as PCC for the purposes of all PCC enactments. This will take effect from 10 May 2021. Most of the provisions of the Order will come into force on the day after the day on which the Order is made. All of those affected by the Order – the West Yorkshire councils and the WYCA are aware and keen for the new powers and duties coming into force on the day after the day on which the Order is made, and have consented to the Order being laid before Parliament. Early commencement is required as WYCA need to have the functions in place to enable them to start preparations to be ready to deliver the Adult Education functions for the start of the academic year 2021/22 which would be from 1st August 2021. The draft Order also makes provision for elections in May 2021 so preparations are required in that regard also. The area has been preparing for implementation for some time now. The Order does not impose duties on people that are significantly more onerous than before or require them to adopt different patterns of behaviours.
- 7.3 The Secretary of State is satisfied that the statutory conditions for the Order provided for in the 2009 Act have been met:
- having considered the WYCA consultation and summary of responses, he considers that no further consultation is necessary, as its consultation is sufficient; and
 - he considers that making an Order to confer the proposed functions would be likely to improve the exercise of statutory functions in the West Yorkshire area, having regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government; and that in relation to the local authority functions conferred on the WYCA, these functions can be exercised appropriately by the WYCA.

¹ https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf

² <https://www.gov.uk/government/speeches/budget-speech-2020>

7.4 The Order confers a number of local authority and public authority functions on the WYCA to be exercised in relation to the WYCA area, as reflected in the devolution deal. Certain functions are to be exercisable by the Mayor individually, and others by the WYCA (which is chaired by the Mayor). Specifically, the Order makes provisions, as described in the following paragraphs, to confer on the WYCA functions, which include: education, skills and training functions (7.6 to 7.9), housing, regeneration and planning (7.10), Mayoral development corporation (7.11 to 7.12), transport (7.13), and certain additional functions (7.14). The Order also provides for Mayoral functions (7.15 – 7.17), funding (7.18 – 7.20), PCC functions to be conferred on the WYCA to be exercised by the Mayor (7.21 to 7.30) and constitutional amendments to the WYCA (7.31).

Part 2 – Election of Mayor

7.5 Part 2 of the Order provides for there to be a Mayor for the area of the WYCA with the first election to take place on 6th May 2021 and subsequent elections on the ordinary day of election in 2024 and in every fourth year thereafter on the ordinary day of election. It also provides that the Mayor may appoint one person as political advisor.

Part 3 – Education, skills and training functions

7.6 Part 3 of the Order relates to the education, skills and training functions to be conferred on the WYCA and exercised concurrently with constituent local authorities including:

- in the Further and Higher Education Act 1992, the duty to provide education for named individuals over compulsory school age but under the age of 19;
- in the Education Act 1996, the duty to promote high standards and fulfilment of potential and work experience for persons over compulsory school age; and
- in the Education and Skills Act 2008, duties to promote the effective participation in education or training; duties to make arrangements to identify persons not in education or training; functions relating to the provision of services to encourage, enable or assist the effective participation of persons in education or training; functions relating to the provision of support and learning and support agreements; and functions relating to cooperation as regards provision of 14-19 education and training.

7.7 Functions in the Apprenticeship, Skills, Children and Learning Act 2009 are transferred from the Secretary of State to the WYCA for education and training for persons aged 19 or over and others subject to adult detention; and to provide learning aims (provision of facilities and payment of tuition fees) for persons aged 19 and over.

7.8 Functions in the Apprenticeship, Skills, Children and Learning Act 2009 are conferred on the WYCA, exercisable concurrently with the Secretary of State, which relate to the encouragement of education and training for persons aged 19 or over and others subject to adult detention and to the provision of financial resources.

7.9 In exercising the functions referred to in paragraphs 7.7 and 7.8 above, the Combined Authority must have regard to guidance issued by the Secretary of State.

