

# Public Document Pack



**Helen Barrington**

Director of Legal and Democratic  
Services  
County Hall  
Matlock  
Derbyshire  
DE4 3AG

Email:

democratic.services@derbyshire.gov.uk

Direct Dial: 01629 539035

Ask for: Democratic Services

PUBLIC

To: Members of Council

Wednesday, 29 November 2023

Dear Councillor,

You are hereby summoned to attend a meeting of **Council** to be held at **4.00 pm** on **Thursday, 7 December 2023** in the Council Chamber, County Hall, Matlock, the agenda for which is set out below.

Yours faithfully,

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**  
**Director of Legal and Democratic Services**

## **AGENDA**

1. Apologies for absence  
To receive apologies for absence (if any)
2. Declarations of interest  
To receive declarations of interest (if any)
3. Public questions  
To consider public questions (if any)
4. Consent to the East Midlands Combined County Authority Regulations 2023 (Pages 1 - 64)

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**COUNCIL**

**THURSDAY, 7 DECEMBER 2023**

**Report of the Managing Director**

**Consent to the East Midlands Combined County Authority Regulations  
2023**

**1. Purpose**

- 1.1 To seek Full Council agreement to the creation of the East Midlands Combined County Authority, with the Council as a constituent member.
- 1.2 To seek Full Council consent to the making of the “The East Midlands Combined County Authority Regulations 2023” (Regulations), which Regulations will establish the East Midlands Combined County Authority (EMCCA).
- 1.3 To note the holding of the inaugural mayoral election for the EMCCA on 2 May 2024, subject to the passage of relevant secondary elections legislation.
- 1.4 To seek approvals relating to the appointment of the Combined County Authority Returning Officer (CCARO).

**2. Information and Analysis**

**Background Information**

- 2.1 Following the Government’s publication of the [Levelling Up](#) White Paper in February 2022, Derbyshire, Nottinghamshire, Derby and Nottingham agreed to cooperate at pace on the creation of a new devolution deal. This would include the areas covered by Derbyshire County Council,

Nottinghamshire County Council, Derby City Council and Nottingham City Council (the 'Constituent Councils'), delivered through the establishment of a Mayoral Combined County Authority (the East Midlands Combined County Authority, EMCCA).

- 2.2. Securing a devolution deal has been a long-standing ambition for leaders in the area, in order to address the lasting impact caused by decades of under-funding when compared to other areas, improve living standards and deliver better opportunities and outcomes for residents, businesses and communities. Alongside this, the establishment of the EMCCA will bring the governance that currently sits at national level down to the CCA area, so that decision-making is much closer to communities and businesses. Further detail about the lack of parity in investment in the East Midlands region is set out in the Proposal [here](#).
- 2.3. As a result of joint collaboration, a [devolution deal](#) was agreed between the four Constituent Councils and the Government, on 30 August 2022. The deal envisaged a significant uplift in the powers and funding available to Derbyshire, Nottinghamshire, Nottingham, and Derby, and an unleashing of the area's full economic potential.
- 2.4. The vision outlined in the deal, and subsequently published in the Proposal for creation of the EMCCA, is for the 2.2 million people who live and work in the area to enjoy better health, greater prosperity, and an increased sense of wellbeing, through the opportunities available to them within an inclusive and competitive CCA Area, at the heart of the country. Alongside this, the shared objectives of the Constituent Councils are:
  - a. Boosting productivity, pay, jobs and living standards
  - b. Spreading opportunities and improving public services
  - c. Restoring a sense of community, local pride and belonging
  - d. Empowering local leaders and communities.

### Statutory Consultation

- 2.5 Following approval from each Constituent Council in November 2022, a statutory consultation was conducted on the draft Proposal to establish the EMCCA. The Constituent Councils jointly undertook this statutory consultation, which ran from 14 November 2022 to 9 January 2023. Overall, a total of 4,869 people took part in the consultation, which was open to residents, businesses, community and voluntary groups, as well as other organisations in the region.

- 2.6 Following consideration of the consultation responses, the Constituent Councils approved a final version of the Proposal in March 2023 for submission to the Secretary of State and delegated the authority to their respective Chief Executive/Managing Director to submit the Proposal, jointly and in consultation with each other once the Levelling Up and Regeneration Bill received Royal Assent. Following that, some minor typographical amendments were made by the Council's Managing Director under delegated powers. The Proposal was formally submitted to the Secretary of State on 1 November 2023 following the coming into force of the relevant provisions of the Levelling Up and Regeneration Act 2023 (LURA). The Secretary of State has now confirmed that the requisite statutory tests for the establishment of the East Midlands Combined County Authority have been met and provided a draft of the Regulations for consideration by the Constituent Councils.
- 2.7 Further details on the consultation results and the East Midlands CCA Proposal can be found in the March 2023 report to Full Council and its accompanying appendices [here](#).

#### Benefits to be realised

- 2.8 Progressing with the establishment of the EMCCA is a landmark, once-in-a-generation opportunity to secure more powers and funding that will be used to build on our strengths as a region, by boosting economic growth, creating new local jobs, more provision for training and skills tailored for our labour market, better public transport, new investment in housing, and action to protect the environment.
- 2.9 This is an historic opportunity, following years of under-investment compared to other English regions. Devolution will bring more money into the region, resulting in a stronger local economy and better services for our residents.
- 2.10 The investment package for the deal is worth more than £4 billion, including the £1.14 billion investment fund and a new City Region Sustainable Transport Settlement of £1.5 billion.
- 2.11 Figure 1 provides an indication of the scale of funding committed, or indicated to flow through the EMCCA, in its first few years. There will be a significant increase in funding in the early years across different domains.

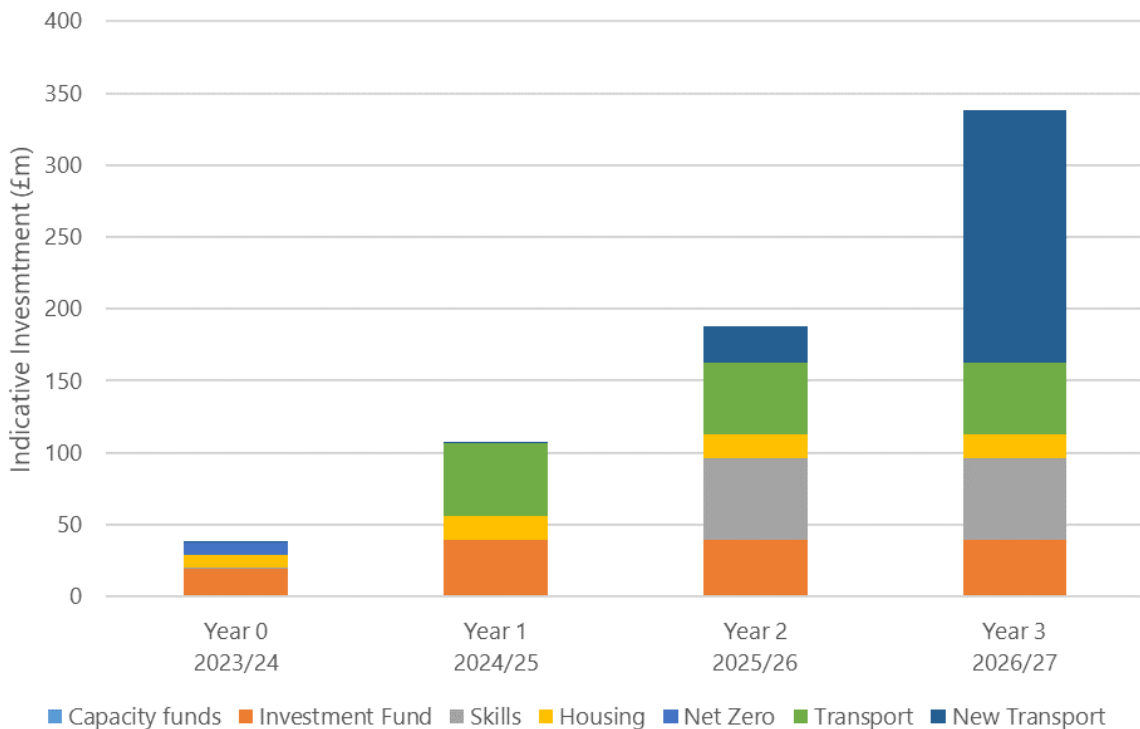


Figure 1. Indicative investment into EMCCA

- 2.12 Devolution will create the first ever Combined County Authority, with Constituent Council membership of the upper-tier local authorities in the region, provided for in the LURA. The East Midlands will pioneer this type of governance, with other areas in the region to follow, including partners in the proposed [Greater Lincolnshire deal](#), recently announced in the Chancellor’s Autumn Statement.
- 2.13 The inaugural mayoral election is planned for 2 May 2024. A new Mayor, working with an electoral mandate from 1.6m people across the region eligible to vote, will give the region a bigger voice, more influence and a higher profile to make a strong case to the Government for more investment in the region.
- 2.14 Creating the first ever directly-elected mayor of the East Midlands will provide a platform to champion the interests of the region nationally and internationally, deliver on local priorities and provide greater local accountability and decision-making power, working in partnership with the EMCCA and its Constituent Councils, and more widely with other public service providers, including District and Borough Councils.
- 2.15 The Mayor and the EMCCA will be focused on the strategic issues which affect our whole region – including transport, net-zero and

housing – and will use the extra money to improve residents’ lives. They will champion major infrastructure projects in the region, lobbying the government to ensure promises are kept from a position of national prominence.

- 2.16 A Mayoral Combined County Authority also provides the chance to take advantage of strategic opportunities, such as the East Midlands Freeport, the East Midlands DevCo and the East Midlands Investment Zone. It also provides additional opportunities to tackle persistent and systemic deprivation, which drives significant inequalities in some parts of the region, and to raise levels of social mobility, for which the East Midlands is the poorest performing region in the country.
- 2.17 The 2022 deal is also just the starting point. The true benefits and economic value of devolution are still to come, through potential further settlements and investment. The region has already seen the significant commitment of £1.5 billion of new investment into local transport announced by the Government in October 2023, for example. This is early evidence of another benefit of devolution, which is, that it gives the region the voice it deserves and places it in the national spotlight.
- 2.18 The Proposal sets out longer term aspirations to seek further powers from Westminster, placing more decisions at local level, as devolution has done with other areas like the West Midlands and Greater Manchester. The Autumn Statement 2023 confirmed that the proposed EMCCA will be in consideration for deepening the current devolution deal in the future once the Mayor is in place. This could result in even more new powers and funding for the region in addition to the current deal in areas like skills, transport and housing, bringing EMCCA closer to the ‘trailblazer’ deals recently awarded to Greater Manchester and the West Midlands. Alongside this, further opportunities for public service reform at a local level that would help councils and their partners deliver the best possible services for local residents and businesses will be explored.

#### What we’ve achieved so far

- 2.19 Even prior to the coming into force of the LURA; millions of pounds in funding, made possible because of plans for devolution in the East Midlands, has already been agreed and is to be spent on improving housing, transport and the skills of local people. Some of the initiatives that are already underway or completed, include but are not limited to:
  - a. **£2m** for the purchase of properties in Nottingham City and Derby City to address homelessness by reducing the use of bed and

- breakfast accommodation. Properties have been purchased and some let, and to date £1.624m has been spent.
- b. **£9.92m** for Retrofit across the whole area to deliver domestic energy efficiency and low carbon retrofit activities. Grant offer letters have been issued to each council and the first payment of £1.984m has been released.
  - c. **£1.22m for more affordable housing** in Derby, where there is currently a shortage, to provide 15 extra social units to be let at an affordable rent. It will mean less reliance on temporary bed and breakfast placements and shorter waiting times for longer-term accommodation. The full grant allocation will be used to purchase 5 houses.
  - d. **£1.2m for new gigabit broadband** for Derbyshire, Nottinghamshire, Derby and Nottingham. It will mean that an extra 118 rural public sector schools and libraries will be connected to gigabit broadband. Work at the first sites is expected to start imminently.
  - e. **£750,000 for a new cycling and walking route** in Derbyshire – a 1¼ mile link connecting Markham Vale to the existing cycle route in Staveley. Work on the cycling lane has commenced, with a spend to date of £386k.
  - f. **£1.5m for the new roundabout on the A6** at Fairfield in Buxton, Derbyshire, that has provided access to sites for 461 new homes, including 30% affordable homes. This work has been completed, with the funding which has just been approved going towards the cost.
  - g. **£1.5m for a new growth through green skills**. The investment will enable the creation of a new £5.4m flagship skills centre and low carbon demonstrator in the region, to be operated by West Nottinghamshire College, as well as two electric minibuses for getting students to and from the site, to support the growth of a future low carbon economy as we work towards net zero. £981k has been spent to date, which includes the purchase of electric minibuses and IT Equipment.

### **Proposed next steps**

- 2.20 Appended to the Report is a draft of the proposed East Midlands Combined County Authority Regulations 2023 (Appendix 2). These draft Regulations represent the near final drafting of the proposed Regulations to establish the EMCCA and provide it with its necessary powers.
- 2.21 If the Council, and the other three Constituent Councils, consent to the making of the Regulations the Department for Levelling Up, Housing and Communities (DLUHC) have confirmed that they intend to lay the



Regulations prior to the Christmas recess. If passed, this will mean that the Regulations are expected to come into force in approximately February/March 2024. Once the Regulations come into force, the EMCCA will immediately come into existence. It is proposed that the first elections for Mayor of the CCA will take place on 2 May 2024 (the same date as the Police and Crime Commissioner elections taking place across the CCA area), with notice of election being required to be published by no later than 26 March 2024.

- 2.22 As part of the parliamentary process, in parallel to the consents sought from the Constituent Councils in this report, the Regulations are being considered by parliament's Joint Committee on Statutory Instruments (JCSI). Their role is to focus on the technical quality of the draft Regulations as opposed to the policy content, and any amendments at this point would be those required to ensure the Regulations are well drafted. The JCSI process may therefore lead to technical amendments being made to the Regulations. These will be non-negotiable.
- 2.23 To facilitate any technical amendments to the draft Regulations, following the consent of each constituent council, it is proposed that authority is delegated to the Managing Director of the Council, in consultation with the Chief Executive of all other Constituent Councils to finalise and consent to the Regulations, further to any technical amendments which may arise. This delegation will be exercised following consultation with the Leader of the Council. Provision of a delegation will enable such amendments required by the JCSI to be agreed swiftly, to avoid any delays in laying the Regulations prior to the Christmas recess.
- 2.24 The Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2023 (the Elections Regulations) are proposed to be laid and come into force prior to the coming into force of the East Midlands Combined County Authority Regulations 2023. The Elections Regulations permit the appointment by the Constituent Councils of a combined county authority returning officer (CCARO) for the mayoral election ahead of the creation of the EMCCA. This is in order that preparations for the election can be commenced prior to the creation of the EMCCA. It is proposed that, subject to the passing of the Elections Regulations, Melbourne Barrett, Returning Officer of Nottingham City Council, is appointed as the first CCARO and Council is asked to make a resolution to that effect. The CCARO will be required to print and post a mayoral election booklet to every elector in the combined county authority area, 1.6m individuals in total. The booklet will include information from the CCARO about the election and an election address from each candidate. The costs of this will be

incorporated in the overall costs of running the election, which are to be borne by the EMCCA.

