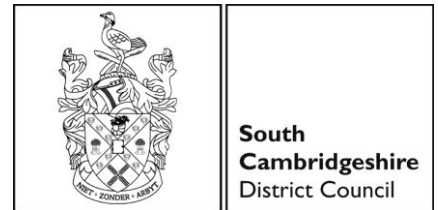


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18 May 2018

To: The Leader, Deputy Leader and members of the Cabinet (to be confirmed and announced at the Annual General Meeting of the Full Council on 23 May 2018)

Dear Councillor

You are invited to attend an Extraordinary meeting of **CABINET**, which will be held in the **SWANSLEY ROOM A AND B - GROUND FLOOR** at South Cambridgeshire Hall on **TUESDAY, 29 MAY 2018 at 2.00 p.m.**

Yours faithfully
Beverly Agass
Chief Executive

The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.

AGENDA

PAGES

- | | | |
|----|--|--------|
| 1. | Apologies for Absence To receive Apologies for Absence from Cabinet members. | |
| 2. | Declarations of Interest | |
| 3. | Minutes of Previous Meeting To authorise the Leader to sign the Minutes of the meeting held on 19 April 2018 as a correct record. | 1 - 4 |
| 4. | Announcements | |
| 5. | Constituent Council Consent for Business Rates Supplement Order and Devolution of Adult Education Powers for the Cambridgeshire and Peterborough Combined Authority | 5 - 48 |

OUR LONG-TERM VISION

South Cambridgeshire will continue to be the best place to live, work and study in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment.

OUR VALUES

We will demonstrate our corporate values in all our actions. These are:

- Working Together
- Integrity
- Dynamism
- Innovation

GUIDANCE NOTES FOR VISITORS TO SOUTH CAMBRIDGESHIRE HALL

Notes to help those people visiting the South Cambridgeshire District Council offices

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Security

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Disturbance by Public

If a member of the public interrupts proceedings at a meeting, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared. The meeting will be suspended until order has been restored.

Smoking

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Food and Drink

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Agenda Item 3

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Cabinet held on
Thursday, 19 April 2018 at 2.00 p.m.

PRESENT: Councillor Peter Topping (Leader of the Council)
Councillor Nick Wright (Business & Customer Services Portfolio Holder and Deputy Leader)

Councillors: Sue Ellington Health & Wellbeing Portfolio Holder
Lynda Harford Housing Portfolio Holder
Tim Wotherspoon Strategic Planning & Infrastructure Portfolio Holder

Officers in attendance for all or part of the meeting:

| | |
|---------------|---|
| Beverly Agass | Chief Executive |
| Alex Colyer | Executive Director |
| Mike Hill | Health and Environmental Services Director |
| Rory McKenna | Deputy Head of Legal Practice & Deputy Monitoring Officer |
| Ian Senior | Democratic Services Officer |

Councillors Anna Bradnam and Bridget Smith were in attendance, by invitation.

1. APOLOGIES FOR ABSENCE

Councillors Francis Burkitt, Simon Edwards, Mark Howell and Robert Turner sent Apologies for Absence.

2. MINUTES OF PREVIOUS MEETING

Cabinet authorised the Leader to sign, as correct records, the Minutes of the meetings held on 7 February 2018 and 1 March 2018.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. ANNOUNCEMENTS

There were no announcements.

5. PUBLIC QUESTIONS

Chris Van der Walle attended the meeting and asked the following question about Teversham Skate Park (Minute 6):

“Why have SCDC resorted to draconian measures in closing the park rather than working cooperatively with the community and parish council to find a mutually acceptable solution?”

In reply, the Director for Health and Environmental Services informed those present that a court case about this matter had been listed for Hearing at the end of May 2018.

Mr. Van der Walle referred to the nature of public opinion in Teversham.

The Director for Health and Environmental Services outlined the facts leading up to service of a noise abatement notice. He emphasised that South Cambridgeshire District Council had not closed the skatepark but had simply enforced the Council's statutory duty to require Teversham Parish Council to address the noise nuisance. The Director for Health and Environmental Services made clear his willingness to engage with all parties in Teversham to help resolve this issue.

Mr. Van der Walle said that Teversham Parish Council had no alternative but to close the skatepark. In reply, the Director for Health and Environmental Services repeated that an abatement notice does not require closure just that the noise nuisance is removed.

The Joint Director for Planning and Economic Development summarised proceedings at the Enforcement Appeal Hearing, and the planning assessment carried out.

6. PETITION ON TEVERSHAM SKATE PARK

Cabinet received and noted a Petition about Teversham Skate Park. The Leader was particularly pleased that young people (the Petition's organiser was aged ten) were taking an active part in the democratic process.

Cabinet received a statement from the Petition organiser.

Cabinet also received a statement from Councillor Caroline Hunt (local Member), who was unable to attend the meeting.

7. LIVING WELL CONCORDAT

Cabinet considered a report seeking its agreement for South Cambridgeshire District Council to endorse and commit to the "Living Well" partnership concordat, attached as Appendix 1 to that report.

The Health and Wellbeing Portfolio Holder highlighted Point 4 in Appendix 1 as being particularly important. She proposed a rewording of Point 4 in Appendix 1, and commended the Concordat as providing a great opportunity for change.

In response to questioning by an Opposition member, the Health and Wellbeing Portfolio Holder said that it was important that local authorities should work together in a balanced way to find solutions. The Leader added that all partner organisations should recognise their respective responsibilities to secure a healthy community.

Cabinet adopted the rewording of the third Principle set out in Appendix 1 to the report.

Cabinet members recorded their thanks to the Director for Health and Environmental Services for his contribution towards progressing the Cambridgeshire and Peterborough Living Well Concordat.

Cabinet

- (a) **Instructed** the Health and Wellbeing Portfolio Holder to inform the Health and Wellbeing Board that South Cambridgeshire District Council endorsed the Partnership Principles and Behaviours set out in Appendix 1 to the report from the Director for Health and Environmental Services, subject to Principle number 3 being amended to state as follows:

"We will continue to meet our own statutory obligations. However,

in doing so we will seek to share and join-up our resources for the benefit of residents to prevent ill health rather than deal with crises, just as those residents expect us to do.”

- (b) **Agreed** that South Cambridgeshire District Council should sign up to the Living Well Concordat and its principles, subject to any amendments (additional to the one set out in (a) above) agreed at Cambridgeshire County Council’s Health & Wellbeing Board; and

Delegated to the Portfolio Holder for Health & Wellbeing authority to agree on behalf of Cabinet any such minor amendments agreed at Health & Wellbeing Board.

8. SHARED SERVICES 2018/19 BUSINESS PLANS

Cabinet considered a report seeking its comments about, and approval of, the 2018-19 Business Plans for the Shared Services.

Cabinet received short presentations from the Heads of each of the following:

- Greater Cambridge Shared Waste Service
- Greater Cambridge Shared Audit
- Greater Cambridge Shared Planning
- 3C ICT Shared Service
- 3C Legal Shared Services (The Practice)
- 3C Building Control Shared Service

Those present discussed each service in turn.

The Deputy Leader concluded that that the structure of this part of the meeting had provided a useful insight into the operation of Shared Services, and suggested that the exercise should be repeated on an annual basis.

Cabinet

1. **Approved** the business plans for each of the Shared Services listed in Appendix 1 to the report; and
2. **Delegated** authority to the Shared Services Management Board to agree final amendments to the business plans in line with comments received from all three partner Councils, including the relevant Cabinet or other lead Member.

9. CABINET MEETING DATES 2018/19

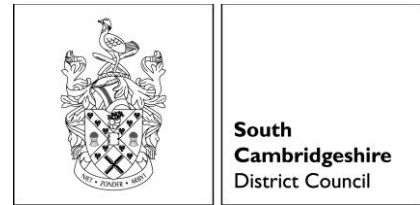
Cabinet **noted** the following dates for its meetings during 2018-19:

- Thursday 28 June 2018 at 6pm
- Thursday 13 September 2018 at 6pm
- Thursday 22 November 2018 at 6pm
- Thursday 7 February 2019 at 6pm
- Thursday 11 April 2019 at 6pm

**The Meeting ended at 3.25
p.m.**

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Agenda Item 5



REPORT TO: Cabinet
LEAD OFFICER: Executive Director

29 May 2018

Constituent Council Consent for Business Rates Supplement Order and Devolution of Adult Education Powers for the Cambridgeshire and Peterborough Combined Authority

1. Purpose

- 1.1 The Cambridgeshire and Peterborough Combined Authority (CPCA) is required to obtain consent from constituent councils for various powers and duties. For the CPCA, the constituent councils are Cambridgeshire County Council and all the District Councils.
- 1.2 Consent is being sought in respect of the power to:
 - Levy a Business Rates Supplement: and
 - The transfer the Adult Education Budget and associated powers for the delivery of adult education services.
- 1.3 Both these powers are allowed by statute for an elected Mayor and the CPCA but there are strict controls around their implementation. The relevant CPCA drafts reports and Statutory Instruments are attached at **Appendices 1 to 4**. It should be noted that by the Council giving the aforementioned consent does not in any way make the Council liable for any costs associated with these powers.
- 1.4 This is a key decision

2. Recommendation(s):

- 2.1. That the Cabinet consent to the making of the Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order contained in Appendix 2, including acceptance to any minor changes which do not alter the substantial meaning.
- 2.2 That the Cabinet consent to the making of the Cambridgeshire and Peterborough Combined Authority (Adult Education Functions) Order contained in Appendix 4, including acceptance to any minor changes which do not alter the substantial meaning.