Part 4 – Housing, regeneration and planning

- 7.10 Part 4 of the Order makes provision for housing and regeneration, land acquisition and disposal powers under the Housing and Regeneration Act 2008 to be conferred on the WYCA, exercisable concurrently with Homes England. This includes powers for land acquisition and disposal, to regenerate, develop, and manage land holdings. In addition, the Order confers powers on the WYCA under the Town and Country Planning Act 1990 to compulsory acquire land, to acquire land by agreement, and to dispose, manage and develop land; these powers are exercisable concurrently with constituent councils. The compulsory purchase of land will be a Mayoral function requiring the consent of each Combined Authority member (but not any additional member appointed for political balance), or substitute member acting in that member’s place, appointed by a constituent council whose local government area contains any part of the land subject to the proposed compulsory purchase. Strategic planning powers and powers for a strategic infrastructure tariff referred to in the deal are not at this stage being conferred. The government is committed to confer these powers or their equivalent once the way forward on the reforms to the overall planning system is clear.

Part 5 – Mayoral development corporation

- 7.11 Part 5 of the Order gives the Mayor the power to designate mayoral development areas in the area of the WYCA to support the delivery of strategic sites in the area of West Yorkshire. This is the first step in establishing a Mayoral Development Corporation (MDC) in the WYCA area and a further order will be necessary to create such a body; the timeline for this Order would be dependent on the local area.
- 7.12 The relevant powers concerning MDCs are in the Localism Act 2011 (Part 8, Chapter 2; Schedule 21 and Schedule 22) (the “2011 Act”) specifically for the Mayor of London to exercise in relation to the Greater London area. This Order uses the provisions in the 2009 Act, as amended by the 2016 Act³, to confer the corresponding functions from the 2011 Act on the WYCA, to be exercised by the Mayor of the WYCA, with the following modifications:
- references in the 2011 Act to the Greater London Authority (GLA) and the London Assembly are to be read as references to the WYCA;
 - the WYCA is to have in relation to its area the corresponding functions that the Mayor of London has in relation to London;
 - the functions conferred on the WYCA are exercisable by the Mayor;
 - the Mayor may only exercise the functions conferred on the WYCA if the WYCA member for any constituent council whose council area contains any part of the area to be designated consents to the exercise of the functions;
 - to the extent that the functions include planning powers and where the exercise of these functions is in respect of any part of the area of the Peak District National Park Authority that overlaps with the WYCA area, the functions can be exercised only if the National Park Authority consents;
 - the WYCA Mayor must consider that any designation they make of an area would “further economic development and regeneration in the WYCA area”; and

³ The Cities and Local Government Devolution Act 2016 - section 7 of the 2016 Act added section 105A to the 2009 Act (Other public authority functions).

- the persons to be consulted before an area may be designated have been changed to reflect the conditions in the WYCA area, specifically this includes the Peak District National Park Authority, which has been added to the list of statutory consultees as the area of the National Park overlaps with the WYCA.