- 2.25 In County areas, the Elections Regulations also make provision for the CCARO to direct district/borough council local returning officers to discharge the CCARO's functions at the election. This means that the usual arrangements where district/borough councils deliver the election for county areas will apply, where the election is a mayoral election for EMCCA.
- 2.26 Once elected, the term of office of the Mayor returned at the election usually begins with the fourth day after the day of the poll. However, as the 6th May 2024 is a bank holiday, the Mayor will take office on Tuesday 7th May 2024. The Mayor's term of office is four years.

### **Provision of Powers within the East Midlands Combined County Authority Regulations 2023**

- 2.27 In their Proposal, the Constituent Councils requested powers from Government for the EMCCA, focussed on finance and governance, planning, housing and regeneration, education and skills, and public health.
- 2.28 The majority of the powers outlined in the powers table, which was appended to the Proposal, are provided to the EMCCA through the Regulations, so they reflect to a large extent the powers that the Proposal was seeking. However, powers outlined in the powers table relating to education and skills are not included in the Regulations, because they are due to be provided by a subsequent specific statutory instrument (SI). In addition, powers relating to net zero are provided to the EMCCA through consequential amendment to the Environment Act 1995, by the introduction of a new section 86(c).
- 2.29 There are some relatively significant changes in the draft Regulations in respect of the phasing of transport powers (but not to the substantive powers conferred), providing that most powers are subject to a transitional phase where powers are retained by the Constituent Councils before transfer to the EMCCA, at the end of the transitional phase. There are also some more minor technical changes from what was set out in the powers table. The changes are set out in Appendix 3 to this Report.
- 2.30 In addition, in the review of the draft regulations, four technical matters were identified which require correction. These have been raised with DLUHC and it has been confirmed that these will be addressed as part

of updates to the final draft Regulations following the conclusion of JCSI's review. The attached Appendix 3 setting out changes from the powers table included in the proposal has been produced on the assumption that these corrections will be made.

### Funding provisions within the East Midlands Combined County Authority Regulations 2023

- 2.31 As set out in the Proposal, the Regulations provide that the Constituent Councils must ensure the costs of the EMCCA reasonably attributable to the exercise of CCA functions are met. It is not anticipated that there will be a call on the Constituent Councils in this regard. However, if there is such a call, then the proportions will be by agreement between the Constituent Councils or on an equal basis if not agreed.
- 2.32 There are safeguards for the Constituent Councils, in that they will be constituent members voting on EMCCA decisions in respect of CCA functions and the extent to which they are discharged. In addition, approval or amendment of the CCA budget requires the majority to vote in favour and that majority must include each Constituent Council's lead member, or a substitute for that lead member acting in place of that member.
- 2.33 The Regulations also provide that the Constituent Councils must meet the costs of expenditure reasonably incurred by the Mayor, to the extent that the Mayor has decided not to meet the costs from other resources available to the EMCCA. There is an inbuilt safeguard in relation to this requirement in that the Mayor must agree the level of expenditure with the CCA ahead of it being incurred and in the absence of the agreement, no such expenditure may be incurred.
- 2.34 The costs of the EMCCA attributable to the exercise of its functions relating to transport may be met by means of a levy issued by the CCA under section 74 of the Local Government Finance Act 1988, and in accordance with the Transport Levying Bodies Regulations 1992. The proportion of such levy payable by each Constituent Council is determined by agreement between the Constituent Councils and, if not agreed, based on the council tax base for the financial year in which the levy is issued for the area of each council concerned, or, as the case may be, the part of that area in respect of which the levy is issued.
- 2.35 More information on the anticipated use of transport levies is set out in the "Financial Implications" section below and in more detail in Part 9 of the draft Regulations. The above safeguard regarding the discharge of

CCA functions and approval of the budget will apply in respect of the transport levy.

### **Plans to establish the EMCCA**

2.36 The Constituent Councils have established a programme of work to provide for the establishment of the EMCCA and the inaugural mayoral election in May 2024. The Executive Leaders Group, comprising the eight leaders and deputies from the constituent councils and four representatives from district and borough councils, oversees this programme under a clear governance structure. A Programme Board made up of senior officers from each of the Constituent Councils and local partners manages a series of workstreams to operationalise the new powers and funding. Dedicated programme capacity is in place to work alongside partners to deliver the plans that are in place, subject to the passing of the Regulations.

### **Shadow Authority**

2.37 Should the Constituent Councils consent to the passing of the Regulations, the current transitional phase will move into a phase of operating as a Shadow Authority to support a smooth transition to the fully established EMCCA (which will come into existence the day after the coming into force of the Regulations, which is likely to be in February/March 2024).

2.38 The Shadow Authority will oversee the planning and implementation of establishing the EMCCA. It will not be a legal entity but will continue to operate as currently: collaboratively from within the Constituent Councils and in an advisory capacity until the EMCCA can be formally established in early 2024. It will prepare for and put in place capacity for operational day one capability. District and borough councils remain critical partners and will continue to be actively engaged in the programme, including through continued representation in the shadow governance arrangements.

2.39 Until the EMCCA is formally established, the basis of decision-making will continue to be advisory, and there will be no separate commissioning or service delivery. The first meeting of the Shadow Board is planned for as soon as possible after approval of the making of the Regulations by the Constituent Councils.

### **Investment and functions**

#### *Regional strategic focus and investment*

- 2.40 The EMCCA will focus initially on five broad priority areas that will drive long-term, targeted, and strategic investment. These have been chosen to give a shared focus on driving fairer economic outcomes across the region for all our residents, businesses, and partners. These investment priorities will provide better access to new and more affordable homes, improve the region's skills and access to employment, provide improved access to public transport, support business & innovation, and move the region toward Net Zero carbon.
- 2.41 To deliver this change, the EMCCA will create a fully developed, long-term transformational funding programme, covering all budgets for devolved functions (the "East Midlands Investment Fund"). This includes a grant of £38 million per year (half revenue and half capital) fixed for 30 years, totalling £1.14bn. Subject to government agreement on the Assurance Framework submitted in October 2023, it is anticipated that early access to £19m of this total fund will be released in the 2023/24 financial year; annual payments of £38m will then start from the 2024/25 financial year. This is a devolved, highly flexible grant, subject to five-year gateway reviews that (currently) involve independent evaluation commissioned by DLUHC.
- 2.42 The investment package worth more than £4 billion will enable the EMCCA to unlock significant amounts of investment over and above this amount, from private capital.
- 2.43 The Shadow Authority will develop an investment framework for decisions that will be made from the start of the 2024/25 year, with input from partners and stakeholders where necessary. In the short-term, the aim will be to maximise early opportunities to make progress, while laying the foundations for further transformational change, which goes beyond the current deal in future years. Therefore, while EMCCA will deliver a range of early investments that can demonstrate impact in its first year of operation, the investment framework will also form a broader and longer-term strategy stretching years into the future.
- 2.44 EMCCA has already been provided with a clear and early opportunity to underscore its strategic leadership role for the region, attracting business and creating new jobs to the area with the East Midlands Investment Zone (EMIZ). The Shadow Authority (and then the EMCCA once established) will oversee the implementation of the EMIZ focussed on the key growth sectors of advanced manufacturing and green industries. Work is ongoing with Government, the constituent councils and other local partners, and regional partners such as the East Midlands Freeport to align initiatives in the region to maximise their

impact and confirm the governance and delivery model. The Government has committed £160 million by extending the programme and associated tax reliefs from five to ten years. Further work is also underway with the East Midlands Development Company to consider how best to proceed with plans to fully realise the opportunities for the area in the sites they have in scope.

### *Net zero/green economy*

- 2.45 The EMCCA will put the shift towards reducing carbon emissions and creating a green economy at the heart of its approach to economic growth. The region is well placed to lead the move away from fossil to fusion and play its part in achieving the national ambition to achieve net zero by 2050. EMCCA will work with partners in the area to become a leader in pioneering new forms of clean energy generation and will act as an exemplar for climate change adaptation.
- 2.46 Devolution has already brought new investment of £9 million capital funding in 2022/23 and 2023/24 for investment in projects that will drive these net zero ambitions. This includes the provision of a new retrofit construction skills centre to support the delivery of the wider, retrofit programme.
- 2.47 Additional investment monies are also increasing access to digital connectivity in the EMCCA area, by connecting public service buildings, such as rural schools, doctors' surgeries and libraries, to gigabit broadband and widening the range of locations, adding up to 118 additional premises to the original 235.

### *Transport*

- 2.48 The majority of transport functions and powers will not be discharged by the EMCCA from day one, but will instead be held concurrently with the Constituent Councils to enable a period of transition. The manner in which those powers will transition, will be dealt with by way of an Inter-Authority Agreement ('IAA'). As the EMCCA is established it will take on greater responsibility for transport functions with associated changes to how transport is planned, delivered and operated across the region. The announcement of £1.5bn for transport investment for the EMCCA area as part of the Government's Network North proposals, along with commitments to longer term funding certainty for the EMCCA, will enable a transformational improvement in local transport.
- 2.49 Working with the constituent councils, the EMCCA will, once established, lead the development of a draft area-wide Local Transport

Plan for public consultation, intended to be ready for stakeholder engagement around Spring 2024, public consultation in Autumn 2024 and publication in Spring 2025. Preliminary work has already started within each of the Constituent Councils, with support from the devolution programme. The LTP will provide a clear and visionary policy framework that will underpin an ambitious programme of local transport investment, thereby taking full advantage of the £1.5bn of new transport funding announced by government in early October, which is expected to be awarded to the EMCCA through the second round of City Region Sustainable Transport Settlement (CRSTS2) funding. This programme will be constructed from a combination of current proposals, stated ambitions locally and from Government, and new initiatives emerging from the broad evidence base.

- 2.50 The EMCCA will work with Constituent Councils to coordinate a joint approach to highways asset management and define the Key Route Network. This is an opportunity for the Constituent Councils to collaborate and standardise approaches on key roads.
- 2.51 As part of its responsibility for transport strategy, the EMCCA will work closely with strategic partners such as the East Midlands DevCo and the East Midlands Freeport, pan-regional partnerships such as Midlands Connect, and form long-term relationships with Great British Railways and train, tram and bus operators.
- 2.52 The scale of the transport investment programme will ultimately require the EMCCA to establish a substantial operating capability to manage the range of different projects. Options to deliver this capability are being considered at present for decision in Spring-Summer 2024 and could include working with partner organisations with particular programme management expertise.
- 2.53 Transition planning is underway to consolidate the public transport powers into the EMCCA, including for supported bus services, smart ticketing, and passenger information. Due to the complexities of the various functions currently managed by the Constituent Councils, it is expected that the transition will take place at an appropriate point during the two-year Transition Period agreed with Government, rather than at the start. It is intended that the IAA will be the mechanism under which the transition will be governed.
- 2.54 The Nottingham tram network is currently operated under a PFI contract, which was let by Nottingham City Council and which runs until 2034. The contract includes a number of obligations that are the responsibility of Nottingham City Council, which would need to be

unconditionally and irrevocably guaranteed by the Council (or a Minister of the Crown) in the event of transfer. This would bring very significant risks to Nottingham City Council that it is not in a position to accept, and so it has been agreed, in discussion with Government, that the tram will not form part of the Devolution Deal whilst the PFI contract is in place. However, this will not preclude strategic planning for extending the tram as part of strategic transport planning for the region.

- 2.55 The Devolution Deal and Proposal to Government sets out the Constituent Councils' long-term aims for the tram network, including the possibility of its extension, and it is anticipated that at the end of the PFI contract, responsibility for the tram will transfer to the EMCCA to be consistent with other public transport functions and to ensure it is fully integrated into policy and project decisions that are taken. This long-term aim will be subject to financial appraisal and Government making suitable amendments to the Greater Nottingham Light Rapid Transit Act 1994 and Nottingham Express Transit System Order 2009.

### *Land and Housing*

- 2.56 The EMCCA will work with local authorities, landowners, developers, and the full range of housing providers, to create affordable, good quality housing options and to retrofit existing homes to be more environmentally sustainable. The relevant housing authorities in the area have set out in their Local Plans and Housing Strategy documents, their local housing priorities around brownfield remediation, housing quality and decarbonisation, and systems improvement to support local supported and specialised housing needs. To support those aims, the EMCCA will invest devolved housing capital to support the building of new homes on brownfield land, worth £16.8 million in 2024/25 – supported by the provision of £918,000 capacity funding over 2023/24 and 2024/25 for development of a pipeline of housing sites. Allocations for locally led brownfield development beyond that year is subject to future spending reviews. Through devolution, however, the area is on the list of areas that is eligible to secure these allocations from Government. Additionally, through devolution, the region has already benefited from £9 million of additional housing capital to support the delivery of housing priorities across 2022/23 and 2023/24.
- 2.57 The EMCCA and Mayor specifically will also secure a range of broad new housing and land powers to: acquire and dispose of land to build houses, commercial space and infrastructure, for growth and regeneration; land assembly and compulsory purchase powers, subject to the agreement of the Constituent Councils and, where applicable, the district/borough council(s) where the relevant land is located; power to



designate Mayoral Development Areas and to create Mayoral Development Corporations to support delivery on strategic sites across the area, again subject to the agreement of local partners. Over time, the EMCCA will work with partners on a plan to tackle homelessness and support people who are at risk of homelessness.

### *Adult Education and Skills*

- 2.58 Subject to meeting the government's readiness conditions and Parliamentary approval, which is expected to be met in the first year following its establishment, the EMCCA will take on the fully devolved adult education budget (AEB) from the academic year 2025/26. The devolution of the relevant powers from the Department for Education to the EMCCA will be subject to separate secondary legislation, anticipated to be laid in early 2025. The Constituent Councils understand the value of this budget is approximately £53 million per year on current values. These arrangements do not cover apprenticeships or traineeships, even though the latter is funded through the AEB. The government has provided support for local preparations for taking on these relevant functions, including providing £0.738m revenue over 2023/24, 2024/25 and 2025/26 of implementation funding that has been provided on a 'matched-funded' basis, following the submission and agreement of a business case.
- 2.59 Devolution of the AEB and associated functions will enable the EMCCA, working with partners, to make allocations to providers and target spend to tackle the needs of people, businesses and our communities – consistent with statutory entitlements. This will support all types of businesses, including small and medium enterprises (SMEs), to stimulate productivity create new local jobs, whilst simultaneously benefiting the regional economy. It is understood that the Government will set proportionate requirements about outcome information to be collected, in order to enable local discretion about when funds are to be targeted, whilst also allowing students to make informed choices about the courses they wish to undertake.
- 2.60 The EMCCA is also expected to take responsibility for the regional design and delivery of the Free Courses for Jobs (FCFJ) programme, with a value of approximately £24m per year. The programme is focussed on people without a level 3 qualification who earn below the National Minimum Wage annually. Managing the FCFJ alongside AEB will enable EMCCA to take a strategically aligned approach in commissioning appropriate skills provision across the region.

2.61 The work of the D2N2 LEP People & Skills Advisory Board provides a foundation for future thinking about how the skills system should operate in the region, and will feed into further work to build on the evidence base and development of future EMCCA strategies and policies.