Reasons for Recommendations

To support the Mayor and the CPCA in the achievement of its corporate activities and new functions.

3. Background

- 3.1 Along with Cambridgeshire County Council and the other Cambridgeshire District Councils, South Cambridgeshire District Council (SCDC) is a constituent council of the Cambridgeshire and Peterborough Combined Authority (CPCA). As powers are devolved or transferred to the CPCA from other organisations, consent is required by the constituent councils. This report is to seek such consent in respect of the Business Rates Supplement Order (BR) and the devolution of powers in respect of Adult Education Budget (AEB).

4. Considerations

- 4.1. Appended to this report are the draft reports that are expected to be seen by the CPCA on 30 May 2018. By this time the constituent councils are expected to have given consent in respect of the granting of the BR and AEB in order to allow for the Parliamentary process to confirm the orders.

Business Rates Supplement Order

- 4.2 **Appendix 1** and **2** respectively show the CPCA draft report in respect of BR and the draft statutory instrument.
- 4.3 The reasons this order is being requested are as follows:
- The original CPCA devolution deal included a commitment to raise a business rate levy.
 - The above commitment should have been included in the LG Finance Bill 2017, but the Bill 'lost' its Parliamentary slot due to the 2017 general election.
 - The Ministry of Housing, Communities and Local Government (MHCLG) has now asked the Combined Authority and the constituent councils to agree to the making of the order. By letter dated 14th May 2018 to all Chief Executives of constituent authorities they set out the key features of the powers to be conferred. A copy of this letter is appended as **Appendix 5**.
- 4.4. With regard to the charging of a Business Rate Supplement, these are laid within statute (Business Rates Supplement Act 2009) which include some clear controls, these are summarised below:
- (i) Money raised cannot be used for day-to-day costs for services where it has existing obligations to provide.
 - (ii) The Mayor will be required to consult on and publish a prospectus of the proposal.
 - (iii) The supplement will be subject to a ballot of businesses affected. A majority of individual rate-payers and the aggregate rateable value of those businesses in favour must exceed those against.
 - (iv) The supplement will be levied on business properties with a rateable value of £50,000 or more.

Adult Education Budget

4.5 **Appendix 3** and **4** respectively show the CPCA draft report in respect of AEB and the draft statutory instrument.

4.6 The reasons for this order request are as follows:

- The original CPCA devolution deal included the transfer of adult education powers from the upper tier councils (and central government funding) but did not deal with the devolution of funding.
- The CPCA is required to meet a series of readiness conditions prior to final devolution.

4.7 The principal purpose of AEB is to engage adults in learning that supports wider economic priorities, including basic skills. Also, such devolution will only be within constituent council areas and the indicative budget is £12.1m from 2019.

4.8 The order will cover the following duties and powers:

- (i) Further education to learners aged 19 and over (including those who do not have a certain specified qualifications).
- (ii) Ensure provision is free for relevant learners who do not have certain specified qualifications.
- (iii) Encourage learner and employer participation in education and training of people aged 19 and over.

To run concurrently with the following powers of the Secretary of State:

- (iv) To consider/have regard to the needs of learners aged 19 and over with Special Education Needs.
- (v) To exchange information with providers to enable provision of further education to learners aged 19 and over.

However, the order will not cover:

- Apprenticeships,
- Adult offender learning, or
- Provision for people aged 16-18 years old.

5. Options

5.1. There are tight timescales for the achievement of consent for these orders; therefore consent is requested at the earliest opportunity and for the BRS no later than the 29th May 2018 by MHCLG.

6. Implications

6.1. These are no direct impacts or risks on the Council in respect of granting this consent to the CPCA. With regard to the:

- (i) **Business Rates Supplement Order**, the imposition of an order would have to follow a statutory approval process that would require extensive consultation with those businesses that may be subject to the order.

- (ii) **Adult Education Budget**, the order allows more local decision making on the delivery of further education to the constituent councils younger population.

7. **Timetable for Implementation**

7.1 Constituent Councils have to give consent for the:

- (i) BR by the end of May, with the Statutory Instrument being in place by June/July.
- (ii) AEB by July, and it is expected that the Statutory Instrument will be in place by November in time for the 2019/20 academic year.

8. **Call in and Urgency**

8.1 Scrutiny and Overview Procedure Rule 12.19 provides that the call-in procedure shall not apply where the decision being taken by the executive decision taker is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

8.2 The Chairman of the Council and Chairman of the Scrutiny and Overview Committee are required to agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. As Cabinet has been requested to indicate whether it gives its consent before 30 May 2018, the decision is manifestly urgent and the consent of the Chairman of the Council and the Chairman of the Scrutiny and Overview Committee to an exemption from call in on the grounds of urgency will be sought following their election at the Annual Council meeting on 23 May 2018.

9. **Legal Implications**

9.1 There are no direct legal implications.

9.2. The decision is an executive function and is therefore before Cabinet.

10. **Resource Implications**

10.1 There are no direct resource implications arising from this report.

10.2 If the Mayor proposes a Business Rate Supplement (BRS) that covers the Council's area, it is expected that the Council will be responsible for the collection of the Supplement from local businesses as it does for Business Rates. The draft Order, however, is silent on the cost of collecting the BRS on behalf of the Mayor. Elsewhere, the body raising the supplement do make contributions to these costs e.g. the Huntingdon BID and the London Mayor in relation to the Crossrail BRS. It is expected, therefore, that if the Council is approached in the future to support a BRS that covers its area, the Council would seek recovery of those costs.

List of Appendices

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| • | Appendix 1: CPCA 'Draft' Covering Report – Consent to Business Rates Supplement Order. |
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| • | Appendix 2A: 'Draft' Statutory Instrument: The Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018 and Appendix 2B explanatory memorandum. |
| • | Appendix 3: CPCA 'Draft' Covering Report – AEB Devolution of Powers to Combined Authority. |
| • | Appendix 4: 'Draft' Statutory Instrument: The Cambridgeshire and Peterborough Combined Authority (Adult Education Functions) Order 2018. |
| • | Appendix 5: Letter dated 14 th May 2018 from P Rowsell at MHCLG. |

Background Papers

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

None

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Appendix 1

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| CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY BOARD | AGENDA ITEM No: X.X |
| 30 May 2018 | PUBLIC REPORT |

CONSENT TO BUSINESS RATES SUPPLEMENT ORDER

1.0 PURPOSE

- 1.1. This report provides the background to the request from the Ministry of Housing, Communities and Local Government (MHCLG) for consent to the making of an Order to confer the power to levy a Business Rate Supplement on to the mayor of Cambridgeshire and Peterborough Combined Authority in accordance with Sections 105B(1) and 107D(9) of the Local Democracy, Economic Development and Construction Act 2009.

| | |
|---|---|
| <u>DECISION REQUIRED</u> | |
| Lead Member: | Cllr Steve Count, Portfolio Holder for Fiscal Strategy |
| Lead Officer: | Interim Chief Finance Officer |
| Forward Plan Ref: | Key Decision: No |
| <p>The Combined Authority Board is recommended to:</p> <ol style="list-style-type: none"> 1. Approve the transfer of functions to Cambridgeshire and Peterborough Combined Authority (“CPCA”) conferred by the Business Rates Supplement Act 2009. 2. Give consent on behalf of the CPCA to the making of an Order giving effect to this transfer. 3. Give delegated authority to the Legal Counsel and Monitoring Officer in consultation with the Portfolio Holder and the Mayor to approve the final draft Order in order to meet the timetable | <p>Voting arrangements</p> <p>Simple majority of Members Or</p> <p>At least two-thirds of all Members (or their Substitute Members) or</p> <p>At least two-thirds of all Constituent Council Members</p> |

| | |
|---|--|
| <p>for transfer of the powers.</p> <p>4. Note that the constituent councils have been requested to give their consent to the making of an Order giving effect to this transfer including the necessary delegation to approve the final draft Order</p> <p>5. Note that only the draft Order can be approved, as the Order cannot be deemed finalised until it has been presented to and approved by Parliament.</p> | |
|---|--|

2.0 BACKGROUND

- 2.1. The raising of funds through business rates was referred to in the original CPCA Devolution Deal as follows: "Following the implementation of the necessary primary legislation, the Mayor will be given the power to place a supplement on business rates to fund infrastructure, with the agreement of the local business community."
- 2.2. The Local Government Finance Bill 2017 would have enabled the Mayor of Cambridgeshire and Peterborough Combined Authority to ask for an additional payment of up to 2p in the pound from local businesses. This would have allowed the Mayor to raise funds for infrastructure projects to promote economic development.
- 2.3. However, the Local Government Finance Bill 2017 was "lost" due to the interruption of business caused by the 2017 general election.
- 2.4. The Ministry of Housing, Communities and Local Government (MHCLG) has now produced the attached draft Statutory Instrument and will shortly be writing out to ask for the consents of the mayor, the Combined Authority, and the constituent councils, to the making of an Order to confer the power to levy a Business Rate Supplement on to the mayor of the combined authority.