Part 6 – Transport

7.13 Part 6 of the Order provides that the WYCA will have the powers, in relation to the WYCA area, to:

- exercise the functions of a Minister of the Crown specified in section 31 (power to pay grant) of the Local Government Act 2003, to pay grants (in practice for highways functions (such as maintenance)) to the constituent councils of the Combined Authority, with the condition that the Combined Authority has regard to the desirability of ensuring that the councils have sufficient funds to facilitate the effective discharge of highways functions, and has regard to any other sources of funding available to the councils for expenditure incurred, or to be incurred, in relation to the exercise of highway functions. These Combined Authority functions are exercisable only by the Mayor and are to be held concurrently with a Minister of the Crown.
- exercise the functions under section 154(1) of the Transport Act 2000 that the Secretary of State has in relation to England – to pay grants to bus service operators, for eligible bus services operating within the WYCA area. Grants must be calculated in accordance with such method as may be provided by any regulations made by the Secretary of State by virtue of section 154(2) of the Transport Act 2000, and of such amount and subject to such conditions as may be determined by the Secretary of State by virtue of section 154(3) of that Act. This function of the Combined Authority is also exercisable only by the Mayor;
- exercise the functions of the constituent councils specified in section 6 (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc.) and section 8 (power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works) of the Highways Act 1980 in relation to the WYCA area. These functions are to be held concurrently with the constituent councils. Any exercise of the functions conferred requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance);
- exercise the functions of the constituent councils as local traffic authorities in sections 1, 2 and 9 of the Road Traffic Regulation Act 1984 (“the 1984 Act”) in relation to the WYCA area – specifically the ability to make traffic regulation orders and experimental traffic regulation orders. The usual procedures for making such orders, set out in the 1984 Act, and the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996, will apply to the Combined Authority when they exercise these functions. These functions are to be held concurrently with the constituent councils. Any exercise of the functions conferred requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance);

- exercise the functions of the constituent councils as local traffic authorities in sections 23 and 65 of the 1984 Act in relation to the placing of traffic signs and pedestrian crossings in the WYCA area. These functions are to be held concurrently with the constituent councils. When the Combined Authority is exercising these functions, it is to be treated as a highway authority and local traffic authority for the purposes of the relevant legislation and roads. Any exercise of the functions requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance);
- exercise the functions of the constituent councils specified in sections 83 (works for road purposes likely to affect apparatus in the street), 84 (measures necessary where apparatus affected by major works) and 85 (sharing of costs of necessary measures) of the New Roads and Street Works Act 1991 and the Street Works (Sharing of Costs of Works) (England) Regulations 2000 in relation to the WYCA area, giving the Combined Authority the power to collect contributions from utilities for diversionary works needed as a result of highways works carried out by the Combined Authority. These functions are to be held concurrently with the constituent councils. Any exercise of the functions requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance);
- exercise the functions of the constituent councils as local highways authorities specified in sections 33 (preparation of permit schemes), 33A (implementation of permit schemes of strategic highways companies and local highway authorities in England) and 36 (variation and revocation of permit schemes) of the Traffic Management Act 2004 (“the 2004 Act”) and the functions of constituent councils as permit authorities in the Traffic Management Permit Scheme (England) Regulations 2007, to operate a permit scheme designed to control the carrying out of works in the Combined Authority area. Part 3 of the 2004 Act applies in this regard with the modifications set out in Schedule 4 to this Order. These functions are to be held concurrently with the constituent councils. Any exercise of the functions requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance); and
- exercise the functions of the constituent councils in relation to each of their civil enforcement areas specified in the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005, to issue penalty charges in respect of bus lane contraventions across the Combined Authority’s Enforcement Area (an area comprising the civil enforcement areas of the constituent councils). This function is to be held concurrently with the constituent councils. Any exercise of the functions requires the consent of each member of the Combined Authority appointed by a constituent council (but not the members appointed for political balance).

Part 7 – Additional functions

- 7.14 Part 7 of the Order provides that the WYCA is given powers to prepare an assessment of economic conditions for the area. This function is exercisable concurrently with constituent councils. The order also confers data sharing functions on the WYCA, exercisable concurrently with the constituent councils.

Part 8 – Mayoral functions

- 7.15 Part 8 of the Order prescribes which of the non-PCC functions and powers will be exercisable only by the Mayor. The non-PCC Mayoral functions are:
- Power to designate a Mayoral Development Area and then set up a Mayoral Development Corporation
 - Housing and land acquisition powers
 - Power to draw up a local transport plan and strategies
 - Power to pay grants in relation to highways functions
 - Ability to pay grants to bus service operators
- 7.16 Consent requirements are also set out for the designation of Mayoral development areas, the exclusion of land from Mayoral development areas, planning functions in respect of any Mayoral development areas, and acquisition of land for housing purposes.
- 7.17 The Order provides that the Mayor may enter into arrangements jointly with the WYCA, constituent councils and other councils in accordance with S.101(5) of the Local Government Act 1972 for the discharge of the general functions of the WYCA which are exercisable only by the Mayor.