### *Business and innovation*

2.62 Devolution provides the opportunity for the EMCCA to develop a strategic approach to enabling business growth across the region. A focus on digital connectivity and supporting region-wide innovation will enable increased productivity of both individual businesses and the sector as a whole. Working in partnership, EMCCA will be able to develop an aligned approach to inward investment, presenting a unified prospect to potential investors. As the region evolves towards a clean energy production future over the next 10-20 years, there will be significant opportunities for innovation growth in the advanced engineering and energy technology clusters. This will drive the need to evolve and grow the wider business supply chain and support SMEs. Accessing skills learning and development through our learning providers will help to support local businesses innovate product development and generate access to high value jobs.

### EMCCA Operating Model

2.63 The operating structure of the EMCCA will be designed in way that maximises the opportunities presented by devolution, the added value of its investment and commissioning, and in a way that delivers value for money for taxpayers. Detailed work is underway to define its operating model and put the new organisation in place, subject to the passing and coming into force of the Regulations. This work aims to enable the new institution to deliver significant new functions and investment in its first year of operations, with the capacity to exploit new opportunities and the potential to scale up at speed. The costs of any operating structure are to be met by the EMCCA.

2.64 Whilst the governance model for EMCCA as a Combined County Authority will be implemented in the region for the first time in the country, the combined authority model is well understood and has been used for years in places including Greater Manchester and the West Midlands. The programme is drawing on lessons learned from others' experiences, so that the EMCCA is rightly sized for its remit and context.

- 2.65 A programme team working across the four Constituent Councils will continue to support the work that paves the way for EMCCA being fully established in May 2024. Nottinghamshire County Council is hosting new appointments to the programme and Derbyshire County Council is acting as the Accountable Body. The programme is funded by government capacity funding.
- 2.66 In line with Government policy, the deal confirmed the D2N2 Local Enterprise Partnership will be integrated into the EMCCA once established. Government has confirmed some revenue funding will be provided to the EMCCA in 2024/25 to support the delivery of functions currently delivered by the LEP. Subject to the completion of due diligence and agreement by Constituent Councils and the Government of the Integration Plan in early 2024, the integration of appropriate LEP functions into EMCCA should proceed in a timely manner so that it is complete as early as possible in 2024/25, to provide certainty to business and its current staff.

### **Governance of the EMCCA**

- 2.67 The LURA sets out general provisions which apply to all combined county authorities and the Regulations set out the governance arrangements for the EMCCA, comprising up to 17 members in total as follows:
- (a) The directly elected Mayor;
  - (b) 8 Constituent Members (each Constituent Council appointing 2 members);
  - (c) No more than 8 non-constituent members and associate members in total.

The Mayor is required to appoint one of the members of the EMCCA from the Constituent Councils as a deputy mayor.

- 2.68 As set out in the Proposal, 4 non-constituent members will represent the District and Borough Councils within the Area (2 Non-Constituent Members nominated by Derbyshire District and Borough Councils and 2 Non-Constituent Members nominated by Nottinghamshire District and Borough Councils) and an associate Member will represent the business voice. It will be for the EMCCA to determine whether the remaining three additional Memberships will be used, and if so, what interests those Memberships should seek to represent on the EMCCA. These arrangements are not specified in the Regulations as the appointment of non-constituent and associate members is a matter for the EMCCA.

- 2.69 The Proposal also provided that the nomination of non-constituent members of the EMCCA appointed by Districts and Boroughs will be via two joint committees (one for Derbyshire and one for Nottinghamshire). These non-constituent members will sit on the EMCCA board as representatives of all Districts and Boroughs and not solely of the District or Borough for which they are a Councillor.
- 2.70 Prior to establishment of the EMCCA, the two existing joint committees have been asked to nominate two representatives to the shadow authority together with two substitutes on an informal basis. This is so that the composition of the shadow authority can mirror, as closely as possible, the EMCCA.
- 2.71 Following establishment of the EMCCA, decisions of the EMCCA will be required to formalise the arrangements. The following steps will need to be taken:
- a. The new joint committee across Derby and Derbyshire to replace Vision Derbyshire Joint Committee and the D2 Economic Prosperity Joint Committee, the Strategic Leadership Board, will need to be established.
  - b. Following the establishment of the EMCCA, it needs to formally designate the D2 Strategic Leadership Board and the City of Nottingham and Nottinghamshire Economic Prosperity Committee as nominating bodies.
  - c. Each joint committee must consent to the designation as a nominating body.
  - d. The terms of reference of the 2 joint committees will need to be amended to include the function of nominating non-constituent representatives to the EMCCA and other associated committee/advisory group representatives as and when requested.
- 2.72 The voice of business will be a critical component in the future EMCCA, given that a key area of focus will be economy, industry, and business. The EMCCA will appoint an Associate Member to the CCA who can represent the views of business moving forward and establish a business-focused Advisory Board, which will be inclusive of the diverse range of businesses operating in the area. This includes SMEs within both urban and rural localities, and from all parts of the region. Whilst the Advisory Board would not be a formal committee of the EMCCA, it is intended it would be part of the formal governance arrangements and would exist to provide advice to the EMCCA on all issues of business and economy relevant to the EMCCA. The EMCCA would then appoint the Chair of that Advisory Group to the EMCCA as an Associate

Member, representing the views of business. There is also consideration of if and how business, Higher Education, Further Education and third sector partners could also sit on other boards and groups within the proposed CCA governance structure. This is to be defined in the detail of the EMCCA's governance and constitution once established but is not required for consent to the Regulations.

- 2.73 The LURA requires the EMCCA to have at least one Overview and Scrutiny Committee whose role will be to review and scrutinise the decision-making of the EMCCA and the Mayor, to ensure that the decision-making is appropriately focussed on community needs, and that high quality delivery is taking place for the benefit of the Area. It will also have an Audit and Governance Committee to review and assess the authority in the areas of corporate governance, risk management, internal controls, external audit, internal audit, financial reporting, and other related areas to ensure that the financial and governance decision-making position of the EMCCA, and the Mayor is sound. It will also review and assess the economy, efficiency and effectiveness with which resources have been used in discharging the EMCCA's functions. In addition, key statutory officer roles will include a Head of Paid Service (usually called a Chief Executive Officer); a Section 73 Officer (Finance Director) and a Monitoring Officer. Details will be included in the EMCCA's governance and constitution in due course but are not required for consent to the Regulations.
- 2.74 Whilst there is limited reference to overview and scrutiny within the Regulations, Schedule 1 of the LURA does contain provisions relevant to overview and scrutiny and audit committees of CCAs. In addition, new overview and scrutiny and audit regulations are anticipated for combined county authorities, which it is anticipated will provide for the inclusion for CCAs within the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

#### Decision-taking post establishment of the EMCCA and pre-mayoral election

- 2.75 Following the establishment of the EMCCA, there will be a period of time during which the EMCCA will be operational, but a mayoral election will not yet have taken place. During this period, the EMCCA will operate without a Mayor.
- 2.76 In such circumstances section 29(6) of the LURA would apply. It provides that if for any reason the mayor is unable to act or the office of mayor is vacant, the other members of the CCA must act together in place of the mayor, taking decisions by a simple majority. It is

envisaged that, chairing of meetings will be rotated during this phase and there will be no casting vote.

### Assurance Framework

- 2.77 As set out in the Devolution Deal, paragraph 12, the Constituent Councils committed to developing a Constitution and Assurance Framework to confirm, clarify and formalise the intention of institutions and local leaders to continue to be transparent and accountable, work closely with local businesses, seek the best value for taxpayers' money and maintain strong ethical standards.
- 2.78 The Constitution has not yet been drafted, but the Assurance Framework was submitted to Government by the Constituent Councils on 31 October 2023, and it is only once this is confirmed, and the Regulations are made to establish the EMCCA, that it will have access to the Investment Fund.

### **3. Consultation**

- 3.1 As set out in the previous report to Council, it was not necessary for the Council to wait for the Bill to receive Royal Assent prior to commencing consultation; section 45(5) of the Act confirms that consultation requirements may be satisfied by things done before that section comes into force.
- 3.2 On receipt of the final Proposal submitted by the Constituent Councils to Government, it is a matter for the Secretary of State to consider whether further consultation is necessary or whether to proceed to make Regulations formally establishing the EMCCA. The Secretary of State has not stated that further consultation is required. The formal consent to the making of the Regulations will be required from the Constituent Councils which is the subject of this report.

### **4. Alternative Options Considered**

- 4.1 Not to consent to the making of the East Midlands Combined County Authority Regulations 2023. This is not recommended as the process would end, the East Midlands Combined County Authority could not be established, and no powers or funding would be devolved. In order to allow for the maximum amount of devolved powers and funding (a "Level 3" deal), the Government's policy requires that a Mayoral Combined County Authority must be established in the area.

### **5. Implications**

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **6. Background Papers**

6.1 Devolution Deal: Consideration of Consultation Responses and Submission of the East Midlands Combined County Authority Proposal to Government, Council Report 22 March 2023

## **7. Appendices**

7.1 Appendix 1 – Implications

7.2 Appendix 2 – Draft of the proposed East Midlands Combined County Authority Regulations 2023

7.3 Appendix 3 - Differences to note between powers listed in proposal and the draft East Midlands Combined County Authority Regulations 2023

## **8. Recommendation(s)**

That Council:

- a) Agrees to the creation of the East Midlands Combined County Authority with the Council as a constituent member
- b) Consents to the making of the East Midlands Combined County Authority Regulations 2023 as required by section 46(1)(d) of the Levelling Up and Regeneration Act 2023
- c) Delegates authority to the Managing Director to approve any technical amendments to the East Midlands Combined County Authority Regulations 2023, which the Chief Executives of the other three Councils also agree to, on behalf of Derbyshire County Council. This delegation is to be exercised in consultation with the Leader of the Council; and,
- d) Approves the appointment of Melbourne Barrett, Returning Officer of Nottingham City Council as the first combined county authority returning officer for the proposed East Midlands Combined County Authority, subject to the passing of the amendments to article 6A(1) of the Combined Authorities (Mayoral Elections) Order 2017 as applied by article 12 of the Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2023.

## **9. Reasons for Recommendation(s)**

- 9.1 The creation of a new mayoral combined county authority for the East Midlands would unlock the benefits of the agreed East Midlands devolution deal including a range of new powers and funding as set out in this report. Constituent councils are required to consent to the making of the Regulations before Government can progress the legislation any further.
- 9.2 A delegation is sought to enable any necessary technical amendments to be made to the Regulations and avoid any delay in them being laid.
- 9.3 The Constituent Councils need to make appropriate preparations for the Mayoral election on 2 May 2024 and appoint the Combined County Authority Returning Officer (CCARO).

**Report Author:** Rob Lowe

**Contact details:** [robert.lowe@derbyshire.gov.uk](mailto:robert.lowe@derbyshire.gov.uk)



## Implications

### Financial

- 1.1 The devolution deal confirms that the costs of establishing the EMCCA will be met from its overall resources. For 2023/24, the government has committed £0.5m in mayoral capacity, £0.5m in transport capacity, £0.459m for housing development, and £0.245m of adult education implementation funding. Unless additional resources are allocated in this financial year, costs incurred over these grants are subject to a four-way risk share agreement, but it is not anticipated that this will be used.
- 1.2 The Regulations provides for the cost of the EMCCA once established to be met from the general resources available to it. There is no separate funding for the cost of combined authorities provided by Government, other than the provision of mayoral capacity funding (confirmed in 2024/25 but thereafter subject to spending reviews) and the ability to utilise supporting revenue funding alongside capital allocations for core operational costs. The Regulations, therefore, provides that the Constituent Councils must meet any reasonably incurred costs of the EMCCA. In practice, however, and other than the funding arrangements for the transport levy (described below), the vast majority of the costs for running EMCCA are to be met from grant funding and associated revenue or capacity funding. This is the experience of MCAs in other areas and is what is currently expected for the EMCCA. However, Full Council are requested to note the above theoretical funding risk.
- 1.3 If in future a mayoral precept is applied, it will result in an additional cost to the council taxpayer.
- 1.4 There are no planned additional contributions to be made to the EMCCA in 2024/25 (or future years) from the Constituent Councils. Where funding lines are transferred to the EMCCA this will be done on a 'no net costs' basis and confirmed each year as part of the Council's usual budget setting process. Should another decision on funding be considered that would be in addition to this 'no net cost' principle, for example a contribution of all or some of the Constituent Councils for a particular project or investment, this would require a further decision of the Council.
- 1.5 The Regulations provide for a transport levy. It is normal practice for combined authorities like EMCCA to be provided with a legal power

(under section 74 of the Transport Levying Bodies Regulations 1992) to issue a levy from their members to meet the costs of carrying out their transport functions that are provided on behalf of the region and to improve joint working between those local authorities. The implementation of any levy for the 2024/25 financial year and subsequent years will be set out in the Transport Transition Plan to be agreed between the Constituent Councils. The levy will be issued to the Constituent Councils. The level of the levy will be for the EMCCA to determine and will be apportioned to the Constituent Councils as agreed; should they not agree, the proportions are provided for in legislation as namely by reference to the council tax base for the financial year in which the levy is issued. By design, the levy shall be no more than the cost of the functions to be transferred to the EMCCA. The levy will not include a contribution to the general cost of running EMCCA, because it is intended for funding of transport services that are currently delivered by the Constituent Councils. The Constituent Councils will need to determine how to fund the levy as part of their budget process – it can be funded from Council Tax, use of Government grants, or other sources.

- 1.6 In line with Local Authorities, EMCCA will be required to set a balanced budget annually which will be approved by the agreed governance process including representatives of the four Constituent Councils. Should EMCCA require further funding beyond the agreed budget levels, additional funding will be split as agreed between the four Constituent Councils and in the absence of agreement, in equal shares.
- 1.7 The costs of running a mayoral election are to be met by the EMCCA. The cost of the inaugural mayoral election is provisionally estimated to be between £3-4 million. Wherever possible, efficiencies will be delivered through sharing infrastructure with Police and Crime Commissioner elections happening on the same day. The operational costs of the mayoral election will not fall to the Constituent Councils, as it has been agreed with government that funding for set up the new combined county authority and the early release of investment funds in 2023/24 can be used for this purpose. Anticipated amendments to the Combined Authority (Mayoral Elections) Order 2017 make provision for expenditure properly incurred by a CCARO in relation to the holding of a mayoral election to be paid by the constituent councils, should this be necessary, and subsequently recovered from the CCA when established.

## **Legal**

- 2.1 The Levelling Up and Regeneration Act 2023, which received royal assent on 26 October 2023, establishes a new type of combined county authority. This is distinct from a combined authority that can be created under the Local Democracy, Economic Development and Construction Act 2009.
- 2.2 Whilst the Constituent Councils agreed a devolution deal with Government, the creation of a new East Midlands Combined County Authority is subject to the approval of the East Midlands Combined County Authority Regulations 2023. Consent must be given by all four Constituent Councils to the making of the Regulations. In the event that all four Constituent Councils do not consent to the Regulations as provided by the Secretary of State, the process would end.
- 2.3 The Act sets out a governance framework for membership of combined county authorities (constituent, non-constituent, and associate members) and provides powers to the Secretary of State to make regulations setting out the constitutional arrangements of the EMCCA. These are described in the body of the report.
- 2.4 Following approval of the Regulations, work will need be undertaken at the earliest available opportunity to understand and assess what data needs to be shared between the parties to establish the new authority, in order to ensure compliance during the period of development, establishment and transition. Processes and appropriate documentation will need to be in place for the transfer of staff data as part of the initial set-up. It is for the EMCCA to consider appointment of its own Data Protection Officer but in advance of that the work on establishing the EMCCA will need to allocate responsibilities to an appropriate officer to facilitate relevant documentation to be prepared in advance of services going live.