The making of the Statutory Instrument

- 2.5. Sections 105B(1) and 107D(9) of the Local Democracy, Economic Development and Construction Act 2009 require that a mayor, combined authority, and each of its constituent authorities, give consent to any conferral of powers on the combined authority under that Act.
- 2.6. The Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018 will give effect to commitments in the area's devolution agreement by giving the mayor the same powers as the

mayor of Greater London has to levy a supplement on business rates to raise money for a project that will promote economic development in the area.

2.7. These powers are provided in the Business Rates Supplements Act 2009 (see link provided under the source documents section).

2.8. Key features of the Business Rates Supplements Act 2009 are:

- (a) Money raised from the supplement cannot be put towards the authority's day-to-day costs for services it has existing obligations to provide.
- (b) Before levying any supplement, the mayor would be required to consult on and publish a prospectus setting out the benefits of the proposed project that the supplement would fund.
- (c) The proposed supplement is then subject to a ballot of businesses that would be affected. Both a majority of affected individual rate-payers must approve it and the aggregate rateable value of those businesses in favour must exceed those against.
- (d) The Business Rate Supplement may only be levied on business properties with a rateable value of £50,000 or more. The mayor may increase, but cannot reduce, this threshold, and can apply any other reliefs as may be set out in the prospectus.

2.9. The process for the making of the Order is as follows:

- (a) MHCLG instructs its lawyers to prepare a draft Order
- (b) The draft Order is given to the lawyers of the Joint Committee on Statutory Instruments (JCSI) to review.
- (c) Once both sets of lawyers have agreed the draft, MHCLG will write to the Combined Authority, the Mayor and the Constituent Councils for consent to the Order. This is likely to be the day after the local elections (i.e. Friday 4th May 2018)
- (d) Once consent from all parties has been confirmed, the draft will be laid in parliament. This gives the Order full status as a final 'Draft' order and will appear as a 'Draft' on the legislation website. The provisional date for the laying of the Order is Monday 4th June 2018.
- (e) The Draft Order will then be considered by the Joint Committee on Statutory Instruments (likely to be Wednesday 6th June 2018 or Wednesday 11th June).
- (f) If the JCSI agree to the Statutory Instrument, it will then be laid before each House of Parliament for approval.
- (g) Once approved by each House, the Order will be signed by the Minister and is likely to come into force in the following week.

3.0 FINANCIAL IMPLICATIONS

3.1. None.

4.0 LEGAL IMPLICATIONS


4.1. The Draft Order will be laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

5.0 SIGNIFICANT IMPLICATIONS

5.1. There are no other significant implications to bring to the Board's attention.

6.0 APPENDICES

6.1. None.

| <u>Source Documents</u> | <u>Location</u> |
|--|---|
| Business Rates Supplement Act 2009. Link to website: | https://www.legislation.gov.uk/ukpga/2009/7/pdfs/ukpga_20090007_en.pdf |
| Draft Cambridgeshire and Peterborough (Business Rates Supplements Functions) Order 2018 |  Adobe Acrobat Document |

Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

LOCAL GOVERNMENT, ENGLAND

**The Cambridgeshire and Peterborough Combined Authority
(Business Rate Supplements Functions) Order 2018**

Made - - - - *****

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 105A(1)(b), 107D(1), (5) and (7)(a) to (e), 114(1) and 117(5) of the Local Democracy, Economic Development and Construction Act 2009^(a) (“the 2009 Act”).

In accordance with sections 105B(1) and 107D(9) of the 2009 Act, the county council and district councils whose areas are comprised in the area of the Cambridgeshire and Peterborough Combined Authority, the Cambridgeshire and Peterborough Combined Authority and the Mayor of the Cambridgeshire and Peterborough Combined Authority have consented to the making of this Order.

The Secretary of State considers that the making of this Order is likely to improve the exercise of statutory functions in the area to which this Order relates.

In accordance with section 105B(9) of the 2009 Act the Secretary of State has laid before Parliament a report explaining the effect of this Order and why the Secretary of State considers it appropriate to make this Order.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117(2) of the 2009 Act.

(a) 2009 c.20. Section 105 was amended by the Cities and Local Government Devolution Act 2016 (c. 1) (“the 2016 Act”), sections 6, 9 and 14. Sections 105A and 107D were inserted by sections 4 and 7 of the 2016 Act. Section 114 was amended by Schedule 5 to the 2016 Act. Section 117 was amended by section 13(2) of the Localism Act 2011 (c. 20) and Schedule 5 to the 2016 Act.

PART 1

General

Citation and commencement

1. This Order may be cited as the Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018 and comes into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009;

“the BRS Act” means the Business Rate Supplements Act 2009(a);

“the CPCA” means the Cambridgeshire and Peterborough Combined Authority(b).

PART 2

Business Rate Supplements Functions

Conferral of BRS power of Greater London Authority

3.—(1) The CPCA has, in relation to its area, functions corresponding to the functions conferred on the Greater London Authority in relation to Greater London by the BRS Act.

(2) Paragraph (1) does not apply in relation to the function conferred by section 3(5) of the BRS Act.

General functions of the Combined Authority exercisable only by the Mayor

4.—(1) The functions of the CPCA specified in article 3 are exercisable only by the Mayor(c).

(2) The members or officers of the CPCA may assist the Mayor in the exercise of the functions specified in article 3.

(3) For the purposes of the exercise of the functions specified in article 3 the Mayor may do anything that the CPCA may do under section 113A of the 2009 Act (general power of EPB or combined authority)(d).

Adaptation of BRS Act in consequence of article 3

5. For the purposes of article 3, the BRS Act applies to the CPCA as if —

(a) references to the Greater London Authority in section 2(1) (levying authorities) and in section 5(2) (prospectus) of the BRS Act include references to the CPCA;

(b) subject to paragraph (c), references in that Act to a lower-tier authority are, in relation to the CPCA, references to a district council whose area forms part of the CPCA’s area;

(a) 2009 c. 7, as amended by Part 4 of the Localism Act 2011 (c. 20).

(b) The Cambridgeshire and Peterborough Combined Authority was established by the Cambridgeshire and Peterborough Combined Authority Order 2017, S.I. 2017/251.

(c) S.I. 2017/251, article 5, provided for there to be a mayor of the combined authority. The first mayor was elected on 4th May 2017.

(d) Section 113A was inserted by section 13 of the Localism Act 2011 and amended by section 23 of, and paragraph 25 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

- (c) reference to a lower-tier authority in section 6(1)(b) (consultation) is, in relation to the CPCA, reference to a district council whose area forms part of the CPCA's area and to Cambridgeshire County Council.

Amendment of the Cambridgeshire and Peterborough Combined Authority Order 2017

6.—(1) The Cambridgeshire and Peterborough Combined Authority Order 2017(a) is amended as follows.

(2) In paragraph (2) of article 6 after “article 12(1)” insert “and the functions conferred on the Combined Authority by article 3 of the Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018”.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

| | |
|------|---|
| | <i>Name</i> |
| | Parliamentary Under Secretary of State |
| Date | Ministry of Housing, Communities and Local Government |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of functions the Greater London Authority has under the Business Rate Supplements Act 2009 (“the BRS Act”) on the Cambridgeshire and Peterborough Combined Authority.

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“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 power to exercise specified functions in their area.

Article 3 of 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 BRS Act to levy a supplement on business rates to raise money for expenditure on a project which will promote economic development in its area.

Article 4 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 5 provides for modification of the Business Rate Supplements Act 2009.

Article 6 amends the Cambridgeshire and Peterborough Combined Authority Order 2017 to provide that the BRS functions of the Combined Authority will be funded in accordance with the arrangements specified in article 6 of that Order.

A full regulatory impact assessment has not been prepared as this instrument will have no impact on the costs of business and the voluntary sector.

(a) S.I. 2017/251.

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EXPLANATORY MEMORANDUM TO

**THE CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY
(BUSINESS RATE SUPPLEMENTS FUNCTIONS) ORDER 2018**

2018 No. [XXXX]

AND

**THE GREATER MANCHESTER COMBINED AUTHORITY (BUSINESS RATE
SUPPLEMENTS FUNCTIONS) ORDER 2018**

2018 No. [XXXX]

AND

**THE LIVERPOOL CITY REGION COMBINED AUTHORITY (BUSINESS RATE
SUPPLEMENTS FUNCTIONS) ORDER 2018**

2018 No. [XXXX]

AND

**THE WEST MIDLANDS COMBINED AUTHORITY (BUSINESS RATE
SUPPLEMENTS FUNCTIONS AND AMENDMENTS) ORDER 2018**

2018 No. [XXXX]

AND

**THE WEST OF ENGLAND COMBINED AUTHORITY (BUSINESS RATE
SUPPLEMENTS 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.