Part 9 Funding

- 7.18 The Order provides for the funding of the WYCA. It does this by requiring the constituent councils to meet any reasonably incurred costs of the WYCA, to the extent that these costs are not to be met by other resources. The Order then provides that the constituent councils may agree the respective portions they will pay; in absence of this agreement, the proportions are to be calculated by reference to their respective shares of the total resident population, as estimated by the Statistics Board. The Mayor must agree with WYCA the total expenditure on Mayoral functions to be met by the constituent councils in advance of incurring this expenditure.
- 7.19 The Order provides that the costs of the Mayor's PCC functions in the first year (financial year commencing 1 April 2021) are to be met from precepts issued by the Police and Crime Commissioner for West Yorkshire.
- 7.20 The Order provides that the Combined Authority is to have in relation to its area functions corresponding to the functions that the Greater London Authority has under the Business Rates Supplements Act 2009 to levy a supplement on business rates to raise money for expenditure on a project which will promote economic development in its area. Article 32 provides that the functions are exercisable only by the Mayor, that the Mayor may be assisted by members or officers of the authority in the exercise of the functions and that the general power of the Combined Authority under section 113A of the 2009 Act is conferred on the Mayor for the purposes of those functions. Article 33 provides for modification of the Business Rate Supplements Act 2009.

Part 10 – Police and Crime Commissioner functions

- 7.21 This Order provides in relation to the PCC functions: (a) that the Mayor is to exercise PCC functions for West Yorkshire from 10 May 2021; (b) for the abolition of the PCC for West Yorkshire from 10 May 2021; (c) for the cancellation of future PCC ordinary elections in West Yorkshire; (d) for the prevention of any PCC by-election in West Yorkshire until the date that the Mayor will take office.

- 7.22 This Order makes detailed provision in relation to the transfer of PCC functions to the WYCA from 10 May 2021 which is when the Mayor will exercise PCC functions following the election on 6 May 2021. The exercise of PCC functions by the Mayor is consistent with the Government's commitment to expanding the benefits of devolution across England. The oversight of policing by a Combined Authority Mayor not only preserves the democratic accountability already established under the PCC model but, by joining up oversight of public services, promotes greater collaboration and ensures a wider perspective is taken into consideration when tackling important issues such as crime.
- 7.23 This Order provides that the Mayor is to be treated as a PCC for the purposes of all PCC-related legislation, with the effect that all legislation applying to PCCs is to apply to the Mayor in relation to the Mayor's PCC functions. This is subject to the modifications to certain legislative provisions in their application to the Mayor set out in Schedule 5 to the Order and to the list of legislative provisions in Schedule 6 which do not apply to the Combined Authority Mayor.
- 7.24 This Order makes transitional provision in relation to the transfer of PCC functions - in particular, transfer of property, rights and liabilities. The property, rights and liabilities of the PCC for West Yorkshire are to transfer to the WYCA. In relation to such property, rights and liabilities (and any acquired in relation to the Mayor's PCC functions after the transfer) the Mayor is to exercise all functions relating to them and make all decisions (although the Mayor may delegate in line with the position on delegation set out in PCC-related legislation as modified by this Order). Any receipts arising from such property, rights and liabilities are to be paid into the police fund. This ensures that police funding is protected.
- 7.25 Schedule 5 to the Order makes a series of modifications to PCC-related legislation to make it suitable in its application to the Mayor, who will be exercising PCC functions in the context of a wider Mayoral Combined Authority governance model. This includes ensuring that in respect of scrutiny of the Mayor's exercise of PCC functions, a new Police and Crime Panel is to be created which will exercise broadly the same functions as Police and Crime Panel under the PCC model.
- 7.26 In respect of complaints, the Mayor and deputy Mayor for policing and crime will be treated in line with the position in London. This means that complaints of criminal conduct will be dealt with by the Independent Police Complaints Commission. Otherwise complaints will be dealt with via local authority channels unless the deputy Mayor for policing and crime is a staff member of the WYCA (that is, not an elected member of the WYCA), in which case they would be handled by the Police and Crime Panel.
- 7.27 Article 41 provides that the current financial year of the PCC and Chief Constable for West Yorkshire is to be extended from 31 March until 9 May 2021. This is in order to rationalise accounting processes and avoid preparing additional accounts for the one-month interim period.
- 7.28 In respect of disqualification criteria, the criteria for PCCs will apply to the Mayor in addition to the standard mayoral criteria, given that the Mayor will exercise PCC functions. The criteria, from sections 64-68 of the Police Reform and Social Responsibility Act 2011, have been modified to enable their suitable application to the Mayoral post. PCCs (or those standing for election as PCC) will be disqualified from standing for election as the Mayor.