## **Human Resources**

- 3.1 At this stage of the development of the EMCCA there are no direct HR implications arising from this report. Any future HR impacts will be managed in accordance with established HR policies and procedures at each of the affected Councils and at the Local Enterprise Partnership. Current and future activity includes appropriate internal communication and engagement activity and where required formal consultation if there are TUPE (Transfers of Undertakings (Protection of Employment) Regulations) implications.
- 3.2 Nottinghamshire County Council has taken on the role of the appointing body for the short-term contracts for the interim senior team and for the

appointments to enable the CCA to prepare for taking on Adult Education Budget responsibilities in 2025. The latter appointments are expected to transfer to the EMCCA once established whilst the interim team contracts were short term, pending permanent appointments to be made by the EMCCA once established. All interims who are currently in place to make preparations for the shadow authority and EMCCA, are contracted directly with Nottinghamshire County Council's recruitment partner Tile Hill. Their contractual position will remain as such while the preparations continue. When the EMCCA becomes a legal entity, structures and roles will be created within that body and appointed to following standard recruitment policies and processes.

## **Information Technology**

- 4.1 There are no direct Information Technology implications resulting from the Council consenting to the creation of the East Midlands Combined County Authority, with the Council as a constituent member.

## **Equalities Impact**

- 5.1 In coming to a decision, the Council should also have regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010. The PSED requires public authorities to have "due regard" to:
- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 (section 149(1a)).
  - The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1b)). This involves having due regard to the need to:
    - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic (section 149(3)(a));
    - or take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(3)(b)); and
    - or encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low (section 149(3)(c)).
- 5.2 An Equality Impact Assessment (EIA) was completed on the final Proposal approved by the Council on 22 March 2023 [here](#). The EIA examined the possible equalities impacts arising from the Proposal. The EIA recognised that the Proposal has the potential to provide significant

benefits to all communities, but specifically for people from the protected characteristic groups and deprived communities.

- 5.3 In proceeding with the next stage of the process to establish the EMCCA a key consideration is that the new EMCCA will become subject to the Public Sector Equality Duty under the Equality Act 2010 this will require the EMCCA to set equality objectives, publish annual equalities information and have due regard for equality matters when carrying out its functions, making decisions and delivering projects and programmes.
- 5.4 The EIA action plan set out that the EMCCA should give early thought to how it can begin to meet these and other duties, especially as it further develops its priorities, becomes established and finalises its workstreams and Board composition.
- 5.5 As the Regulations is an enabling piece of legislation and therefore does not significantly change the Proposal it is not considered necessary, at this stage, to either amend the existing EIA or carry out further Equality Analysis as the Action Plan and resulting mitigations remain unaltered.

### **Corporate objectives and priorities for change**

- 6.1 “Work with partners and central government to deliver an East Midlands Combined County Authority and devolution deal to create jobs opportunities for training, improve the local economy, transport, and housing, and accelerate our route to reduce emissions to net” is a key action included in the Council Plan Refresh 2023-25. Securing a Deal is vital in ensuring that much needed and long-awaited investment is available in Derbyshire to secure better outcome for local people and communities.

### **Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

#### Environmental Sustainability

- 7.1 The decisions set out in the report to create the EMCCA and approve the Regulations will not directly affect carbon emissions in a material way. The EMCCA will develop its own plans and strategies to reduce carbon emissions which will be subject to its own approval processes and approaching the issues from a wider strategic and geographic position may beneficially impact the development of more consistent

and measurable carbon reduction measures. Climate and sustainability impact will be considered as part of specific proposals.

### Risk Management

- 7.2 The creation of the EMCCA is dependent on the laying and passage of the Regulations, passage of which is not subject to the control of the Constituent Councils. The Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2023 (the Elections Regulations) are proposed to be laid and come into force prior to the coming into force of the Regulations. A delay in these Regulations coming into force during February/March 2024 could prevent the EMCCA coming into existence in February/March and prevent the holding of the Mayoral election on 2 May 2024. Holding a Mayoral election at another time would mean increased costs for the Constituent Councils/EMCCA.
- 7.3 For the EMCCA to be established, all four Constituent Councils must consent to the making of the Regulations at each Full Council. Should one or more of the Constituent Councils not consent, the process would end, the Combined County Authority could not be established, and no powers or funding would be devolved. Each Constituent Council will weigh this decision and come to its own formal conclusion. Senior officers and lead Members have worked closely with their counterparts from the other Constituent Councils on the development of the Devolution Deal and the plans for the EMCCA. That process has included the drafting of this report to ensure parity in decision-making.
- 7.4 If the EMCCA does not come into existence as planned, there may either be a delay, a reduction or a prevention of the benefits that devolution to the area would bring. To mitigate this, and subject to the Constituent Councils' consent to the Regulations, the current transitional phase will move into an explicit phase of operating as a Shadow Authority to support a smooth transition to the fully established EMCCA. The Shadow Authority will oversee the planning and implementation of establishing the EMCCA. It will continue to operate as currently: collaboratively from within the Constituent Councils and in an advisory capacity until the EMCCA can be formally established in early 2024.
- 7.5 Potential financial risks are set out in the "Financial Implications" section of this report.

### Community Safety

- 7.6 The Constituent Councils are committed to close working with the Police and Crime Commissioners to ensure that there is no overlap, or additional bureaucracy added from the creation of the proposed EMCAA. The intention is for the CCA and the Area's Police and Crime Commissioners generally; and particularly, to develop productive and joint working on public safety; and to agree a protocol for working together.

### Health and Wellbeing

- 7.7 The proposed EMCCA will work closely with the NHS. The EMCCA will complement and support actions already being taken by Constituent Councils to improve people's health and well-being across the Area, using powers under the NHS Act 2006. The EMCCA will ensure that improving and protecting the public's health is a central consideration in everything it does, including in environmental considerations, planning, regeneration and transport activity.

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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**HEALTH, ENGLAND**

**LOCAL GOVERNMENT, ENGLAND**

**TRANSPORT, ENGLAND**

**The East Midlands Combined County Authority Regulations  
2023**

*Made* - - - - - **\*\*\***

*Coming into force in accordance with regulation 1(1) and (2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9(1), 10, 13(1), 16(1), 18(1) and (3), 19(1), (2), (3) and (7), 27, 30(1), (7), (9) and (10), 32(1) to (4), 53(1), 54, 252(1) and (2) of and paragraph 3 of Schedule 2 to the Levelling-up and Regeneration Act 2023(a) (“the 2023 Act”).

The Secretary of State, having had regard to a proposal prepared and published under section 45 of the 2023 Act, considers that—

(a) the making of these Regulations is likely to improve the economic, social and environmental well-being of some or all of the people who live or work in the area to which the Regulations relate,

(b) the making of these Regulations will achieve the purposes specified under section 45(7) of the 2023 Act, and

(c) any consultation required by section 45(4) of the 2023 Act has been carried out.

In making these Regulations, the Secretary of State has had regard to the need to secure effective and convenient local government and to the need to reflect the identities and interests of local communities(b).

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(a) 2023 c. 55.

(b) Section 46(1)(b) of the 2023 Act requires the Secretary of State, when making regulations to establish a combined county authority, to have regard to these matters.

In accordance with sections 10(8), 16(2)(a), 18(6)(a), 20(2)(b) and 46(1)(d) of the 2023 Act, the councils of the local government areas of Derby City, Derbyshire, Nottingham, and Nottinghamshire have consented to the making of these Regulations.

In accordance with section 20(6) of the 2023 Act the Secretary of State has laid before Parliament a report explaining the effect of these Regulations and why the Secretary of State considers it appropriate to make these Regulations.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 252(4) of the 2023 Act.

Accordingly, the Secretary of State makes the following Regulations:

## PART 1

### General

#### Citation and commencement

1.—(1) These Regulations may be cited as the East Midlands Combined County Authority Regulations 2023.

(2) Save as provided in paragraph (3) these Regulations come into force on the day after the day on which they are made.

(3) Part 8 of these Regulations comes into force on 7th May 2024.

#### Interpretation

2. In these Regulations—

“the 1980 Act” means the Highways Act 1980(a);

“the 1985 Act” means the Housing Act 1985(b);

“the 1989 Act” means the Local Government and Housing Act 1989(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1999 Act” means the Greater London Authority Act 1999(e);

“the 2000 Act” means the Transport Act 2000(f);

“the 2003 Act” means the Local Government Act 2003(g);

“the 2004 Act” means the Traffic Management Act 2004(h);

“the 2006 Act” means the National Health Service Act 2006(i);

“the 2008 Act” means the Housing and Regeneration Act 2008(j);

“the 2011 Act” means the Localism Act 2011(k);

“the 2023 Act” means the Levelling-up and Regeneration Act 2023(a);

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(a) 1980 c. 66.

(b) 1985 c. 68.

(c) 1989 c. 42.

(d) 1990 c. 8.

(e) 1999 c. 29.

(f) 2000 c. 38.

(g) 2003 c. 26.

(h) 2004 c. 18.

(i) 2006 c. 41.

(j) 2008 c. 17.

(k) 2011 c. 20.

“the Area” means the area consisting of the areas of the constituent councils;

“the BRS Act” means the Business Rate Supplements Act 2009<sup>(b)</sup>;

“the Combined County Authority” means the East Midlands Combined County Authority as constituted by regulation 3;

“Corporation” means a corporation established by the Secretary of State in accordance with the provisions in section 198 of the 2011 Act, as modified by Schedule 3, following the designation of an area of land by the Combined County Authority;

“constituent councils” means the councils for the local government areas of Derby City, Derbyshire, Nottingham, and Nottinghamshire;

“district councils” means the councils for the local government areas of Amber Valley, Ashfield, Bassetlaw, Bolsover, Broxtowe, Chesterfield, Derbyshire Dales, Erewash, Gedling, High Peak, Mansfield, Newark and Sherwood, North East Derbyshire, Rushcliffe, and South Derbyshire;

“election for the return of the mayor” means an election held pursuant to regulation 5 of these Regulations;

“highway authority” and “local highway authority” have the same meaning as in sections 1 to 3 and 329(1) of the 1980 Act<sup>(c)</sup>;

“the ordinary day of election”, in relation to any year means the day which is the ordinary day of election in that year of councillors for counties in England and districts as determined in accordance with section 37 of the Representation of the People Act 1983<sup>(d)</sup>;

“Mayor” means the mayor for the Area, except in the term “Mayor of London”; and

“the transition period” means the period beginning with the day on which this regulation comes into force and ending with 31st March 2026.

## PART 2

### Establishment of a combined county authority for East Midlands

#### Establishment

**3.**—(1) There is established a combined county authority for the Area.

(2) The combined county authority is to be a body corporate and is to be known as the East Midlands Combined County Authority.

(3) The functions of the Combined County Authority are those functions conferred or imposed upon it by these Regulations or by any other enactment (whenever passed or made), or as may be delegated to it by or under these Regulations or any other enactment (whenever passed or made).

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(a) 2023 c. 55.

(b) 2009. c. 7.

(c) Section 1 was amended by the Local Government Act 1985 (c. 51), paragraph 1 of Schedule 4 and Schedule 17, the New Roads and Street Works Act 1991 (c. 22), section 21(2), the Local Government (Wales) Act 1994 (c. 19), paragraph 1(2) and (3) of Schedule 7, the Greater London Authority Act 1999, section 259(1) to (3) and the Infrastructure Act 2015 (c. 7), paragraph 2 of Schedule 7. Section 2 was amended by the New Roads and Street Works Act 1991, section 21(3), the Greater London Authority Act 1999, section 259(4) and (5) and the Infrastructure Act 2015, paragraph 3 of Schedule 7. Section 3 was amended by the Infrastructure Act 2015, paragraph 4 of Schedule 7. Section 329(1) was amended by the Infrastructure Act 2015, paragraph 60(2) of Schedule 1. There are other amendments to section 329 that are not relevant to these Regulations.

(d) 1983 c. 2. Section 37 was amended by section 18(2) of the Representation of the People Act 1985 (c. 50), renumbered by paragraph 5 of Schedule 3 to the Greater London Authority Act 1999 (c. 29), and further amended by section 6(16) of the Wales Act 2017 (c. 4) and by S.I. 2018/1310.

## **Constitution**

4. Schedule 1 (which makes provision about the constitution of the Combined County Authority) has effect.

## **PART 3**

### **Election of Mayor**

#### **Election of Mayor**

- 5.—(1) There is to be a mayor for the Area.
- (2) The first election for the return of a mayor for the Area is to take place on 2nd May 2024.
- (3) Subsequent elections for the return of a mayor for the Area are to take place—
- (a) on the ordinary day of election in 2028, and
  - (b) in every fourth year thereafter on the same day as the ordinary day of election.
- (4) The term of office of the mayor returned at an election for the return of a mayor for the Area—
- (a) begins with 7th May 2024, and
  - (b) ends with the third day after the day of the poll at the next election for the return of a mayor for the Area.

#### **Political adviser**

- 6.—(1) The Mayor may appoint one person as the Mayor’s political adviser.
- (2) Any appointment under paragraph (1) is an appointment as an employee of the Combined County Authority.
- (3) No appointment under paragraph (1) may extend beyond—
- (a) the term of office for which the Mayor who made the appointment was elected; or
  - (b) where the Mayor who made the appointment ceases to be the Mayor before the end of the term of office for which the Mayor was elected, the date on which the Mayor ceases to hold that office.
- (4) A person appointed under paragraph (1) is to be regarded for the purposes of Part 1 of the 1989 Act (political restriction of officers and staff) as holding a politically restricted post under a local authority.
- (5) Section 9(1), (8), (9) and (11) of the 1989 Act (assistants for political groups)(a), apply in relation to an appointment under paragraph (1) as if—
- (a) any appointment to that post were the appointment of a person in pursuance of that section; and
  - (b) the Combined County Authority were a relevant authority for the purposes of that section.
- (6) Subsection (3) of section 9 of the 1989 Act applies in relation to an appointment under paragraph (1) as if the words from “and that the appointment terminates” to the end of that subsection were omitted.

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(a) Section 9 was amended by sections 61 and 204 of, and paragraph 2 of Schedule 2 to, the Local Government and Public Involvement in Health Act 2007 and by S.I. 2001/2237. There are other amendments not relevant to these Regulations.