2. Purpose of the instrument

- 2.1 These Orders confer functions corresponding to the business rate supplements functions that the Greater London Authority has in relation to Greater London on five mayoral combined authorities – Cambridgeshire and Peterborough Combined Authority (“the CPCA”), Greater Manchester Combined Authority (“the GMCA”), Liverpool City Region Combined Authority (“the LCRCA”), West Midlands Combined Authority (“the WMCA”) and West of England Combined Authority (“the WECA”) – in relation to their respective areas. The Orders provide that the functions

are exercisable only by the Mayors of each Combined Authority. In addition, the West Midlands Combined Authority (Business Rate Supplements Functions and Amendments) Order amends the WMCA's list of combined authority roads which make up the statutorily defined West Midlands Key Route Network¹ over which the WMCA exercises functions relating to highways and traffic.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The reports required by section 105B(9) of the Local Democracy, Economic Development and Construction Act 2009 ("the 2009 Act") have been combined into one report and are attached to this Explanatory Memorandum.

Other matters of interest to the House of Commons

- 3.2 Each entire instrument applies only to England.
- 3.3 Each 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. Each instrument does not give rise to minor or consequential effects outside England.
- 3.4 In the view of the Department, for the purposes of House of Commons Standing Order 83P the subject-matter of each 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.
- 3.5 The Department has reached this view because it considers that the primary purposes of the provisions in each 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 for the area of the combined authority who is elected by the local government electors for the area of a combined authority.
- 4.2 There five combined authorities with elected mayors on whom powers are conferred are:
- The CPCA, which was established by the Cambridgeshire and Peterborough Combined Authority Order 2017 (S.I. 2017/251), which also included provisions

¹ S.I. 2017/510

for the position of an elected mayor for the CPCA and the conferral of functions on the CPCA, some of which are exercisable individually by the Mayor;

- The GMCA, which was established by the Greater Manchester Combined Authority Order 2011(S.I. 2011/908); the position of elected Mayor for the GMCA was established by the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448); and the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267), Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), Greater Manchester Combined Authority (Fire and Rescue Functions) Order (S.I. 2017/469), Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), and Greater Manchester Combined Authority (Public Health Functions) Order 2017 (S.I. 2017/1180) conferred further functions on the GMCA, some of which are exercisable individually by the Mayor.;²
- The LCRCA, which was established by the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority Order 2014 (S.I. 2014/865); the position of elected Mayor for the LCRCA was established by the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/782); and the Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430) conferred further functions on the LCRCA, some of which are exercisable individually by the Mayor;
- The WMCA, which was established by the West Midlands Combined Authority Order 2016 (S.I. 2016/653); the position of elected Mayor for the WMCA was established by the West Midlands Combined Authority (Election of Mayor) Order 2016 (S.I. 2016/933); and the West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510) conferred further functions on the WMCA, some of which are exercisable individually by the Mayor. Certain highways and traffic functions were conferred on the Combined Authority in respect of the “combined authority roads” specified in Schedule 1 to that Order. These functions were conferred under section 105, 107D and 114 of the 2009 Act;
- The WECA, which was established by The West of England Combined Authority Order 2017 (S.I. 2017/126), which also included provisions for the position of an elected mayor for the WECA and the conferral of functions on the WECA, some of which are exercisable individually by the Mayor.

4.3 The Business Rate Supplements Act 2009 (“the BRS Act”) gives county councils, unitary district councils and the Greater London Authority (“levying authorities”) the power to levy a supplement on the national non-domestic rate, known as the business rate supplement (“BRS”). The BRS Act provides that the purpose of the supplement is to raise money for expenditure on a project that will promote economic development in an area and the supplement is limited to a maximum of two pence in the pound of the rateable value of a property. The Business Rate Supplements (Rateable Value Condition) (England) Regulations 2009 (S.I. 2009/2542) provide that the BRS can

² Article 3 of S.I. 2017/470 provides that the mayor is to be treated as a PCC for the purposes of any enactment that has effect in relation to PCCs.

only be levied on properties with a rateable value of more than £50,000. The BRS Act was amended by section 68 of the Localism Act 2011 (c. 20) to provide that any BRS must be approved in a ballot of affected businesses before it can be imposed.

- 4.4 Section 105B of the 2009 Act provides that when laying before Parliament an order which confers public authority functions on a combined authority, the Secretary of State must also place a report before Parliament which sets out the effect of the order and why the Secretary of State considers it is appropriate to make it. The report must include any consultation and information which has been taken into account, as well as any other evidence or contextual information that the Secretary of State considers it appropriate to include.

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 for Housing, Communities and Local Government, has made the following statements regarding Human Rights:

“In my view the provisions of the Cambridgeshire and Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018 are compatible with the Convention rights.”

“In my view the provisions of the Greater Manchester Combined Authority (Business Rate Supplements Functions) Order 2018 are compatible with the Convention rights.”

“In my view the provisions of the Liverpool City Region Combined Authority (Business Rate Supplements Functions) Order 2018 are compatible with the Convention rights.”

“In my view the provisions of the West Midlands Combined Authority (Business Rate Supplements Functions and Amendment) Order 2018 are compatible with the Convention rights.”

“In my view the provisions of the West of England Combined Authority (Business Rate Supplements Functions) Order 2018 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 The Government committed in its 2015 manifesto to “devolve powers and budgets to boost local growth in England...to large cities which choose to have elected mayors”. The Government considers such devolution will boost economic growth, increase public service efficiency, improve Britain’s productivity, and rebalance the economy, including contributing to the Midlands Engine and the Northern Powerhouse.
- 7.2 The Government, working with the WMCA and the councils for the local government areas of Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall and Wolverhampton, which form the area of the WMCA, has made significant progress

with implementing the commitments in the first Devolution Deal, agreed with the West Midlands on 17 November 2015.³ The WMCA was established on 15 June 2016,⁴ additional functions were conferred on 30 March 2017⁵ and then on 4 May 2017 the first Mayor of the WMCA was elected.

- 7.3 The West Midlands Combined Authority (Business Rate Supplements Functions and Amendments) Order 2018 is a step in the implementation of the second Devolution Deal⁶ that the Government agreed with the West Midlands and announced at the Autumn Budget on 22 November 2017. This agreement committed that Government would “subject to the agreement of Parliament, provide for the Mayor of the WMCA to have the power to introduce a business rate supplement, which would be subject to a ballot of affected businesses.”
- 7.4 Devolution Deals made with Cambridgeshire and Peterborough, Greater Manchester, Liverpool City Region and West of England contained a mayoral infrastructure supplement, which has similar aims to the BRS. The Local Government Finance Bill that was lost with interruption of business, as a result of the 2017 election, included provisions for a mayoral infrastructure supplement and for mayoral combined authorities to levy a BRS. The Government subsequently offered the BRS power to those mayoral combined authorities, which they have accepted, with the consent of the relevant authorities in the area of their combined authority and subject to the agreement of Parliament.
- 7.5 Conferring the power to levy a BRS on to these combined authority mayors will ensure they have the appropriate powers to develop projects that promote economic growth and regeneration in their area, benefiting both business and the wider community. It is local areas that are often best placed to take decisions relating to the area about the use of public money and assets, support for business and infrastructure investment.
- 7.6 The Orders provide for the conferral of the Greater London Authority function under the 2009 Act to levy a supplement of up to two pence in the pound of a business property’s rateable value on business rates bills. The purpose of any such levy is to raise money for expenditure on a project that will promote economic development in the levying authority’s area, and which would not have happened without the supplement. The money raised cannot go towards day-to-day costs, defined in the 2009 Act as housing, social services, education services, services for children, health services and services that the authority provides in the discharge of functions imposed by or under the Planning Acts (as defined by the Town and Country Planning Act 1990 (c. 8)) – services that levying authorities have existing obligations to provide.
- 7.7 The process for introducing a BRS ensures that businesses have the opportunity to shape and ultimately approve any proposal. The levying authority is required to consult upon and publish a prospectus setting out the benefits of the proposed project, and this is then subject to a ballot of affected businesses. Both a majority of affected individual rate-payers must approve it and the aggregate rateable value of those businesses in favour must exceed those against. Smaller businesses are protected – and therefore not eligible to vote in a ballot – as the levy cannot be applied to business

³ <https://www.gov.uk/government/publications/west-midlands-devolution-deal>

⁴ S.I. 2016/653

⁵ S.I. 2017/510

⁶ <https://www.gov.uk/government/publications/a-second-devolution-deal-for-the-west-midlands>

properties with a rateable value of less than £50,000. The combined authority mayors will also have the flexibility to increase this threshold, and to apply any other reliefs as they may set out in the prospectus describing the proposal.

- 7.8 The Secretary of State is satisfied that the statutory conditions for each Order, provided for in the 2009 Act, have been met. These conditions include that the appropriate consent – from the Mayor, the Combined Authority and its constituent councils – is given to the making of the Order, and the Secretary of State considers that the making of the Order is likely to improve the exercise of statutory functions in the area to which the Order relates.
- 7.9 The West Midlands Combined Authority (Business Rates Supplements Functions and Amendments) Order also amends the list of Combined Authority roads, known locally as the West Midlands Key Route Network. This is a strategic network of key local roads across the West Midlands, which the WMCA has identified as serving the strategic demands of the area for the movement of people, goods and services, with large traffic volumes, and providing connections to the national strategic road network.⁷ The WMCA has certain highway and traffic functions that it exercises concurrently with the councils in the area of the WMCA to use on these roads in relation to: agreements with strategic highway companies; road traffic reduction; permit schemes; and apparatus affected by highway bridge or transport works. The amendments to the list of Combined Authority roads were sought by the WMCA so that the definition covers all roads that are part of the strategic network of key local roads.
- 7.10 The effect of amending the list is to extend the scope of the functions conferred on the WMCA in respect of certain roads and as such the Secretary of State is satisfied that the statutory conditions, provided for in the 2009 Act, have been met. These conditions include that no further consultation is required on the proposals; that the proposals are likely to improve the exercise of statutory functions in the WMCA area; and that they are appropriate, having regard to the need to reflect the identities and interests of local communities and to secure effective and convenient local government.