- 7.29 The Order provides that where the Police and Crime Panel suspends the Mayor from the exercise of PCC functions due to that person being charged with a serious criminal offence, the Police and Crime Panel must appoint a person to exercise the Mayor's PCC functions.
- 7.30 The Order also provides that where the deputy Mayor of the Combined Authority is acting in place of the Mayor because the Mayor is unable to act (which does not include where the Mayor is suspended by the Police and Crime Panel from the exercise of PCC functions as described in paragraph 7.29 above) and, after a period of six months, the Mayor remains unable to act, the mayoral post becomes vacant and a by-election is therefore triggered. This is in consistent with the position for PCCs and ensures that a person that has not been directly elected to exercise PCC functions cannot exercise them for an extended period of time where a Mayor with PCC powers is incapacitated.

Schedule 7: Constitutional amendments

- 7.31 The Order makes constitutional amendments to the West Yorkshire Combined Authority Order 2014. These include:
- providing that the Mayor is to be in the majority for votes required for a decision relating to functions conferred by the Order; and
 - providing that the Combined Authority may establish an independent remuneration panel to recommend allowances payable to the Mayor of the WYCA and their deputy, and that the WYCA can fund such remuneration.

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 There are no plans for a consolidation exercise at this point.

10. Consultation outcome

- 10.1 The WYCA undertook a consultation as required by statute on the proposals for the Order. The consultation was promoted through a range of digital and non-digital channels. Due to COVID-19 measures at the time, the online resource was the primary consultation channel. Ipsos MORI was commissioned to enhance the accessibility of the consultation for groups and individuals with difficulty accessing digital channels. The consultation ran for eight weeks - 25 May to 19 July 2020. The WYCA also hosted a web page on its Your Voice consultation website⁴ and asked for respondents' views on the devolution deal and proposals for the Order. All of the West Yorkshire councils had links to the consultation on their websites.
- 10.2 The consultation questionnaire featured six core areas of the proposals for the Order implementing the West Yorkshire devolution deal and the proposed arrangements for a Mayor including: governance, transport, education and skills, planning and housing, PCC functions and finance. In total, there were 4,317 responses to the statutory consultation which included responses from stakeholders (such as local organisations

⁴ <https://www.yourvoice.westyorks-ca.gov.uk/WYdevolution>

and businesses) and members of the public. There were 4,114 online responses, in addition to 9 paper responses, 189 e-mail responses and 5 letters. A mid-consultation review aimed to promote interest in certain areas to ensure maximum participation across the area and demographic groups. The WYCA boosted this through social media channels and a focus group (Halifax Academy). As a part of the end of consultation review, the Consultation Institute awarded the Combined Authority 'good practice' for the consultation process.