## PART 4

### Housing, regeneration and planning

#### **Conferral of functions corresponding to functions that the HCA has in relation to the Area**

7.—(1) The functions of the Homes and Communities Agency (“HCA”) which are specified in the following provisions of the 2008 Act are to be functions of the Combined County Authority that are exercisable in relation to the Area—

- (a) section 5 (powers to provide housing or other land);
- (b) section 6 (powers for regeneration, development or effective use of land);
- (c) section 7 (powers in relation to infrastructure);
- (d) section 8 (powers to deal with land etc);
- (e) section 9 (acquisition of land);
- (f) section 10 (restrictions on disposal of land);
- (g) section 11 (main powers in relation to acquired land)(a);
- (h) section 12 (powers in relation to, and for, statutory undertakers);
- (i) paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc), and
- (j) paragraphs 1, 2, 3, 4, 6 (extinguishment or removal powers for the HCA), 10 (counter-notices) and 20 (notification of proposal to make order) of Schedule 4.

(2) The Combined County Authority must exercise the functions described in the provisions specified in paragraph (1) for the purposes of, or for purposes incidental to, the objectives of —

- (a) improving the supply and quality of housing in the Area;
- (b) securing the regeneration or development of land or infrastructure in the Area;
- (c) supporting in other ways the creation, regeneration or development of communities in the Area or their continued well-being; and
- (d) contributing to the achievement of sustainable development and good design in the Area,

with a view to meeting the needs of people living in the Area.

(3) The functions described in the provisions specified in paragraph (1) are—

- (a) exercisable concurrently with the HCA; and
- (b) subject to Schedules 2 (acquisition of land) and 3 (main powers in relation to land acquired by the HCA) to the 2008 Act.

(4) In paragraph (2) “good design” and “needs” have the meanings given by section 2(2) of the 2008 Act and the reference to improving the supply of housing includes a reference to improving the supply of particular kinds of housing.

(5) The exercise of the function at section 9(2) of the 2008 Act referred to at sub-paragraph (e) of paragraph (1) is subject to the condition set out in regulation 9 (condition on the exercise of the functions conferred by regulations 7 and 8).

#### **Acquisition and appropriation of land for planning and public purposes**

8.—(1) The functions of the constituent councils and of the district councils specified in the following provisions as applied by regulation 10(2) to (5) are exercisable by the Combined County Authority in relation to the Area—

- (a) section 8 of the 1985 Act (periodical review of housing needs)(a);

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(a) Section 11 was amended by section 32(1) and (2) of the Infrastructure Act 2015.

- (b) section 11 of the 1985 Act (provision of board and laundry facilities)(b);
- (c) section 12 of the 1985 Act (provision of shops, recreation grounds, etc)(c);
- (d) section 17 of the 1985 Act (acquisition of land for housing purposes)(d), and
- (e) section 18 of the 1985 Act (duties with respect to buildings acquired for housing purposes);
- (f) section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes)(e);
- (g) section 227 of the 1990 Act (acquisition of land by agreement);
- (h) section 229 of the 1990 Act (appropriation of land forming part of common, etc);
- (i) section 230(1)(a) of the 1990 Act (acquisition of land for purposes of exchange);
- (j) section 232 of the 1990 Act (appropriation of land held for planning purposes);
- (k) section 233 of the 1990 Act (disposal by local authorities of land held for planning purposes)(f);
- (l) section 235 of the 1990 Act (development of land held for planning purposes);
- (m) section 236 of the 1990 Act (extinguishment of rights over land compulsorily acquired)(g);
- (n) section 238 of the 1990 Act (use and development of consecrated land);
- (o) section 239 of the 1990 Act (use and development of burial grounds);
- (p) section 241 of the 1990 Act (use and development of open spaces),

(2) The functions specified in paragraph (1) are exercisable concurrently with the constituent councils and with the district councils.

(3) The exercise of the functions referred to at sub-paragraphs (a) and (o) of paragraph (1) are subject to the condition set out in regulation 9.

### **Condition on the exercise of the functions conferred by regulations 7 and 8**

**9.** The exercise of the functions conferred by regulations 7 and 8 in section 17 of the 1985 Act (insofar as this function is exercised for the compulsory purchase of land), section 9(2) of the 2008 Act and section 226 of the 1990 Act by the Combined County Authority requires the consent of—

- (a) the lead member for any constituent council whose area contains any part of the land subject to the proposed compulsory acquisition, or a substitute member acting in place of such a member;
- (b) each district council whose local government area contains any part of the land subject to the proposed compulsory acquisition; and
- (c) the Peak District National Park Authority if the Combined County Authority proposes to exercise the functions in respect of the whole or any part of the area of the Peak District National Park,

to be provided at a meeting of the Combined County Authority.

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(a) Section 8 was amended by paragraph 62 of Schedule 11 to the 1989 Act and section 124 of the Housing and Planning Act 2016 (c. 22).

(b) Section 11 was amended by section 198 of and paragraph 103 of Schedule 6 to the Licensing Act 2003 (c. 17).

(c) Section 12 was amended by S.I. 2010/844.

(d) Section 17 was amended by section 222 of, and paragraph 24 of Schedule 18 to, the Housing Act 1996 (c. 52).

(e) Section 226 was amended by sections 79, 99 and 120 of, paragraph 3 of Schedule 3 and paragraph 1 of Schedule 9 to, the 2004 Act.

(f) Section 233 was amended by section 8 of the Growth and Infrastructure Act 2013 (c. 27).

(g) Section 236 was amended by section 406 of, and paragraph 103 of Schedule 17 to, the Communications Act 2003 (c. 21).

## **Application of certain provisions of the 1985 Act, the 1990 Act and the 2008 Act**

**10.**—(1) This regulation has effect in consequence of regulations 7 and 8.

(2) The provisions set out in section 17 of the 1985 Act (acquisition of land for housing purposes) apply to the Combined County Authority as they apply to a local housing authority within the meaning of section 1 of the 1985 Act.

(3) For the purposes of regulation 8(1)(o) and (p) the Combined County Authority is to be treated as a local housing authority for the Area**(a)**.

(4) Part 9 of the 1990 Act (acquisition and appropriation of land for planning purposes, etc) applies in relation to the Combined County Authority and land which has been vested in or acquired by the Combined County Authority for planning and public purposes as it applies to a local planning authority and land vested in or acquired by a local planning authority for planning and public purposes.

(5) Chapters 1 and 2 of Part 1 of, and Schedules 2 to 4 to, the 2008 Act apply in relation to the powers of the Combined County Authority to acquire land for housing and infrastructure as they apply to the HCA and land acquired by the HCA with the modifications made by Parts 1 and 2 of Schedule 2 to these Regulations.

(6) In this regulation “local planning authority” has the meaning given by section 336(1) of the 1990 Act.

## **PART 5**

### **Mayoral development corporation**

#### **Mayoral development corporation**

**11.**—(1) The Combined County Authority has, in relation to the Area, functions corresponding to the functions described in the provisions in the 2011 Act referred to in paragraph (2) that the Mayor of London has in relation to Greater London.

(2) The provisions in the 2011 Act referred to in paragraph (1) are—

- (a) section 197 (designation of Mayoral development areas);
- (b) section 199 (exclusion of land from Mayoral development areas);
- (c) section 200 (transfers of property etc to a Mayoral development corporation)**(b)**;
- (d) section 202 (functions in relation to town and country planning);
- (e) section 204 (removal or restriction of planning functions);
- (f) section 214 (powers in relation to discretionary relief from non-domestic rates);
- (g) section 215 (reviews);
- (h) section 216 (transfers of property, rights and liabilities)**(c)**;
- (i) section 217 (dissolution: final steps);
- (j) section 219 (guidance by the Mayor);
- (k) section 220 (directions by the Mayor);
- (l) section 221 (consents);
- (m) paragraph 1 of Schedule 21 (membership);

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(a) In section 1 of the 1985 Act “local housing authority” means a district council, a London borough council, the Common Council of the City of London, a Welsh county council or county borough council or the Council of the Isles of Scilly.

(b) Section 200 was amended by section 151(1) of, and paragraphs 174 and 178 of Part 2 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014 (c. 14).

(c) Section 216(4) was amended by section 151(1) of, and paragraphs 174 and 179 of Part 2 of Schedule 4 to, the Co-operative and Community Benefit Societies Act 2014.

- (n) paragraph 2 of Schedule 21 (terms of appointment of members);
- (o) paragraph 3 of Schedule 21 (staff);
- (p) paragraph 4 of Schedule 21 (remuneration etc: members and staff);
- (q) paragraph 6 of Schedule 21 (committees); and
- (r) paragraph 8 of Schedule 21 (proceedings and meetings).

### **Application of provisions in the 2011 Act**

**12.**—(1) Chapter 2 of Part 8 of the 2011 Act (Mayoral development corporations) applies in relation to the Combined County Authority as it applies in relation to the Mayor of London, with the modifications made by Schedule 3.

(2) Chapter 2 of Part 8 of the 2011 Act applies in relation to a Corporation as it applies in relation to a Mayoral development corporation, with the modifications made by Schedule 3.

(3) Subject to paragraph (6), in any enactment (whenever passed or made)—

- (a) any reference to a Mayoral development corporation; or
- (b) any reference which falls to be read as a reference to a Mayoral development corporation,

is to be treated as including a reference to a Corporation.

(4) For the purposes of any transfer scheme relating to a Corporation under any provisions of the 2011 Act applied with modifications by these Regulations, paragraph 9 of Schedule 24 to the 2011 Act (transfers under scheme under section 17, 200(1) or (4) or 216(1)) applies in relation to—

- (a) any property, rights or liabilities transferred to or from a Corporation in accordance with a transfer scheme; or
- (b) anything done for the purposes of, or in relation to, or in consequence of, the transfer of any property, rights or liabilities to or from a Corporation in accordance with such a transfer scheme,

as it applies in relation to a Mayoral development corporation.

(5) For the purposes of establishing a Corporation, giving the Corporation a name, giving effect to any decisions notified to the Secretary of State under sections 199(4) (exclusion of land from Mayoral development areas), 202(8) (decisions about planning functions), or 214(6) (powers in relation to discretionary relief from non-domestic rates) of the 2011 Act or in relation to the transfer of land to or from a Corporation under any provision of the 2011 Act, applied with modifications by these Regulations, section 235 of the 2011 Act (orders and regulations) applies in relation to—

- (a) the power of a Minister of the Crown to make an order under sections 198(2) (mayoral development corporations: establishment) and 200(6) (transfers of property etc to a Mayoral development corporation) of that Act; and
- (b) the power of the Treasury to make regulations under paragraph 9(2) of Schedule 24 to that Act,

as it applies in relation to the establishment of a Mayoral development corporation, giving the corporation a name, giving effect to any decisions notified to the Secretary of State (under sections 199(4), 202(8) and 214(6) of the 2011 Act) or in relation to the transfer of land to or from a Mayoral development corporation.

(6) Paragraph (3) does not apply to—

- (a) paragraph 9(8)(a) of Schedule 2 to the Channel Tunnel Rail Link Act 1996 (works: further and supplementary provisions)(a);
- (b) section 31(1A) of the 1999 Act (limits of the general power)(a);

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(a) 1996 c. 61. Paragraph 9(8) of Schedule 2 was amended by paragraph 43 of Schedule 22 to the 2011 Act.



- (c) section 38 of the 1999 Act (delegation)(b);
- (d) section 60A(3) of the 1999 Act (confirmation hearings etc for certain appointments by the Mayor)(c);
- (e) section 68(6) of the 1999 Act (disqualification and political restriction)(d);
- (f) section 73 of the 1999 Act (monitoring officer)(e);
- (g) section 403B of the 1999 Act (acquisition of land by MDC and TfL for shared purposes)(f);
- (h) section 424 of the 1999 Act (interpretation)(g);
- (i) section 24(4) of the Planning and Compulsory Purchase Act 2004 (conformity with spatial development strategy)(h); and
- (j) paragraph 8(8)(a) of Schedule 2 to the Crossrail Act 2008 (works: further and supplementary provisions)(i).

(7) In this regulation “transfer scheme” means a transfer scheme under section 200(1) or (4) or 216(1) of the 2011 Act.

### **Mayoral development corporation: incidental provisions**

**13.**—(1) The following provisions of the 1989 Act apply in relation to a Corporation as if it were a local authority—

- (a) section 1 (disqualification and political restriction of certain officers and staff)(j), and
- (b) sections 2 and 3A (politically restricted posts and exemptions from restriction) so far as they have effect for the purposes of section 1.

(2) Section 5 of the 1989 Act (designation and reports of monitoring officer)(k) applies in relation to the Combined County Authority as if a Corporation were a committee of the Combined County Authority.

(3) Section 32 of the 2003 Act applies in relation to expenditure of a Corporation as if—

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- (a) Section 31 was amended by section 186 of, and paragraphs 44 and 45 of Schedule 22 and Parts 31 and 32 of Schedule 25 to, the 2011 Act, section 33 of the Infrastructure Act 2015 and by S.I. 2012/1530.
  - (b) Section 38 was amended by paragraphs 36 and 37 of Schedule 19, paragraphs 4 and 5 of Schedule 20, paragraphs 44 and 46 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act, section 28 of the Growth and Infrastructure Act 2013 (c. 27) and article 2 of S.I. 2012/1530.
  - (c) Section 60A was inserted by section 4 of the Greater London Authority Act 2007 (c. 24) and amended by section 224 of the Planning Act 2008 (c. 29), section 20 of the Police Reform and Social Responsibility Act 2011, paragraphs 44 and 47 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act and articles 1, 2 and 36 of S.I. 2008/2038.
  - (d) Section 68 was amended by paragraphs 44 and 48 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act.
  - (e) Section 73 was amended by sections 7 and 9 of, and Schedule 2 to, the Greater London Authority Act 2007, paragraph 16 of Part 2 of Schedule 12 to the Local Government and Public Involvement in Health Act 2007, paragraphs 36 and 38 of Schedule 19, paragraphs 44 and 49 of Schedule 22, Part 32 of Schedule 25 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20) and paragraphs 1 and 5 of Part 1 to the Schedule to S.I. 2000/1435.
  - (f) Section 403B was inserted by section 36(1) and (2) of the Neighbourhood Planning Act 2017.
  - (g) Section 424 was amended by section 1159 of the Companies Act 2006 (c. 46), sections 11, 12, 21, 22 of the Greater London Authority Act 2007, section 3 of the Police Reform and Social Responsibility Act 2011 and paragraphs 44 and 52 of Schedule 22 and Part 32 of Schedule 25 to the 2011 Act.
  - (h) 2004 c. 5. Section 24 was amended by paragraph 15 of Schedule 5 and paragraph 1 of Part 4 of Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 and by paragraphs 54 and 55 of Schedule 22 to the 2011 Act.
  - (i) 2008 c. 18. Paragraph 8 of Schedule 2 to the Crossrail Act 2008 was amended by paragraph 58 of Schedule 22 to the 2011 Act.
  - (j) Section 1 was amended by section 80 of the Local Government Act 1972 (c. 70), Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24), paragraphs 199 and 200 of Part 2 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and by section 123 of and paragraph 61 of Schedule 1 to the Policing and Crime Act 2017 (c. 3).
  - (k) Section 5 was amended by Part 1 of Schedule 4 to the Police and Magistrates’ Courts Act 1994 (c. 29), paragraph 1 of Schedule 7 to the Police Act 1996 (c. 16), section 132 of the 1999 Act, paragraph 24 of Schedule 5 to the Local Government Act 2000 (c. 22), paragraph 14 of Part 2 to Schedule 12 and Part 14 of Schedule 18 to the Local Government and Public Involvement in Health Act 2007, paragraphs 12 and 13 of Schedule 14 and Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23), paragraphs 199 and 202 of Part 3 of Schedule 16 to the Police Reform and Social Responsibility Act 2011, sections 6 and 9 of and paragraph 63 of Schedule 1 and paragraph 88 of Schedule 2 to the Policing and Crime Act 2017 and articles 1(2), 2(1) and 23(1)(a) to (f) of SI 2001/2237.