8. Consultation outcome

- 8.1 Unlike the legislation surrounding the establishment of a combined authority, or the conferral of local authority functions on a combined authority, a consultation is not required to confer public authority functions, such as functions of the Mayor of London, on a combined authority.
- 8.2 An Order can be made to make provision for 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 if the ‘appropriate’ consent is given and the Secretary of State considers that the making of the Order is likely to improve the exercise of statutory functions in the relevant area(s). The appropriate consent is that of the mayor, combined authority and constituent councils of each combined authority. Before laying these Orders, the Government sought and obtained the consent of each Mayor, Combined Authority and constituent council in relation to each Order, and considers

⁷ A map of the Key Route Network: <http://staging.tfwm.org.uk/strategy/key-route-network/>

that each Order is likely to improve the exercise of statutory functions in the area of each Combined Authority.

- 8.3 Further consultation at this time is not considered necessary. Should a combined authority mayor choose to exercise the BRS functions conferred, they would be required to conduct a statutory consultation on proposals and then secure agreement to a prospectus from a ballot of affected businesses, in accordance with section 4 of the BRS Act. However, as consultations have been undertaken in combined authority areas that have referred to proposals for supplements on business rates, they are described below.
- 8.4 In the area of the CPCA, a consultation was undertaken in relation to proposals contained in a scheme⁸ prepared and published using provisions from the 2009 Act. This scheme was prepared in relation to the devolution agreement negotiated with the Government. The scheme proposed that “subject to the making of enabling legislation, the Mayor shall have power to place a supplement of 2p per pound of rateable value on business rates to fund infrastructure and Mayoral costs with the agreement of the local business community through the LEP [Local Enterprise Partnership]”.
- 8.5 The consultation ran for 6 weeks from 8 July to 23 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/251, as most of the proposals consulted on have already been provided for in legislation. That Explanatory Memorandum also set out that for proposals that required legislation including those related to business rates, the Government would seek Parliament’s approval to further legislation.
- 8.6 The consultation was undertaken via a survey, an Ipsos MORI telephone poll, and direct face-to-face sectoral and business engagement. The survey was run and analysed independently by Cambridgeshire County and Peterborough City Councils and could be responded to via an open online survey on the council websites, by paper survey, or by email. In total, the survey received over 1500 responses and Ipsos MORI’s telephone poll received 2280 responses. The Councils produced a summary of responses to the consultation⁹ and published a separate annex relating to the telephone poll.¹⁰
- 8.7 The overwhelming response was that businesses strongly support the devolution proposals and are very keen that the opportunities these present are taken up. There was a consensus in favour of devolution with a strong Mayor and support for the additional powers and funding coming for much needed investment in areas like infrastructure. Concerns that were voiced about the devolution proposals covered the level of funding on offer, compared to the scale of investment required in both infrastructure and skills across the Cambridgeshire and Peterborough area. There was however, no specific reference to BRS proposals in the consultation summary.
- 8.8 The GMCA undertook a consultation in relation to proposals contained in a scheme that the GMCA prepared and published using provisions from the 2009 Act. The

⁸ https://www.eastcambs.gov.uk/sites/default/files/agendas/fc280616_R39%20Ap4.pdf

⁹ https://www.cambridge.gov.uk/sites/default/files/devolution_consultation_summary.pdf

¹⁰ https://www.cambridge.gov.uk/sites/default/files/devolution_consultation_online_survey_results.pdf

GMCA prepared this scheme¹¹ following negotiation of devolution agreements with the Government. The scheme stated that “giving the Mayor the power to levy a business rate supplement will require primary legislation.”

- 8.9 The consultation ran for 8 weeks from 21 March to 18 May 2016. It has already been the subject of the Explanatory Memorandums to S.I. 2017/612, S.I. 2017/1180 and S.I. 2016/1267, as most of the proposals consulted on have already been provided for in legislation. That Explanatory Memorandum also set out that for proposals that required legislation including those related to business rates, the Government would seek Parliament’s approval to further legislation.
- 8.10 For this consultation, the GMCA provided each local authority and partner organisation with a toolkit to aid local engagement, in line with their individual communication strategies. The consultation received 237 responses, with 169 from members of the public, 19 from public bodies, 7 from businesses, 14 from representative bodies, 4 who were classified as other and 24 who provided no details. The GMCA’s summary of responses to the consultation¹² includes a demographic analysis of respondents and analysis of responses together with the GMCA’s response to the consultation.
- 8.11 The consultation asked respondents to “Give [their] comments on finance and borrowing” in free text format. Of the 100 responses to the finance borrowing part of the consultation, 43 were supportive, 13 were non-supportive, and 44 were out of the scope of the consultation.¹² (12%) responses were from key stakeholders. Of these 8 (67%) were supportive of proposals, no one was unsupportive and 4 (33%) were not in connection to the specific issues raised through the governance review and Scheme that were the subject of this consultation. Supportive comments included views such as ‘Budgets will not get bigger and alternate finance for projects will become increasingly competitive. An open and honest approach to borrowing with realistic projections of intended benefit should be a priority.’ Concerns expressed in relation to this policy area included views such as ‘We should always aim to live within our means. Councils should be transparent and not make any large financial commitments without public consultation.’ Although the consultation was not directly in relation to BRS powers, Oldham Council highlighted a pan-GM Business Rate supplement is likely to have differential impacts across GM. As such, they suggest consideration of such impact should be required as part of any decision making process. Oldham would support this requiring a unanimous decision by the Mayor and Cabinet.
- 8.12 The LCRCA undertook a consultation in relation to proposals contained in a scheme¹³ that the LCRCA prepared and published using provisions from the 2009 Act. The LCRCA prepared this scheme following negotiation of devolution agreements with the Government. The scheme proposed “that the LCRCA Mayor will have the power to place a supplement on business rates to fund infrastructure. This power will be subject to the approval of the LCR LEP and will be subject to an upper limit of

¹¹ https://www.greatermanchester-ca.gov.uk/download/meetings/id/744/item_7_governance_review_and_sceheme

¹² https://www.greatermanchester-ca.gov.uk/download/meetings/id/999/16_gmca_consultation_-_governance_review_and_scheme_phase_1

¹³ <http://councillors.knowsley.gov.uk/documents/g6714/Public%20reports%20pack%2017th-Jun-2016%2013.00%20Liverpool%20City%20Region%20Combined%20Authority.pdf?T=10&StyleType=standard&StyleSize=none>

supplement. For this purpose, LCRCA will be included in the definition of levying authorised in Section 2 of the Business Rates Supplements Act 2009.”

- 8.13 This consultation ran for 6 weeks from 24 June to 5 August 2016. It has already been the subject of the Explanatory Memorandum to S.I. 2017/430, as most of the proposals consulted on have already been provided for in legislation. That Explanatory Memorandum also set out that for proposals that required legislation including those related to business rates, the Government would seek Parliament’s approval to further legislation
- 8.14 The LCRCA led the consultation, delivered in conjunction with all local authorities in the Liverpool City Region and the Local Enterprise Partnership. 930 responses were received, including 806 from members of the public, 24 from the business sector, 28 from the public sector, and 29 from the third sector. The LCRCA produced a summary of responses to the consultation¹⁴ which included a statistical analysis of responses on each policy theme, pulling out key quotes from partners and stakeholders.
- 8.15 131 respondents left a comment under the finance part of the consultation. Of these comments, 76 (58 per cent) were positive, 22 (17 per cent) were negative, and 33 (25 per cent) comments raised issues that were not in connection to the proposals in the scheme that were the subject of the consultation. Of the 131 responses, 22 were from key stakeholders. 17 (77%) were positive and one (5%) was negative in relation to the specific issues raised through the governance review and scheme. Four comments were outside the scope of the consultation. There were 5 comments related to business rates proposals including business rates retention and BRS, 2 were found to be positive, 2 to be negative and 1 was out of scope of the consultation. Warrington Borough Council responded positively by saying that they particularly welcome “greater devolution of financial powers vital for further growth”. Halton Chamber of Commerce also suggested that greater devolution required significant control over resources and stated “We will only be devolved when we have the ability over finances.” Some concern was expressed over the potential ability to levy business rates or precepts from the private sector: “Any further supplements and levies on Business rates or local councils will undermine the opportunities to generate interest for new business development or expansion in the region and may disadvantage the LCRCA versus other regions in the UK.”
- 8.16 The WMCA undertook a consultation in relation to proposals contained in a scheme¹⁵ that the WMCA prepared and published under provisions in the 2009 Act. The WMCA prepared this scheme following agreement of the first devolution deal with the Government.
- 8.17 The consultation ran for 7 weeks from 4 July to 21 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/510, as most of the proposals consulted on have already been provided for in legislation, including those related to the establishment and management of the West Midlands Key Route Network. That Explanatory Memorandum also set out that for proposals that required legislation including those related to business rates, the Government would seek Parliament’s approval to further legislation.