- 10.3 Key findings in the Ipsos MORI report on each of proposal area are as follows:
- 10.4 Governance: Altogether there was strong local support for the proposed governance arrangements including the Mayor. Of the 4,109 respondents to this question, 2,835 (68%) agreed with the proposed governance arrangements and 894 (22%) disagreed. Supportive comments mostly referred to the opportunity to provide local power and control over decision making and provide local autonomy. While the main negative responses highlighted concern about adding unnecessary local government tiers and some feeling that public funds could be better spent elsewhere. Most stakeholders were in support of the proposal for revised arrangements for the Combined Authority. A joint response from the West and North Yorkshire Chamber, Mid Yorkshire Chamber, and the Federation of Small Businesses and the Confederation of British Industry cited the importance of a Mayor to provide strong leadership, but also emphasised the importance of collaboration between the Mayor and local leaders and encouraged close co-operation with other "metro Mayors". The office of the PCC highlighted concern about the efficiency of the PCC transfer timeline but agreed that the governance model is important to maintain the operational independence of policing. The PCC supports the transfer of functions to the Mayor in May 2021.
- 10.5 Transport: Of the 4,114 who responded to this question, 3,106 (75%) supported the proposals to devolve transport related responsibilities, while 677 (16%) participants were opposed. Supportive comments referred to it as being long overdue and the need to improve the connectivity and integration of services within the region. There were 677 participants that opposed and expressed a view that the proposals were unnecessary. Comments received in disagreement to the transport proposals included: concern as to unnecessary, additional layers of bureaucracy and red tape, that the proposals were a waste of time and would not work due to having a bad track record elsewhere, and that there would likely be unfair representation, with big cities such as Leeds being prioritised at the expense of other areas. The consent provisions included in the order which will mitigate some of these provide concerns. All stakeholders supported the proposals to devolve significant responsibilities and functions regarding transport to the Mayor and Mayoral Combined Authority. Frequent suggestions on the transport proposals included the opportunity to improve the regions public transport system and the need to ensure environment and climate change targets are central to the formulation of any devolved transport strategy. The Environment Agency welcomed the devolution deal's commitment to low-carbon transport options in the region, moving towards more active travel, as well as making the road network more resilient to climate change.
- 10.6 Skills and employment: 2,954 (72%) of the 4,105 respondents to this question expressed their support for the proposals, while 605 (15%) provided responses in opposition. The reasons given for supporting the proposals were: having greater control over local decisions, enabling decisions to be based on knowledge and understanding of local needs, tailoring opportunities to the needs of local people, and

the general support that these arrangements would deliver for education, training and employment skills. Comments received in disagreement to the proposals included that the changes were deemed to be unnecessary, that the money could be better spent elsewhere, that it would add to bureaucracy and that this policy area should remain at a national level. Most Stakeholders provided more detailed responses to this question. Yorkshire Universities and the University of Leeds welcomed the devolution deal because it would provide West Yorkshire with the resource and flexibility to address socio-economic opportunities that have been amplified by the COVID-19 pandemic. Conversely, a joint response was received from other stakeholders citing the need for further clarity on how the WYCA would actively set up mechanisms to engage businesses. This was addressed in an Adult Education Budget Strategy consultation⁵ which was run in parallel to this consultation to provide further information surrounding education and skills.