- (a) each reference to a functional body were a reference to a Corporation;
- (b) each reference to the Greater London Authority were a reference to the Combined County Authority;
- (c) each reference to the Mayor of London were a reference to the Mayor; and
- (d) subsection (7) were omitted.

## PART 6

### Transport

#### **Local transport functions under the Transport Act 1985**

**14.**—(1) The functions of the constituent councils specified in Parts 4 (local passenger transport services) and 5 (financial provisions) of the Transport Act 1985<sup>(a)</sup> are exercisable by the Combined County Authority in relation to the Area.

(2) Subject to paragraph (3), the functions specified in—

- (a) sections 57 to 62; and
- (b) sections 80 to 87,

of the Transport Act 1985 are exercisable by the Combined County Authority instead of by the constituent councils.

(3) During the transition period the functions mentioned in paragraph (2) are exercisable by the Combined County Authority concurrently with the constituent councils.

(4) Subject to paragraph (5), the functions specified in—

- (a) sections 63 and 64;
- (b) sections 65 to 71;
- (c) sections 72 to 76;
- (d) sections 78 and 79;
- (e) sections 88 to 92;
- (f) sections 93 to 101;
- (g) sections 103 to 105; and
- (h) sections 106 and 106A<sup>(b)</sup>,

of the Transport Act 1985 are exercisable by the Combined County Authority concurrently with the constituent councils.

(5) Any exercise of the functions mentioned in paragraph (4)(a), (d) and (f) requires the consent of each constituent council in whose area it is proposed that the functions are to be exercised.

#### **Local transport functions under the Transport Act 2000**

**15.**—(1) The functions of the constituent councils as local transport authorities specified in Part 2 of the 2000 Act (local transport) are exercisable by the Combined County Authority in relation to the Area.

(2) Subject to paragraphs (3) to (5), the functions specified in—

- (a) sections 108 and 109<sup>(c)</sup>;

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(a) 1985 c. 67.

(b) Section 106A was inserted by section 27 of the Local Government and Rating Act 1997 (c. 29).

(c) Section 108 was amended by section 3 of and paragraph 2 of the Schedule to the Transport (Wales) Act 2006 (c. 5); sections 7 to 9, 77 and 131 of and paragraphs 41 and 42 of Schedule 4 to and Part 1 of Schedule 7 to the Local Transport Act 2008; and by section 119 and paragraph 96 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 109 was amended by section 3 of and paragraph 3 of the Schedule to the Transport (Wales)

- (b) sections 112 and 113;
- (c) sections 113C to 123(a);
- (d) sections 123A to 123X(b);
- (e) sections 138A to 143B(c); and
- (f) sections 152 to 162,

of the 2000 Act are exercisable by the Combined County Authority instead of by the constituent councils.

(3) During the transition period—

- (a) the exercise of the functions mentioned in paragraph (2)(a) and (b) by the Combined County Authority requires a unanimous vote in favour by all members of the Combined County Authority appointed by the constituent councils, or substitute members acting in place of those members, to be carried at a meeting of the Combined County Authority;
- (b) the functions mentioned in paragraph (2)(c) to (f) are exercisable by the Combined County Authority concurrently with the constituent councils.

(4) The functions mentioned in paragraph (2)(a) and (b) are subject to the following modifications—

- (a) in section 108(1)(b), the reference to “those policies” is a reference to the policies developed under section 108(1)(a) of the 2000 Act;
- (b) in section 108(3B), the reference to “their plan” is a reference to the local transport plan prepared under section 108(3); and
- (c) in section 109(4), the reference to “their local transport plan” is a reference to the local transport plan prepared under section 108(3),

in accordance with the functions conferred on the Combined County Authority by paragraph (1) of this regulation.

(5) Any exercise of the functions mentioned in paragraph (2)(d) requires the consent of each constituent council in whose area it is proposed that the functions are to be exercised.

(6) The functions specified in—

- (a) sections 134C to 138(d);
- (b) section 145A(e);
- (c) section 146; and
- (d) sections 148 to 150,

of the 2000 Act, are exercisable by the Combined County Authority concurrently with the constituent councils.

### **Agreements between authorities and strategic highways companies**

**16.**—(1) The following functions are exercisable by the Combined County Authority in relation to the Area—

- (a) the functions of the constituent councils specified in section 6 of the 1980 Act (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc) (a);

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Act 2006, section 9 of the Local Transport Act 2000, and by section 119 of and paragraph 97 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 112 was amended by sections 10, 11 and 131 of and Part 1 of Schedule 7 to the Local Transport Act 2008, and by section 222 of and paragraph 48 of Schedule 26 to the Equality Act 2010.

- (a) Sections 113C to 113O were inserted by section 1 of the Bus Services Act 2017 (c. 21).
- (b) Sections 123A to 123X were inserted by section 4 of the Bus Services Act 2017.
- (c) Sections 138A to 138S were inserted by section 9 of the Bus Services Act 2017. Sections 141A, 143A and 143B were inserted by sections 18(1), 5 and 10 (respectively) of that Act.
- (d) Sections 134C to 134G were inserted by section 7 of the Bus Services Act 2017.
- (e) Section 145A was inserted by section 1 of the Concessionary Bus Travel Act 2007 (c. 13).

- (b) the functions of the constituent councils as local highway authorities specified in section 8 of the 1980 Act (power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works) **(b)**.

(2) The functions mentioned in paragraph (1) are exercisable concurrently with the constituent councils.

(3) Any exercise of the functions conferred by paragraph (1) requires the consent of each constituent council in whose area it is proposed that the functions are to be exercised.

### **Civil enforcement of road traffic contraventions**

**17.**—(1) The functions of the constituent councils as enforcement authorities specified in the following enactments are exercisable by the Combined County Authority in relation to the enforcement area comprising the civil enforcement areas of the constituent councils—

- (a) Part 6 (civil enforcement of road traffic contraventions) of, and paragraph 10 (designation of civil enforcement areas for moving traffic contraventions) of Schedule 8 (civil enforcement areas and enforcement authorities outside Greater London) to, the 2004 Act;
- (b) the Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022**(c)**;
- (c) the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022**(d)**.

(2) The functions are exercisable by the Combined County Authority (in relation to the enforcement area) concurrently with each constituent council (in relation to its civil enforcement area).

(3) Any exercise of the functions conferred by paragraph (1) requires the consent of each constituent council in whose area it is proposed that the functions are to be exercised.

(4) In this regulation—

- (a) “civil enforcement area” means an area designated as a civil enforcement area under Part 2 of Schedule 8 to the 2004 Act (civil enforcement areas and enforcement authorities outside Greater London) which falls within the Area;
- (b) “enforcement area” means the area comprising the civil enforcement areas of the constituent councils;
- (c) “enforcement authority” means an enforcement authority for the purposes of Part 6 of the 2004 Act pursuant to paragraph 10(5) of Schedule 8 to that Act.

### **Workplace parking levy**

**18.**—(1) The functions of the constituent councils as licensing authorities specified in the following enactments are exercisable by the Combined County Authority in relation to the Area—

- (a) Chapters 2 and 3 of Part 3 of the 2000 Act (workplace parking levy);
- (b) the Workplace Parking Levy (England) Regulations 2009**(e)**.

(2) The functions mentioned in paragraph (1) are exercisable by the Combined County Authority concurrently with the constituent councils.

(3) Any exercise of the functions conferred by paragraph (1) requires the consent of each constituent council in whose area it is proposed that the function is to be exercised.

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(a) Section 6 was amended by paragraph 4 of Schedule 4 to the Local Government Act 1985 (c. 51), by paragraph 2 of Schedule 7 to the Local Government (Wales) Act 1994 (c. 19), by paragraph 7 of Schedule 1 to the Infrastructure Act 2015 (c. 7), and by S.I. 1995/1986.

(b) Section 8 was amended paragraph 5 of Schedule 4 to the Local Government Act 1985, by paragraph 3 of Schedule 7 to the Local Government (Wales) Act 1994, and by paragraph 8 of Schedule 1 to the Infrastructure Act 2015.

(c) S.I. 2022/71, amended by S.I. 2022/686.

(d) S.I. 2022/576.

(e) S.I. 2009/2085.

(4) In paragraph (1), “licensing authority” has the meaning given by section 178(6)(a) of the 2000 Act (preliminary).

### **Grants to bus service operators**

**19.**—(1) Subject to paragraphs (2) to (4), the function of the Secretary of State set out in section 154(1) of the 2000 Act (grants to bus service operators) is exercisable by the Combined County Authority in relation to the Area.

(2) For the purpose of paragraph (1), section 154 of the 2000 Act has effect as if—

- (a) in subsection (1), “with the approval of the Treasury (as respects England)” were omitted; and
- (b) in subsection (3), for “with the approval of the Treasury (as respects England)” there were substituted “and notified to the Combined County Authority”.

(3) Grants made under paragraph (1) must be calculated in accordance with such method as may be provided by any regulations made by the Secretary of State by virtue of section 154(2) of the 2000 Act

(4) Grants must not be made under paragraph (1) to the extent that eligible bus services operate outside the Area.

(5) The function mentioned in paragraph (1) is exercisable concurrently with the Secretary of State in relation to the Area.

(6) Any exercise by the Combined Authorities of the functions conferred by paragraph (4), “eligible bus services” has the meaning given by section 154(5) of the 2000 Act.

### **Permit schemes**

**20.**—(1) The functions of the constituent councils as local highway authorities specified in the following provisions of the 2004 Act are exercisable by the Combined County Authority in relation to the Area—

- (a) section 33 (preparation of permit schemes)(a);
- (b) section 33A (implementation of permit schemes of strategic highways companies and local highway authorities in England)(b);
- (c) section 36 (variation and revocation of permit schemes)(c).

(2) The functions of the constituent councils as Permit Authorities specified in the 2007 Regulations are exercisable by the Combined County Authority in relation to the Area.

(3) The functions mentioned in paragraphs (1) and (2) are exercisable by the Combined County Authority concurrently with the constituent councils.

(4) Part 3 of the 2004 Act (permit schemes) applies in relation to the preparation, implementation, variation and revocation of permit schemes by the Combined County Authority as it applies in relation to the preparation, implementation, variation and revocation of permit schemes by a constituent council as a local highway authority, subject to the modifications in Schedule 4 to these Regulations.

(5) References in the 2007 Regulations to a Permit Authority are to be read as including references to the Combined County Authority.

(6) Any exercise of the functions conferred by paragraphs (1) and (2) requires the consent of each constituent council in whose area it is proposed that the functions are to be exercised.

(7) In this regulation—

- 
- (a) Section 33 was amended by paragraph 5 of Schedule 10 to the Deregulation Act 2015 (c. 20).
  - (b) Section 33A was inserted by paragraph 6 of Schedule 10 to the Deregulation Act 2015.
  - (c) Section 36 was substituted by paragraph 8 of Schedule 10 to the Deregulation Act 2015.

- (a) “the 2007 Regulations” means the Traffic Management Permit Scheme (England) Regulations 2007<sup>(a)</sup>;
- (b) “Permit Authority” has the same meaning as in regulation 2(1) of the 2007 Regulations; and
- (c) “permit scheme” is to be construed in accordance with section 32 of the 2004 Act (meaning of “permit schemes”).

**Power to pay grant**

**21.**—(1) The functions of a Minister of the Crown specified in section 31 of the 2003 Act (power to pay grant) are functions of the Combined County Authority that are exercisable in relation to the Area.

(2) The functions are exercisable by the Combined County Authority concurrently with a Minister of the Crown.

(3) Paragraph (4) applies where, further to the exercise of any function referred to in paragraph (1), the Combined County Authority determines an amount of grant to be paid towards expenditure incurred or to be incurred by a constituent council in relation to the exercise of its highway functions.

(4) In determining the amount referred to in paragraph (3), the Combined County Authority must have regard to the desirability of ensuring that the constituent council has sufficient funds to facilitate the effective discharge of the functions referred to in paragraph (3).

(5) To comply with paragraph (4), the Combined County Authority must take into account any other sources of funding available to the constituent council for expenditure incurred or to be incurred in relation to the exercise of its highway functions.

(6) For the purposes of the exercise by the Combined County Authority of the functions specified in paragraph (1), section 31 of the 2003 Act has effect as if—

- (a) in subsection (1)—
  - (i) the reference to a Minister of the Crown were a reference to the Combined County Authority;
  - (ii) the reference to a local authority in England were a reference to a constituent council;
- (b) subsection (2) were omitted;
- (c) in subsections (3) and (4), the references to the person paying the grant were references to the Combined County Authority;
- (d) subsection (6) were omitted.

(7) In this regulation “highway functions” means functions exercisable by a constituent council (in whatever capacity) in relation to the highways for which it is the highway authority.

**PART 7**

**Health functions**

**Public health functions**

**22.**—(1) Section 2B(1) of the 2006 Act (functions of local authorities and Secretary of State as to improvement of public health)<sup>(b)</sup> applies to the Combined County Authority as it applies to the constituent councils.

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(a) S.I. 2007/3372, amended by S.I. 2015/958, S.I. 2020/122 and S.I. 2022/831.  
 (b) Section 2B was inserted by section 12 of the Health and Social Care Act 2012 (c. 7).

(2) The functions referred to in paragraph (1) are exercisable concurrently with the constituent councils.

#### **Duty to have regard to documents and guidance**

**23.** Subsection (1) of section 73B of the 2006 Act (exercise of public health functions of local authorities: further provision)(a) applies to the Combined County Authority as it applies to the constituent councils in the exercise of the functions mentioned in subsection (2) of that section.

#### **Application of section 75 of the 2006 Act**

**24.**—(1) Save as provided by section 75(7G) to (7J)(b), section 75 of the 2006 Act (arrangements between NHS bodies and local authorities), and regulations made under that section before the coming into force of these Regulations, apply to the Combined County Authority in the exercise of its public health functions as those provisions apply to the constituent councils.

(2) But where the Combined County Authority enters into prescribed arrangements by virtue of section 75(7I) and (7J) of the 2006 Act, and is thus treated as an NHS body in relation to those prescribed arrangements, it may not enter into those same prescribed arrangements in relation to the exercise of its public health functions, unless, and to the extent that, it is permitted to do so by regulations made under section 75(1) of the 2006 Act.

(3) In this regulation—

- (a) “NHS body” is to be construed in accordance with sections 75(8) and 275 of the 2006 Act (c);
- (b) “prescribed arrangements” is to be construed in accordance with section 75 of the 2006 Act;
- (c) “public health functions” means functions exercisable by virtue of regulation 22 of these Regulations.

#### **Duty to have regard to NHS Constitution**

**25.**—(1) Section 2(1) of the Health Act 2009 (duty to have regard to NHS Constitution)(d) applies to the Combined County Authority in the exercise of any health service function as it applies to the constituent councils in the exercise of any health service function.

(2) In paragraph (1), “health service function” has the meaning given by section 2(3) of the Health Act 2009(e).