¹⁴ <http://councillors.knowsley.gov.uk/documents/s44315/Item%206%20-%20Appendix%20One.pdf>

¹⁵ <https://www.wmca.org.uk/media/1367/mayoral-wmca-scheme.pdf>

- 8.18 The scheme proposed that the WMCA would be a levying authority for the purposes of the BRS Act and the constituent councils would be deemed to be acting jointly through the WMCA in accordance with Section 2(3) of the BRS Act. The scheme also proposed that the Mayor would have the ability, in consultation with businesses, and with agreement of the relevant Local Enterprise Partnership Board(s), and the Combined Authority, to raise a BRS, up to a specified cap for investment in specified projects, aiding the delivery of the investment programme driven by the Combined Authority Strategic Economic Plan.
- 8.19 The WMCA led the consultation, which was delivered in conjunction with the seven constituent councils. 1309 digital responses were received and 19 paper responses. Of the 1328 responses received, 63 per cent were from local residents and seven per cent from businesses; in addition 23 stakeholder representations were received. The WMCA's summary of responses¹⁶ to the consultation includes analysis of two profile based questions, analysis of responses to each of the nine multiple choice questions and analysis of the additional free text responses.
- 8.20 In relation to the BRS proposals, the consultation asked "To what extent do you agree or disagree that [the Combined Authority] should get the functions highlighted above, and detailed in the 'finance section' of Mayoral WMCA Functions Scheme, to deliver these ambitions?", which included the two BRS proposals. Of the 1,302 responses to this section, 54 per cent agreed or strongly agreed, 35 per cent disagreed or strongly disagreed, and 11 per cent did not know. Of all functions consulted on, this was the area where fewest respondents agreed the functions should be granted. However, 68 per cent of businesses and 66 per cent of employees that responded to this question agreed the WMCA should have all finance functions in the scheme. Specifically, 55 free text responses (10 per cent) raised concerns relating to business rate increases, protection for smaller businesses, interference with businesses and discouraging businesses from operating in the West Midlands area.
- 8.21 In relation to the Key Route Network proposals, the consultation asked "To what extent do you agree or disagree that [the Combined Authority] should get the functions highlighted above, and detailed in the 'transport' section of the Mayoral WMCA Functions Scheme, to deliver these ambitions?", which included the creation of a Key Route Network and more effective and coordinated improvement and maintenance of the strategic road network. Of the 1305 responses to this section, 79 per cent agreed or strongly agreed, 18 per cent disagreed, and four per cent did not know. Of all functions consulted on, transport was the area receiving the greatest proportion of respondents agreeing that functions and funding should be transferred.
- 8.22 The most common theme in the free text responses to this question (27 per cent, 183 comments) was the need to work collaboratively or centrally plan policy or ensure strategic overview. Specifically in relation to the Key Route Network, 10 per cent of responses (68 comments) also cited that the transport network/transport links is a priority for the region and important for the economy. The consultation was about powers in relation to a strategic network of key local roads and the amendments in this Order ensure that the definition covers all roads which are part of that strategic network of key local roads.

¹⁶ <https://www.wmca.org.uk/media/1357/mayoral-wmca-consultation-report-for-upload.pdf>

- 8.23 In accordance with the requirements at section 113(2) of the 2009 Act, the Secretary of State has reviewed the Combined Authority's 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 and paper versions and responses); the promotional activity (press releases, features in Coventry and Warwickshire LEP newsletter, social media, posters in public buildings and significant stakeholders engagement); and the analysis undertaken.
- 8.24 In the area of WECA a consultation was undertaken in relation to proposals contained in a scheme¹⁷ prepared and published using provisions from the 2009 Act. This scheme was prepared following negotiation of a devolution agreement¹⁸ with the Government. The scheme proposed that the Mayor will have the ability, with agreement of the Mayoral Combined Authority and in consultation with the business community, to raise a Business Rate Supplement to fund infrastructure investment. The scheme also proposed WECA would be a levying authority for the purposes of the Business Rates Supplement Act 2009 and the Constituent Councils shall be deemed to be acting jointly through the Combined Authority in accordance with Section 2(3) of the Business Rates Supplement Act 2009.
- 8.25 The consultation ran for 6 weeks from 4 July to 15 August 2016. This consultation has already been the subject of the Explanatory Memorandum to S.I. 2017/126, as most of the proposals consulted on have already been provided for in legislation. That Explanatory Memorandum also set out that for proposals that required legislation including those related to business rates, the Government would seek Parliament's approval to further legislation.
- 8.26 The consultation was jointly led by the three councils that became the three constituent authorities of the WECA (Bath and North East Somerset, Bristol and South Gloucestershire). The councils invited residents and other stakeholders to participate in a survey. The survey received 2,011 responses and 14 organisations and individuals sent a response by email. The WECA's summary of responses to the consultation¹⁹ includes a demographic analysis of respondents and analysis of responses.
- 8.27 In relation to the BRS proposals, the consultation asked whether the Mayoral Combined Authority would 'support innovation in key growth sectors' and whether 'it would boost productivity and growth through improved sharing of specialist knowledge and services'. Of the 389 respondents who made comments on business, 37% were 'on balance' in support of a Mayoral Combined Authority, 50% disagreed and 10% were unsure. The most frequent views on business proposals were around the proposals being achievable without a MCA, such as respondents suggesting that the proposals are being done already and that an additional layer of government would be irrelevant to business. There was however no mention of Business Rates in the responses.

¹⁷ <https://democracy.bristol.gov.uk/documents/s5644/Appendix%203%20-%20Governance%20Scheme.pdf>

¹⁸ <https://www.gov.uk/government/publications/west-of-england-devolution-deal>

¹⁹ https://democracy.bristol.gov.uk/documents/s6630/Devolution%20Consultation%20Final%20Report_Aug%202016.pdf

9. Guidance

- 9.1 Guidance on the Business Rate Supplement is available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/8306/business_rate_supplements_localauthority_guidance.pdf. The Government continues to work with colleagues in the Combined Authority to support their implementation of the devolution deals.

10. Impact

- 10.1 An Impact Assessment has not been prepared for this instrument.
- 10.2 The purpose of any BRS would be to promote local economic growth, thus benefiting both business and the wider community. Any supplement would only be taken forward following consultation with and a successful double-lock ballot of affected businesses.
- 10.3 Any BRS would be an additional two pence in the pound of rateable value on the business rate bills of liable rate-payers.
- 10.4 The following table shows the number of properties above the rateable value threshold that would may be affected by any BRS and the number of properties that would not be affected and therefore exempt from any BRS.

| Levying authority | Properties affected (000s) | Properties excluded (000s) | Properties affected (%) | Properties exempt (%) |
|-------------------|----------------------------|----------------------------|-------------------------|-----------------------|
| D NPCA | 3 | 22 | 14% | 86% |
| GMCA | 9 | 95 | 9% | 91% |
| L LCRCA | 4 | 42 | 9% | 91% |
| WMCA | 9 | 89 | 9% | 91% |
| I WECA | 4 | 25 | 13% | 87% |

11. Regulating small business

- 11.1 There will be no additional regulation of business arising from the supplement. The business rate supplements legislation ensures that a supplement can only be applied to properties with a rateable value of more than £50,000. The rateable value threshold for the BRS is also substantially higher than that for Small Business Rate Relief (available for business properties with a rateable value of up to £15,000), which provides protection for small businesses.

12. Monitoring & review

- 12.1 The Combined Authorities are required, under the devolution agreements reached with Government, to put in place an extensive programme of evaluation, agreed with HM Treasury, of the devolution agreements.

13. Contact

- 13.1 Anabel Inge, at the Ministry of Housing, Communities and Local Government, telephone: 030 3444 XXXX or email: anabel.inge@communities.gsi.gov.uk or Antonia Holdgate, also at the Ministry of Housing, Communities and Local Government, telephone: 030 3444 XXXX or email: antonia.holdgate@communities.gsi.gov.uk, can answer any queries regarding each instrument.