- 10.7 Housing and Planning: 2,719 (66%) of the 4,105 respondents to this question were supportive of this proposal, while 830 (20%) were in opposition. Supportive comments referred to the deal's potential to enable joined up thinking and co-ordination across the region for planning and housing. The most common opposing view was land acquisition concerns around compulsory purchases being made and concerns about the environment. Additional consent provisions have been made in the Order for the compulsory purchase of land which will mitigate this concern. Stakeholders provided additional comments in their responses. The University of Leeds supported the conferment of housing and planning functions on a West Yorkshire Mayor and the WYCA, highlighting that collaboration with the future Mayor and WYCA is crucial for the development of the University. The Trade Union Congress said that they would support the housing and planning agenda if procurement and commissioning conditions were attached to all mayoral projects.
- 10.8 Police and crime commissioner functions: 2,451 (60%) of 4,109 respondents to this question supported the proposals while 939 (23%) were opposed. Most supportive comments referred to the potential to encourage collaborative thinking and working, which could lead to a cohesive delivery of front-line police services. A large amount of people also cited increased local accountability and transparency. Those that opposed raised concern about political interference and the need to retain independence of policing. Most stakeholders provided additional information to elaborate on their opinion. The Office of the PCC highlighted some concerns about transferring these functions on time for the Mayoral election but on balance was supportive of the proposal. The West Yorkshire Police highlighted concern about dilution of focus on policing given the Mayor's responsibilities but subsequently supported the inclusion of a Deputy Mayor for Policing who can give policing and crime the specific focus and support it needs.
- 10.9 Finance: There was strong support for the finance proposal with 2,422 (59%) of 4,092 who responded to this question in support of the finance proposals and with 903 (22%) opposing. Those in support of this proposal said it would provide local autonomy and control of budget expenditure to focus toward local priorities. Opposition to this proposal included concerns on increases in Council Tax and precept specifically in relation to additional Mayoral functions and PCC functions. Most stakeholders provided additional comments in their responses. The University of Leeds supported the availability of focused and coordinated finances to invest in

⁵ <https://www.yourvoice.westyorks-ca.gov.uk/4085/widgets/12641/documents/4870>

economic growth with the University of Bradford citing that some financial flexibility, subject to democratic consent and oversight, would enable prioritisation of local needs. The West Yorkshire Police welcomed that any receipts arising from police property, rights and liabilities are to be paid into the Police Fund; however they expressed concern about conflicting interests on borrowing, buying and police asset disposal decisions and felt these would be best placed with the Mayor, which in fact they will be.

- 10.10 In accordance with the requirements at section 110(2) of the 2009 Act, the Secretary of State has reviewed the consultation and is of the view that no further consultation is necessary. The Secretary of State is satisfied that the WYCA consultation was sufficient in terms of its length (eight weeks); the mechanisms used (online, paper responses and letters, emails and informal channels such as freephone and the YourVoice platform); and the analysis undertaken by the WYCA with support from Ipsos MORI. The Secretary of State has also been sent the WYCA summary of responses to the consultation, to which he has had regard.
- 10.11 The provisions in the Order correspond to the proposals in the deal and published in WYCA's Governance Review and Scheme with two exceptions with regard to strategic planning powers and strategic infrastructure tariff. Given the Government's intention to reform the planning system (as set out in the "Planning for the Future"⁶ white paper) Ministers have committed that they will seek to confer these powers (or equivalent as established through the ongoing planning reform process) on WYCA when the position is clearer.

11. Guidance

- 11.1 No guidance is necessary to accompany this Order. The Government continues to work with the mayoral combined authorities to support their implementation of the devolution deals.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 As regards impact on the public sector, conferring functions on the WYCA should lead to operational efficiencies that could lead to reduced costs. Indeed, the statutory tests require the Secretary of State to consider that conferring the functions on the Combined Authority is likely to improve the exercise of statutory functions in the area concerned, 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.
- 12.3 A Regulatory Impact Assessment has not been prepared for this instrument because it does not directly affect the business and voluntary sectors.

13. Regulating small business

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

⁶<https://www.gov.uk/government/consultations/planning-for-the-future>

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that 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, of the devolution agreements.

15. Contact

- 15.1 Louise Beckingham (0303 444 4336) or Nicola Chissell (0303 44 41941) at the Governance Reform and Democracy Unit, MHCLG or email: jobshare.beckingham-chissell@communities.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul Rowsell, Deputy Director and Head of the Governance Reform and Democracy Unit at the MHCLG can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Luke Hall, Minister of State for Regional Growth and Local Government can confirm that this Explanatory Memorandum meets the required standard.