## **PART 8**

### **Mayoral functions**

#### **Functions exercisable only by the Mayor**

**26.**—(1) The following functions of the Combined County Authority are general functions exercisable only by the Mayor—

- 
- (a) Section 73B was inserted by section 31 of the Health and Social Care Act 2012 (c. 7) and amended by paragraph 9 of Schedule 9 to the Health and Care Act 2022 (c. 31).
  - (b) Section 75(7A) to (7F) were inserted by paragraph 6 of Schedule 4 to the Cities and Local Government Devolution Act 2016 (c. 1) and subsection (7B) was amended by section 71(3) of the Health and Care Act 2022. Section 75(7G) to (7J) were inserted by paragraph 168 of Schedule 4 to the Levelling-up and Regeneration Act 2023.
  - (c) The definition of “NHS body” in section 275 was inserted by paragraph 138 of Schedule 4 to the Health and Social Care Act 2012 and amended by paragraph 11(b) of Schedule 1 and paragraph 132(d) of Schedule 4 to the Health and Care Act 2022.
  - (d) 2009 c. 21. Section 2(1) was amended by paragraph 175(2) of Schedule 5 to the Health and Social Care Act 2012.
  - (e) Section 2(3) was amended by paragraphs 174(b) and 175(4) of Schedule 5 to the Health and Social Care Act 2012.

- (a) section 17(3) of the 1985 Act;
- (b) section 226 of the 1990 Act;
- (c) sections 108 (local transport plans), 109 (further provision about plans: England), 112 (plans and strategies: supplementary) and 154(1) (grants to bus service operators) of the 2000 Act(a);
- (d) section 31 of the 2003 Act;
- (e) section 9(2) of the 2008 Act;
- (f) in relation to the functions conferred by regulation 29 (conferral of Business Rate Supplements functions), the BRS Act;
- (g) sections 197, 199, 200, 202, 204, 214 to 217 and 219 to 221 of, and paragraphs 1 to 4, 6 and 8 of Schedule 21 to, the 2011 Act.

(2) Any exercise by the Mayor of the general functions mentioned in paragraph (1) which results in a financial liability falling on a constituent council requires the consent of the lead member of that council.

(3) The Combined County Authority may agree with the Mayor consent requirements relating to the exercise by the Mayor of the general functions mentioned in paragraph (1).

(4) Any exercise by the Mayor of the functions corresponding to the functions contained in section 17(3) of the 1985 Act (acquisition of land for housing purposes), section 226 of the 1990 Act (compulsory acquisition of land for development and other planning purposes) section 9(2) of the 2008 Act (acquisition of land), and section 197(1) of the 2011 Act (designation of Mayoral development areas) requires the consent of—

- (a) the lead member for any constituent council whose area contains any part of the land subject to the proposed compulsory acquisition, or a substitute member acting in place of such a member,
- (b) each district council whose local government area contains any part of the area to be designated as a Mayoral development area, and
- (c) the Peak District National Park Authority if the Combined County Authority proposes to exercise the function in respect of the whole or any part of the area of the Peak District National Park.

(5) Any exercise by the Mayor of the functions corresponding to the functions contained in section 199(1) of the 2011 Act (exclusion of land from Mayoral development areas) in respect of any Mayoral development area requires the consent of each member of the Combined County Authority designated under paragraph 1(3) of Schedule 1 by a constituent council whose local government area contains any part of the area to be excluded from a Mayoral development area or substitute members acting in place of those members.

(6) Any exercise by the Mayor of the functions corresponding to the functions contained in section 202(2) to (4) of the 2011 Act (functions in relation to town and country planning) in respect of any Mayoral development area requires the consent of—

- (a) the lead members of the Combined County Authority designated under paragraph 1(3) of Schedule 1 whose local government area contains any part of the area to be designated as a Mayoral development area or substitute members acting in place of those members,
- (b) each district council whose local government area contains any part of the area to be designated as a Mayoral development area, and

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(a) 2000 c. 38. Section 108 was amended by CAs with MDC functions have the NPA consent requirement (e.g. West Yorkshire).section 3 of and paragraph 2 of the Schedule to the Transport (Wales) Act 2006 (c. 5); sections 7 to 9, 77 and 131 of and paragraphs 41 and 42 of Schedule 4 to and Part 1 of Schedule 7 to the Local Transport Act 2008; and by section 119 and paragraph 96 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 109 was amended by section 3 of and paragraph 3 of the Schedule to the Transport (Wales) Act 2006, section 9 of the Local Transport Act 2000, and by section 119 of and paragraph 97 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009. Section 112 was amended by sections 10, 11 and 131 of and Part 1 of Schedule 7 to the Local Transport Act 2008, and by section 222 of and paragraph 48 of Schedule 26 to the Equality Act 2010.



- (c) the Peak District National Park Authority if the Combined County Authority proposes to exercise the functions in respect of the whole or any part of the area of the Peak District National Park.

(7) In respect of the exercise of the functions conferred by sections 108, 109 and 112 of the 2000 Act—

- (a) the Mayor must consult the Combined County Authority; and
- (b) the members of the Combined County Authority may amend plans made pursuant to sections 108, 109, and 112 of the 2000 Act if agreed by a two thirds majority of the members, or substitute members acting in their place, of the Combined County Authority present and voting on the question at a meeting of the authority.

(8) For the purpose of paragraphs (2), (4)(a), (5), (6)(a), and (7) the consent must be given at a meeting of the Combined County Authority.

(9) For the purposes of the exercise of the general functions mentioned in paragraph (1) the members and officers may assist the Mayor in the exercise of the function.

(10) For the purposes of the exercise of the general functions mentioned in paragraph (1) the Mayor may do anything that the Combined County Authority may do under section 49 of the 2023 Act (general power of CCA).

(11) The Mayor must not make arrangements under section 30(3)(b) of the 2023 Act (functions of mayors: general) in relation to the functions specified in paragraph (1), in relation to a political adviser appointed under regulation 6.

### **Joint committees**

**27.**—(1) The Mayor may enter into arrangements jointly with the Combined County Authority, the constituent councils and other councils in accordance with section 101(5) of the Local Government Act 1972(a) for the discharge of the general functions of the Combined County Authority which are exercisable only by the Mayor pursuant to regulation 26.

(2) In this regulation “other council” means the council for a county or district in England.

## **PART 9**

### **Funding**

#### **Funding**

**28.**—(1) Subject to paragraphs (2) and (5), the constituent councils must ensure that the costs of the Combined County Authority reasonably attributable to the exercise of its functions are met.

(2) Subject to paragraph (4), the constituent councils must meet the costs of the expenditure reasonably incurred by the Mayor in, or in connection with, the exercise of the functions referred to in regulation 26(1), to the extent that the Mayor has not decided to meet these costs from other resources available to the Combined County Authority.

(3) Any amount payable by each of the constituent councils in accordance with paragraphs (1) and (2) are met is to be determined by apportioning such costs between the constituent councils in such proportions as they may agree or, in default of such agreement, in equal proportions.

(4) In relation to the expenditure mentioned in paragraph (2)—

- (a) to the extent to which such expenditure is met by amounts payable under arrangements made under paragraph (3)—

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(a) 1972. c. 70.

- (i) the Mayor must agree with the Combined County Authority the total expenditure mentioned in paragraph (2) in advance of incurring this expenditure, and
  - (ii) in the absence of the agreement specified in paragraph (i), no such expenditure may be incurred;
- (b) any precept issued in relation to such expenditure under section 40 of the Local Government Finance Act 1992(a) is to be disregarded from any calculation of the costs of the expenditure.

(5) The costs of the Combined County Authority reasonably attributable to the exercise of its functions relating to transport may be met by means of a levy issued by the Combined County Authority to the constituent councils under section 74 of the Local Government Finance Act 1988(b) and in accordance with the Transport Levying Bodies Regulations 1992(c).

### **Conferral of Business Rate Supplements functions**

**29.** The Combined County Authority has, in relation to the Area, functions corresponding to the functions conferred on the Greater London Authority in relation to Greater London by the BRS Act, except for the functions conferred by section 3(5) (use of money raised by a BRS) of that Act.

### **Application of BRS Act in consequence of regulation 30**

**30.** For the purposes of regulation 29, the BRS Act applies to the Combined County Authority 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 included references to the Combined County Authority;
- (b) references in that Act to a lower-tier authority were, in relation to the Combined County Authority, references to a district council.

## **PART 10**

### **Additional functions**

#### **Assessment of economic conditions**

**31.**—(1) The functions of the constituent councils in section 69 of the Local Democracy, Economic Development and Construction Act 2009 (duty to prepare an assessment of economic conditions)(d) are exercisable by the Combined County Authority in relation to the Area.

(2) The function referred to in paragraph (1) is exercisable concurrently with the constituent councils.

(3) Any requirement in any enactment for a constituent council to exercise the function referred to in paragraph (1) may be fulfilled by the exercise of that function by the Combined County Authority.

(4) The provision referred to in paragraph (1) applies to the Combined County Authority as it applies to a constituent council.

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(a) 1992 c. 14. Section 40 was amended by section 83 of the Greater London Authority Act 1999, section 79 of and paragraph 7 of Schedule 17 to the Localism Act 2011 and section 5 of the Cities and Local Government Devolution Act 2016.  
 (b) 1988 c. 41. There are also amendments to section 74.  
 (c) S.I. 1992/2789, to which there are amendments not relevant to these Regulations.  
 (d) 2009 c. 20.

## Data sharing

**32.**—(1) The functions of the constituent councils described in section 17A of the Crime and Disorder Act 1998 (sharing of information)(a) are exercisable by the Combined County Authority in relation to the Area.

(2) The Combined County Authority is a relevant authority for the purposes of section 115 of the Crime and Disorder Act 1998 (disclosure of information)(b).

(3) The functions mentioned in paragraph (1) are exercisable concurrently with the constituent councils.

## Incidental provisions

**33.**The following provisions of the Local Government Act 1972 have effect in relation to the Combined County Authority as if it were a local authority—

- (a) section 113 (power to place staff at the disposal of other local authorities)(c);
- (b) section 142(2) (power to arrange for publication of information etc relating to the functions of the authority)(d);
- (c) section 144 (power to encourage visitors and provide conference and other facilities)(e);
- (d) section 145 (provision of entertainments)(f);
- (e) section 222 (power to prosecute and defend legal proceedings).

**34.**—(1) The Combined County Authority has the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information)(g) whether or not a scheme is made under that section.

(2) For the purposes of paragraph (1), section 88(1) of the Local Government Act 1985 has effect as if a reference to “that area” were a reference to the Area.

**35.**—(1) Section 13 of the 1989 Act (voting rights of members of certain committees)(h) has effect in relation to the Combined County Authority as if—

- (a) in subsection (4), after paragraph (h) there were inserted—

- 
- (a) 1998 c. 37. Section 17A was inserted by paragraph 5 of Schedule 9 to the Police and Justice Act 2006 (c. 48) and amended by paragraph 45 of Schedule 19 to the Data Protection Act 2018 (c.12).
  - (b) Section 115 was amended by paragraph 151 of Part 2 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43); by section 97 of the Police Reform Act 2002 (c. 30); by section 219 of the Housing Act 2004 (c. 34); by paragraph 7 of Schedule 9 to the Police and Justice Act 2006; by section 29 of the Transport for London Act 2008 (c. i); by paragraph 238 of Part 3 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13); by paragraph 90 of Schedule 5 to the Health and Social Care Act 2012 (c. 7); by paragraph 80 of Schedule 1 and paragraph 106 of Schedule 2 to the Policing and Crime Act 2017 (c. 3); by paragraph 1(1) of Schedule 1 and paragraph 57 of Schedule 4 to the Health and Care Act 2022 (c. 31); and by S.I. 2000/90, 2002/2469, 2007/961, 2008/912, 2010/866, 2013/602.
  - (c) Section 113 was amended by paragraph 151 of Schedule 4 to the National Health Service Reorganisation Act 1973 (c. 32); by paragraph 13 of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19); by paragraph 18 of Schedule 4 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); by paragraph 4 of Schedule 3 to the Health Protection Agency Act 2004 (c. 17); by paragraph 51(a) of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43); by paragraph 17 of Schedule 5, paragraph 3 of Schedule 7, and paragraph 3 of Schedule 17 to the Health and Social Care Act 2012; by paragraph 1(2) of Schedule 1 and paragraph 11(2) and (3) of Schedule 4 to the Health and Care Act 2022; and by S.I. 2000/90, 2002/2469, 2007/961. It is prospectively amended by paragraph 45 of Schedule 14 to the Health and Social Care Act 2012 from a date and time to be appointed.
  - (d) Subsection (2) was amended by section 3(1)(a) of the Local Government Act 1986 (c. 10).
  - (e) Section 144 was amended by Schedule 2 to the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); by section 190 of the Local Government, Planning and Land Act 1980 (c. 65); and by Schedule 17 to the Local Government Act 1985.
  - (f) Section 145 was amended by paragraph 59 of Schedule 6 to the Licensing Act 2003 (c. 17).
  - (g) 1985 c. 51.
  - (h) Section 13 was amended by paragraph 156 of Schedule 19 and paragraph 96 of Schedule 37(I) to the Education Act 1993 (c. 35); by paragraph 36 of Part 1 of Schedule 4 and Part 1 of Schedule 9 to the Police and Magistrates' Courts Act 1994 (c. 29); by Schedule 24 to the Environment Act 1995 (c. 25); by paragraph 96 of Schedule 37 to the Education Act 1996 (c. 56); by paragraph 22 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31); by Part 4 of Schedule 5 to the Children Act 2004 (c. 31); by paragraph 81 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20); by paragraph 14 of Schedule 14 and by Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23); by paragraph 15 of Schedule 8 to the Public Service Pensions Act 2013 (c. 25); by paragraph 12 of Schedule 5 to the Cities and Local Government Devolution Act 2016; by section 7 of the Policing and Crime Act 2017 (c. 3); and by S.I. 2001/1517, 2010/1158.

“(i) subject to subsection (4A), a committee appointed by the East Midlands Combined County Authority;”;

(b) after subsection (4) there were inserted—

“(4A) A person who is a member of a committee falling within paragraph (i) of subsection (4) or a sub-committee appointed by such a committee is for all purposes to be treated as a non-voting member of that committee or sub-committee unless that person is a member of one of the constituent councils as defined by regulation 2 of the East Midlands Combined County Authority Regulations 2023.”.

**36.**In Part 2 of Schedule 3 (pension funds) to the Local Government Pension Scheme Regulations 2013(a) in the table insert at the end—

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“An employee of the East Midlands Combined County Authority established by the East Midlands Combined County Authority Order 2023	Nottinghamshire County Council”.
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Signed by authority of the Secretary of State for Levelling Up, Housing and Communities

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department for Levelling Up, Housing and Communities

## SCHEDULE 1

Regulation 4

### Constitution

#### Membership

**1.**—(1) Subject to sub-paragraph (4), the Combined County Authority is to have eight members in addition to the Mayor as provided for in the following sub-paragraphs.

(2) Each of the constituent councils must appoint two of its elected members to act as members of the Combined County Authority.

(3) Each constituent council must designate one of the members appointed under sub-paragraph (2) to act as lead member.