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Appendix 3



**CAMBRIDGESHIRE
& PETERBOROUGH**
COMBINED AUTHORITY

| | |
|---|---|
| CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY BOARD | AGENDA ITEM No: X.X |
| DATE OF MEETING | PUBLIC REPORT <i>This report has a confidential appendix at item x.x of the Agenda (Delete if not applic) – See Appendix 3 for guidance</i> |

AEB DEVOLUTION OF POWERS TO COMBINES AUTHORITY

1.0 PURPOSE

- 1.1. To outline the process for agreeing the devolution of powers required to enable transfer of the Adult Education Budget (AEB) and associated powers for delivery of the adult education service and the timescale and proposed process for doing so.

| | |
|--|---|
| <u>DECISION REQUIRED</u> | |
| Lead Member: | Cllr Holdich |
| Lead Officer: | Martin Whiteley |
| Forward Plan Ref: | Key Decision: No |
| <p>The Combined Authority Board is recommended to:</p> <ol style="list-style-type: none"> Approve the transfer of functions to Cambridgeshire and Peterborough Combined Authority (“CPCA”) to ensure the successful devolution of the Adult Education Budget (“AEB”) in 2019. Give consent on behalf of the CPCA to the making of an Order giving effect to this transfer. | <p>Voting arrangements</p> <p>Simple majority of Members Or At least two-thirds of all Members (or their Substitute Members) or At least two-thirds of all Constituent Council Members</p> |

| | |
|--|--|
| <p>3. Give delegated authority to the Legal Counsel and Monitoring Officer in consultation with the Portfolio Holder and the Mayor to approve the final draft Order in order to meet the timetable for transfer of the powers.</p> <p>4. Note that the constituent councils have been requested to give their consent to the making of an Order giving effect to this transfer including the necessary delegation to approve the final draft Order</p> <p>5. Note that only the draft Order can be approved, as the Order cannot be deemed finalised until it has been presented to and approved by Parliament.</p> | |
|--|--|

2.0 BACKGROUND

- 2.1 The Devolution Deal of June 2016 included the transfer of AEB to the CPCA and the subsequent Order establishing the Combined Authority contained details of a number of Adult Education powers although it did not deal with the devolution of funding. In order to prepare for devolution, the Combined Authority is required to meet a series of readiness conditions including the transfer of the Secretary of State for Education's statutory duties in relation to the provision of further education for adults.
- 2.2 The principal purpose of AEB is to engage adults in learning that supports wider economic and social priorities. Devolution of AEB will only be applied within constituent member areas and the indicative budget will be approximately £12.1m from 2019 based on current spend on residents.
- 2.3 The Order, to be received in draft by CPCA, will set out the details of the AEB functions that will be transferred to the CPCA with the agreement to devolve the budget. DfE have been clear that the Order will not cover apprenticeships, adult offender learning or provision for people aged 16 -18. Subject to these exceptions, it is proposed that the following functions contained in the Apprenticeships, Skills, Children and Learning Act (ASCAL) 2009 will transfer to the CPCA in relation to constituent member areas:

I. S86 – Duty to provide appropriate FE to learners aged 19 and over(not to include apprenticeships, prisoner education or traineeships).

II. S87 – Duty to provide appropriate FE to learners aged 19 and over, who do not have certain specified qualifications

III. S88 – Duty to ensure that provision is free for relevant learners who do not have certain specified qualifications

The following powers will be exercised concurrently with the Secretary of State:

IV. S90 – Duty to encourage learner and employer participation in education and training of people aged 19 and over (except those in adult detention) (to be exercised concurrently with the Secretary of State)

V. S115 – Duty to consider/have regard to the needs of learners aged 19 and over, with Special Education Needs (other than those aged 19-25 with Educational Health Care plans, who will remain the responsibility of the LAs as they are treated as 16-18 year old learners).

VI. S122 – Power to exchange information with providers to enable provision of FE to learners aged 19 and over (to be exercised concurrently with the Secretary of State).

- 2.4. Mayoral Combined Authorities (MCAs) are required to provide the Department for Education (DfE) with consent to the draft Order by the end of July 2018 to meet the necessary timescales to enable full devolution in 2019/20. The Order will need to be laid before Parliament by the end of July 2018 and made in November 2018 to meet the timescales to commission for the 2019/20 academic year. There is a reputational risk to the CPCA if the order is not laid in a timely manner.

3.0 FINANCIAL IMPLICATIONS

- 3.1. The impact of not achieving the proposed timescale as set by DfE is that the devolution of AEB could be delayed by a further year

- 3.2. If there are financial implications, the report needs to go to the Investment Board. This paragraph needs to be approved with the Chief Finance Officer (S151).

4.0 LEGAL IMPLICATIONS

- 4.1 Devolution of the AEB will mean that the CPCA will have the duty and responsibility to deliver the government's commitment to statutory entitlements for fully funded qualifications at Levels 2 and 3, English and Maths and the future digital entitlements for learners, free of charge. Based on figures for 2015/16, 48% of the AEB was spent on delivering statutory requirements. Although there may be a risk that these obligations exceed the available budget in any one year, the statutory entitlements are not time bound and the entitlement does not have to be offered immediately upon request. This will be reflected in the CPCA's AEB Funding Policy where it will be clearly stated that if demand exceeds availability some learners may have to wait to the following academic year.
- 4.2 Section 105(b) of the 2016 Cities and Local Government Devolution Act states that to allow Secretary of State to make an order for the devolution of functions, consent also has to have been given by each appropriate authority which for these purposes are the Combined Authority and the constituent authorities of that Combined Authority.
- 4.3 The timetable for approvals is challenging given the timetable constraints of the Parliamentary process. We have spoken to each constituent authority and agreed that they can provide appropriate consent by approving a report through their Cabinet in a timely manner to ensure that orders are laid before Parliament before the end of June 2018. A delegation is also requested to authorise the final sign off of the draft Orders when requested by the DfE on the basis that there is no material change to the drafting

5.0 EQUALITIES IMPLICATIONS

- 5.1 These aspects of the Devolution Agreement are reflected in the CPCA Equalities Scheme.

6.0 APPENDIX

- 6.1 *Affirmative Resolution Procedure:*

The SI is laid in the form of a draft instrument, which is later made when it has been approved by both Houses.



The instrument cannot be made unless the draft Order is approved by Parliament.



The instrument is made when a motion approving it has been passed by both Houses and it is the responsibility of the minister, having laid the instrument, to move the motion for approval.



The instrument is laid after making and will come into effect immediately but cannot remain in force unless approved within a statutory period (usually 28 or 40 days).

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PART 1

General

1. Citation and commencement

- (1) This Order may be cited as the Cambridgeshire and Peterborough Combined Authority (Adult Education Functions) Order 2018 and comes into force the day after the day it is made.
- (2) Part 2 of this Order does not apply in relation to an academic year before the year beginning on 1 August 2019.
- (3) “Academic year” means a period beginning with 1 August and ending with the next 31 July.

2. Interpretation

In this Order—

“**2009 Act**” means the Apprenticeships, Skills, Children and Learning Act 2009(a);

“**adult detention**” has the meaning given by section 121(4) of the 2009 Act;

“**apprenticeships training**” has the meaning given by section 83 of the 2009 Act;

“**Area**” means the area of the Combined Authority;

“**Combined Authority**” means the Cambridgeshire and Peterborough Combined Authority, a body corporate established under the Cambridgeshire and Peterborough Combined Authority Order 2017 No. 251; and

“**constituent councils**” means Cambridge City Council, Cambridgeshire County Council, East Cambridgeshire District Council, Fenland District Council, Huntingdonshire District Council, Peterborough City Council, South Cambridgeshire District Council and Greater Cambridge Greater Peterborough Local Enterprise Partnership

PART 2

Adult education functions of the Secretary of State transferred to the Combined Authority or to be exercisable concurrently with the Combined Authority

3. Transfer of functions from the Secretary of State to the Combined Authority in relation to the Area

(1) Subject to paragraph (2), the functions of the Secretary of State set out in the following provisions of the 2009 Act are exercisable by the Combined Authority in relation to the Area:

- (a) section 86 (education and training for persons aged 19 or over);
- (b) section 87 (learning aims for persons aged 19 or over: provision of facilities); and
- (c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)(b).

(a) 2009, c. 22

(b) As amended by section 114 of the Digital Economy Act 2017 c.30. The amendment will come into force on a date to be appointed.

(2)The functions mentioned in paragraph (1) do not include:

- (a) any functions relating to apprenticeship training;
- (b) any functions relating to persons subject to adult detention; or
- (c) any power to make regulations or orders.

(3) The functions mentioned in paragraph (1) are exercisable by the Combined Authority instead of by the Secretary of State.

4. Functions of the Secretary of State to be exercisable concurrently with the Combined Authority in relation to the Area

(1) Subject to paragraph (2), the functions of the Secretary of State set out in section 90 of the 2009 Act (encouragement of education and training for persons aged 19 or over) are exercisable by the Combined Authority in relation to the Area.

(2)The functions mentioned in paragraph (1) do not include:

- (a) any function relating to apprenticeships training; or
- (b) any functions relating to persons subject to adult detention; or

(3)The functions mentioned in paragraph (1) are exercisable concurrently with the Secretary of State in relation to the Area.

5. Conditions on the exercise of functions mentioned in Articles 3 and 4

(1) The Combined Authority must adopt rules of eligibility for awards by an institution to which it secures the provision of financial resources under section 100 of the 2009 Act in accordance with any direction which may be given by the Secretary of State.

(2) In exercising the functions mentioned in articles 3 and 4, the Combined Authority must have regard to guidance issued by the Secretary of State for the purpose of this article (as amended from time to time).

6. Application of the provisions of the 2009 Act

(1) This article has effect in consequence of articles 3 and 4.

(2) For the purpose of the exercise by the Combined Authority of the functions mentioned in articles 3 and 4, section 86 to 88, 90, 100, 101, 115 and 121 of the 2009 Act apply to the Combined Authority with the modifications set out in the Schedule.

PART 3

Miscellaneous

7. Amendment to the 2009 Act

(1) Section 100 of the 2009 Act is amended as follows.

After subsection (5) insert:

“(6) The Secretary of State may secure the provision of financial resources to any of the persons mentioned in subsection (1) in respect of functions within the Secretary of State’s remit under this Part which have been transferred to a combined authority.

(7) In subsection (6) “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

(2) Section 122 of the 2009 Act is amended as follows.

(a) In subsection (3), after sub-paragraph (g) insert:

“(h) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

(i) a person providing services to the Combined Authority.”

(b) In subsection (5):

(i) in subparagraph (ba) omit “or”;

(ii) in subparagraph (c) after “in England,” insert “or”;

(iii) after subsection (c) insert:

“(d) any function of the combined authority under Part 4 that is exercisable by it by virtue of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009.”

8. Amendment to the Education and Inspection Act 2006

The Education and Inspections Act 2006 is amended as follows.

In section 123:

(a) after subparagraph (e), insert:

“(ea) further education for persons aged 19 or over which is wholly or partly funded by a combined authority in England;”;

(b) after paragraph (4), insert:

“(5) In this section “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

9. Amendment to the Education (Fees and Awards) Regulations 2007

The Education (Fees and Awards) Regulations 2007(a) are amended as follows.

After regulation 9 insert:

“(9A) Payments by a Combined Authority

(1) It shall be lawful for a combined authority to adopt rules of eligibility for awards by an institution to which the combined authority provides financial resources under section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 which confine eligibility to those persons who fall within Schedule 1.

(a) SI 2007/779

(2) It shall be lawful for an institution to which a combined authority provides financial resources to adopt rules of eligibility for awards (however described) which confine eligibility to those persons who fall within Schedule 1.

(3) In this regulation, a “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 (“the Local Democracy Act”) exercising functions under Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 that are exercisable by it by virtue of an order under section 105A of the Local Democracy Act.”

Signatory text

| | |
|---------|--|
| | <i>Name</i> |
| Address | Parliamentary Under Secretary of State |
| Date | Department |

SCHEDULE

Article 6(2)

Modification of provisions of the 2009 Act in their application to the Combined Authority

- (1) Section 86 of the 2009 Act has effect as if:
- (a) in subsection (1), for each reference to “Secretary of State” there was substituted a reference to the “Combined Authority”;
 - (b) subsection (1)(b) was omitted;
 - (c) in subsection (1)(c), for “paragraphs (a) and (b)”, there were substituted the words “paragraph (a)”;
 - (d) in subsection (2), the words “83A or” were omitted;
 - (e) in subsection (5), the words “(except so far as relating to facilities for persons subject to adult detention)” were omitted;
 - (f) in subsection (6), paragraph (c) was omitted;
 - (g) in subsection (7), the words “or (b)” were omitted.
- (2) Section 87 has effect as if for every reference to “Secretary of State”, there was substituted a reference to the “Combined Authority”.
- (3) Section 88 has effect as if in subsections (1), (2)(b), (2A), (3), (4)(b) and (6)(a) for each reference to “Secretary of State”, there was substituted a reference to the “Combined Authority”.
- (4) Section 90 has effect as if:
- (a) in subsection (1), for the first reference to “Secretary of State”, there was substituted a reference to “Combined Authority”;
 - (b) in subsection (1)(a), for “section 86(1)(a) and (b)”, there were substituted the words “section 86(1)(a)”.
 - (c) in subsections (1)(a), (b) and (c) for every reference to “within the Secretary of State’s remit” there was substituted a reference to “within the Combined Authority’s remit”.
- (5) Section 100 has effect as if:
- (a) in subsection (1) for the reference to “Secretary of State” there was substituted a reference to the “Combined Authority”;
 - (b) in subsection (1)(a) for the reference to “Secretary of State’s remit” there was substituted a reference to “Combined Authority’s remit”;
 - (c) subsection (1)(h) was omitted;
 - (d) in subsection (3),
 - (i) for each reference to “Secretary of State” there was substituted a reference to “Combined Authority”;
 - (ii) the words “(1A) or (1B)” were omitted;
 - (e) In subsection (4)

- (i) for the reference to “Secretary of State” there was substituted a reference to “Combined Authority”;
- (ii) the words “ (1A) or (1B)” were omitted.

(6) Section 101 has effect as if for every reference to “Secretary of State” there was substituted a reference to “Combined Authority”.

(7) Section 115 has effect as if:

- (a) for the reference to “Secretary of State”, there was substituted a reference to the “Combined Authority”;
- (b) in subsection (2)(a), the word “ and” was omitted; and
- (c) subsection (2)(b) was omitted.

(8) Section 121 has effect as if:

- (a) in subsection (2):
 - (i) for the reference to “Secretary of State’s remit”, there was substituted a reference to “Combined Authority’s remit”; and
 - (ii) in paragraph (a), the words “or (b)” were omitted.
- (b) in subsection (3)—
 - (i) for the reference to “Secretary of State’s remit”, was substituted a reference to “Combined Authority’s remit”;
 - (ii) paragraphs (a) and (aa) were omitted; and
 - (iii) in each of paragraphs (b) and (c), after “86(1)(c)”, the following words were added “(except so far as relating to persons who are subject to adult detention)”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of certain adult education functions of the Secretary of State under the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”) on the Cambridgeshire and Peterborough Combined Authority (**‘the Combined Authority’**).

Part 2 of the Order provides for the transfer to the Combined Authority of adult education functions under section 86 to 88 of the 2009 Act, with the exception of such functions relating to apprenticeships training, persons subject to adult detention or any power to make regulations or orders. The transferred functions will be exercisable by the Combined Authority instead of by the Secretary of State in relation to the area of the Combined Authority.

Part 2 also provides for the functions of the Secretary of State under section 90 of the 2009 Act, which relate to the encouragement of education and training for persons aged 19 or over, to be exercisable by the Combined Authority in relation to the area. The functions will be exercisable by the Combined Authority concurrently with the Secretary of State.

Article 5 contains conditions on the exercise of the functions mentioned in Articles 3 and 4. The Combined Authority must adopt rules of eligibility for awards by an institution to which it secures

financial resources under section 100 of the 2009 Act in accordance with the Secretary of State's direction. In addition, in exercising the transferred functions, the Combined Authority must have regard to guidance issued by the Secretary of State (as amended from time to time).

Part 3 makes various amendments to primary legislation. Article 7 amends section 100 of the 2009 Act (provision of financial resources) so as provide that the Secretary of State may secure the provision of financial resources under that section notwithstanding a transfer of functions under to a combined authority. Article 8 amends section 122 of the 2009 Act (sharing of information for education or training purposes) so as to make provision for information sharing following a transfer of functions. Article 9 amends section 123 of the Education and Inspections Act 2006 so as to make provision for inspections in relation to further education for persons aged 19 or over which is wholly or partly funded by a combined authority. Article 10 amends the Education (Fees and Awards) Regulations 2007 so as to make provision with respect to rules of eligibility adopted by a combined authority for awards by an institution to which it provides financial resources under section 100 of the 2009 Act.

Chief Executives of constituent authorities of

Cambridgeshire & Peterborough Combined Authority

14 May 2018

Dear Chief Executive

The Cambridgeshire & Peterborough Combined Authority (Business Rate Supplements Functions) Order

I am writing to seek the formal consent of your local authority to the making of this Order, which if approved by Parliament and made would confer on the Combined Authority the powers in the Business Rates Supplements Act 2009 to levy business rate supplements; the Order would also provide for those powers to be exercised by the Mayor.

I enclose a copy of the Draft Cambridgeshire & Peterborough Combined Authority (Business Rate Supplements Functions) Order 2018 which we intend to lay before Parliament at the beginning of June. Before doing so, we need the formal consent to the making of the Order from your local authority, and from the mayor and Combined Authority to whom I am also writing in similar terms to this letter. Making this Order would fulfil a commitment in the devolution deal agreed with councils in your area in March 2016.

Key features of the powers to be conferred are:

- a) money raised from a supplement must be used for a project or projects that will promote economic growth in the area; it must be additional expenditure – that is, expenditure that would not otherwise have been incurred – and cannot be put towards the authority's day-to-day costs for services which it has existing obligations to provide;
- b) before levying any supplement, the Mayor would be required to consult on and publish a prospectus setting out benefits of the proposed project or projects that the supplement would fund, and the duration of the supplement;
- c) the proposed supplement is then subject to a ballot of businesses that would be affected; both a majority of affected individual rate-payers who vote must approve it and the aggregate rateable value of those businesses in favour must exceed those against; that vote applies for the duration of the levy concerned;
- d) the total of supplements levied by the mayor in any year cannot exceed two pence in the pound, and may be levied only on business properties with a rateable value of at least £50,000 or such higher figure as the Mayor may decide; the Mayor may also apply such reliefs as may be set out in the prospectus.

I would be grateful to receive your local authority's consent by noon, Tuesday 29 May. If you have any queries, please contact Luke Scofield on 0303 444 2562, or luke.scofield@communities.gsi.gov.uk

Yours Sincerely,



P ROWSELL

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