(4) Each constituent council must appoint another two of its elected members to act as a member of the Combined County Authority in the absence of either of the members appointed under sub-paragraph (2) (“the substitute member”).

(5) A person ceases to be a member or substitute member of the Combined County Authority if they cease to be a member of the constituent council that appointed them.

(6) A person may resign as a member or substitute member of the Combined County Authority by written notice served on the proper officer of the constituent council that appointed them, and the resignation takes effect on receipt of the notice by the proper officer of the council.

(7) Where a member or substitute member of the Combined County Authority’s appointment ceases by virtue of sub-paragraph (5) or (6) the constituent council that made the appointment must, as soon as practicable, give written notice of that fact to the Combined County Authority and appoint another of its elected members in that person’s place.

(8) A constituent council may at any time terminate the appointment of a member or substitute member appointed by it to the Combined County Authority and appoint another one of its elected members in that person’s place.

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(a) S.I. 2013/2356, amended by S.I. 2015/755; there are other amending instruments but none is relevant.

(9) Where a constituent council exercises its power under sub-paragraph (8), it must give written notice of the new appointment and the termination of the previous appointment to the Combined County Authority and the new appointment takes effect and the previous appointment terminate at the end of one week from the date on which the notice is given or such longer period not exceeding one month as is specified in the notice.

(10) For the purposes of this paragraph, an elected mayor of a constituent council is to be treated as a member of the constituent council.

### **Non-constituent and associate members**

**2.—**(1) The Combined County Authority must have no more than eight non-constituent members and associate members.

(2) Each nominating body of the Combined County Authority must nominate another person to act as the member of the Combined County Authority in the absence of the member appointed under section 11(3) of the 2023 Act (non-constituent members of a CCA).

(3) An associate member appointed under section 12(1) of the 2023 Act (associate members of a CCA) must nominate another person to act as a member of the Combined County Authority in their absence.

### **Proceedings**

**3.—**(1) Subject to the following sub-paragraphs, any questions that are to be decided by the Combined County Authority are to be decided by a majority of the members and substitute members, acting in place of members, present and voting on that question at a meeting of the Combined County Authority and such majority is to include the Mayor, or the deputy Mayor acting in place of the Mayor.

(2) No business may be transacted at a meeting of the Combined County Authority unless the Mayor or the deputy mayor acting in place of the Mayor and at least three members of the Combined County Authority appointed by constituent councils under paragraph 1(2) or the substitute member acting in their place are present.

(3) Where the deputy mayor is acting in the place of the Mayor they cannot also act in their capacity as a member of the Combined County Authority.

(4) Each constituent council member, or substitute member acting in that member's place, and the Mayor is to have one vote and no member, substitute member, or the Mayor is to have a casting vote.

(5) If a vote is tied on any matter it is deemed not to have been carried.

(6) Questions relating to the following matters require the majority to include the lead member, or substitute for that lead member acting in place of that member, appointed by the constituent councils to be carried—

- (a) approval or amendment of a budget;
- (b) setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder; and
- (c) such other plans and strategies as may be determined by the Combined County Authority and set out in its standing orders.

(7) The proceedings of the Combined County Authority are not invalidated by any vacancy among its members or substitute members or by any defect in the appointment or qualifications of any member or substitute member.

### **Records**

**4.—**(1) The Combined County Authority must make arrangements for the names of members and substitute members present at any meeting to be recorded.

(2) Minutes of the proceedings of a meeting of the Combined County Authority, or any committee or sub-committee of the Combined County Authority, are to be kept in such form as the Combined County Authority may determine.

(3) Any such minutes are to be signed at the same or next suitable meeting of the Combined County Authority, committee or sub-committee as the case may be, by the person presiding at that meeting.

(4) Any minute purporting to be signed as mentioned in sub-paragraph (3) is to be received in evidence without further proof.

(5) Until the contrary is proved, a meeting of the Combined County Authority, committee or sub-committee, a minute of whose proceedings has been signed in accordance with this paragraph, is deemed to have been duly convened and held, and all the members and substitute members present at the meeting are deemed to have been duly qualified.

(6) For the purposes of sub-paragraph (3) the next suitable meeting is the next following meeting or, where standing orders made by the Combined County Authority provide for another meeting of the authority, committee or sub-committee, to be regarded as suitable, either the next following meeting or that other meeting.

### **Standing orders**

5. The Combined County Authority may make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders.

### **Remuneration**

6. Subject to paragraphs 7, 8 and 9 no remuneration is to be payable by the Combined County Authority to its members, other than allowances for travel and subsistence paid in accordance with a scheme drawn up by the Combined County Authority.

7.—(1) The Combined County Authority may establish an independent remuneration panel to recommend a scheme to the Combined County Authority regarding the allowances payable to—

- (a) the Mayor;
- (b) the deputy mayor provided that the deputy mayor is not a leader or elected mayor of a constituent council;
- (c) independent persons appointed under article 5 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017(a); and
- (d) members of the overview and scrutiny committee and audit committee.

(2) An independent remuneration panel must consist of at least three members none of whom—

- (a) is also a member of the Combined County Authority or is a member of a committee or sub-committee of the Combined County Authority or a member of a constituent council of the Combined County Authority or a member of a district council; or
- (b) is disqualified from being or becoming a member of the Combined County Authority.

(3) The Combined County Authority may pay the expenses incurred by the independent remuneration panel established under paragraph (1) in carrying out its functions and may pay the members of the panel such allowances or expenses as the Combined County Authority may determine.

8. The Combined County Authority may only pay an allowance to the people listed in paragraph 7(1)(a) to (d) if the Combined County Authority has —

- (a) considered a report published by the independent remuneration panel established under paragraph 7(1) which contains recommendations for such an allowance; and

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(a) S.I. 2017/68, as amended by S.I [tbc]/2023.

- (b) approved a scheme for the payment of the allowance providing that scheme does not provide for the payment of allowances of an amount in excess of the amount recommended by the independent remuneration panel.

9. The Combined County Authority must consider a report from the independent remuneration panel before approving a scheme under paragraph 7.

## SCHEDULE 2

Regulation 10(5)

### PART 1

#### Modification of the application of Chapter 2 of Part 1 of the 2008 Act

1.—(1) Chapters 1 and 2 of Part 1 of the 2008 Act apply in relation to the Combined County Authority as modified in accordance with the following provisions.

(2) Sections 5 (powers to provide housing or other land), 6 (powers for regeneration, development or effective use of land), 7 (powers in relation to infrastructure), 8 (powers to deal with land etc), 9 (acquisition of land), 10 (restrictions on disposal of land) and 11 (main powers in relation to acquired land) of, and Schedules 2 to 4 to, the 2008 Act, have effect as if for each reference to—

- (a) “the HCA” there were substituted a reference to “the Combined County Authority”;
- (b) “Part 1” of that Act there were substituted a reference to “Part 4 of the East Midlands Combined County Authority Regulations 2023”; and
- (c) land acquired or held by the HCA there were substituted a reference to land acquired or held by the Combined County Authority.

(3) Sections 5, 6, 8, 9 and 10 of the 2008 Act have effect as if for every reference to “land” there were substituted a reference to “land in the area of the Combined County Authority”;

(4) Section 57(1) of the 2008 Act is to have effect as if before “develop” there were inserted—

““Combined County Authority” means the East Midlands Combined County Authority, a body corporate established under the East Midlands Combined County Authority Regulations 2023;”.

### PART 2

#### Modification of the application of Schedules 2 to 4 to the 2008 Act

2.—(1) Schedules 2 to 4 to the 2008 Act apply in relation to the Combined County Authority as modified in accordance with the following provisions.

(2) Part 1 of Schedule 2 to the 2008 Act (compulsory acquisition of land) has effect as if for each reference to “section 9” of that Act there were substituted a reference to “regulation 7 of the East Midlands Combined County Authority Regulations 2023”;

(3) Schedule 3 to the 2008 Act (main powers in relation to land acquired by the HCA) is to have effect as if for references to land which has been vested in or acquired by the HCA there were substituted references to land which has been vested in or acquired by the Combined County Authority.

(4) Schedule 4 to the 2008 Act (powers in relation to, and for, statutory undertakers) has effect as if for each reference to the HCA in Part 1 of that Act there were substituted a reference to the functions conferred on the Combined County Authority under regulation 7 of the East Midlands Combined County Authority Regulations 2023.

## SCHEDULE 3

Regulation 12(1)

### Modification of the application of Part 8 of the 2011 Act

1.—(1) Chapter 2 of Part 8 of the 2011 Act (Mayoral development corporations) applies in relation to the Combined County Authority as modified in accordance with the following provisions.

(2) Section 196 of the 2011 Act (interpretation of Chapter) has effect as if for the definitions of “the Mayor” and “MDC” there were substituted—

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

“the Combined County Authority” means the Combined County Authority, established by the East Midlands Combined County Authority Regulations 2023;

“Corporation” means a corporation established by the Secretary of State in accordance with the provisions in section 198 following the designation of an area of land by the Combined County Authority;

“National Park” means the Peak District National Park<sup>(a)</sup>; and

“National Park authority” means a National Park authority for a National Park.”.

(3) Sections 197 to 222 of the 2011 Act have effect as if for each reference to—

(a) “the Greater London Authority” there were substituted “the Combined County Authority”;

(b) “the Mayor” there were substituted “the Combined County Authority” except for the occurrences in sections 197(3)(d) and (e), 199(2), 202(7)(a) and 214(4)(a); and

(c) “MDC” there were substituted “Corporation”.

(4) Section 197 of the 2011 Act (designation of Mayoral development areas) has effect as if—

(a) in subsection (1) for “Greater London” there were substituted “the Area”;

(b) in subsection (3)(a) for, “any one or more of the Greater London Authority’s principal purposes”, there were substituted “economic development and regeneration in the Area”;

(c) in subsection (3)(d)—

(i) for “the London Assembly” there were substituted “the members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members)”;

(ii) for “the Mayor” there were substituted “the Mayor for the Area”; and

(iii) for “subsection (4)(d), (e), (f) or (g)” there were substituted “subsection (4)(d) or (e)”;

(d) in subsection (3)(e)—

(i) for “the Mayor” there were substituted “the Mayor for the Area”; and

(ii) for “the London Assembly” there were substituted “the Combined County Authority”;

(e) in subsection (3)(f) for “the London Assembly” there were substituted “the Combined County Authority”;

(f) in subsection (4)—

(i) in paragraph (a) for “the London Assembly” there were substituted “the members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members)”;

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(a) Column 1 of Part 1 of Schedule 1 to the National Park Authorities (England) Order 2015 (S.I. 2015/770) lists the National Parks.



- (ii) paragraph (b) were omitted;
  - (iii) in paragraph (d) for “each London borough council whose borough” there were substituted “each district council whose local government area”;
  - (iv) in paragraph (e) for “the Common Council of the City of London if any part of the area is within the City” there were substituted “a National Park authority if any part of the area is within a National Park.”;
  - (v) paragraphs (f) and (g) were omitted;
  - (g) in subsection (5)—
    - (i) in paragraph (a) for “the London Assembly” there were substituted “the Combined County Authority”;
    - (ii) in paragraph (b) for “the London Assembly” there were substituted “the Combined County Authority”;
    - (iii) in paragraph (b)(i) for “the Assembly” there were substituted “the Combined County Authority”;
    - (iv) in paragraph (b)(ii) for “the Assembly members voting” there were substituted “all members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members) present and voting on that motion”;
  - (h) in subsection (6)(c) for “Mayoral development corporation” there were substituted “Corporation”; and
  - (i) subsection (7) were omitted.
- (5) Section 198 of the 2011 Act (Mayoral development corporations: establishment) has effect as if—
- (a) in the heading for “Mayoral development corporations” there were substituted “Corporations”; and
  - (b) for every reference to “Mayoral development corporation” there were substituted “Corporation”.
- (6) Section 199 of the 2011 Act (exclusion of land from Mayoral development areas) has effect as if—
- (a) for “the London Assembly” there were substituted “the members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members)”;
  - (b) in subsection (2) for “the Mayor” there were substituted “the Mayor for the Area”.
- (7) Section 200 of the 2011 Act (transfers of property etc to a Mayoral development corporation) has effect as if—
- (a) in subsection (3)—
    - (i) in paragraph (a), for “a London borough council” there were substituted “a district council wholly or partly in the Area”;
    - (ii) paragraph (b) were omitted;
    - (iii) in paragraphs (d) and (e), for “in Greater London” there were substituted “in the Area”;
    - (iv) paragraph (k) were omitted;
  - (b) in subsection (4) paragraph (b) were omitted; and
  - (c) in subsection (10), the definitions of “functional body” and “public authority” were omitted.
- (8) Section 201 of the 2011 Act (object and powers) has effect as if subsection (8)(b) were omitted.
- (9) Section 202 of the 2011 Act (functions in relation to town and country planning) has effect as if—

- (a) in subsection (7)(a) for “the Mayor” there were substituted “the Mayor for the Area”;
  - (b) in subsection (7)(c) for “the London Assembly” there were substituted “the members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members)”, and
  - (c) in the definition of “affected local authority” for “(d), (e), (f) or (g)” substitute “(d) or (e)”. “. .
- (10) Section 203 of the 2011 Act (arrangements for discharge of, or assistance with, planning functions) has effect as if—
- (a) for each reference to “a London borough council or the Common Council of the City of London” there were substituted “a district council, county council or a National Park authority”; and
  - (b) in subsections (1) and (5), for each reference to “council” there were substituted “council or National Park Authority”.
- (11) Section 207 of the 2011 Act (acquisition of land) has effect as if—
- (a) in subsection (2) for “in Greater London” there were substituted “in the Area”; and
  - (b) in subsection (3) for “the Mayor of London” there were substituted “the Combined County Authority”.
- (12) Section 214 of the 2011 Act (powers in relation to discretionary relief from non-domestic rates) has effect as if—
- (a) in subsection (4)(a) for “the Mayor” there were substituted “the Mayor for the Area”;
  - (b) in subsection (4)(c) for “the London Assembly or an affected local authority” there were substituted “the members of the Combined County Authority who are appointed by the constituent councils (including substitute members, acting in place of those members) or a district council wholly or partly in the Area”; and
  - (c) in subsection (4) the definition of “affected local authority” were omitted.
- (13) Section 216 of the 2011 Act (transfers of property, rights and liabilities) has effect as if—
- (a) in subsection (2) “, (e)” were omitted; and
  - (b) in subsection (4)—
    - (i) the definition of “functional body” were omitted; and
    - (ii) in the definition of “permitted recipient”—
      - (aa) paragraph (b) were omitted,
      - (bb) in paragraph (d) for “a London borough council” there were substituted “a district council within the Area”, and
      - (cc) paragraph (e) were omitted.
- (14) Schedule 21 to the 2011 Act (Mayoral development corporations) has effect as if—
- (a) for each reference to—
    - (i) “the Mayor” there were substituted “the Combined County Authority”, except for the reference in paragraph 1(1);
    - (ii) “the Mayor’s” there were substituted “the Combined County Authority’s”;
  - (b) for each reference to “an MDC” there were substituted “the Corporation”;
  - (c) in paragraph 1(1)—
    - (i) for “A Mayoral development corporation (“MDC”)” there were substituted “A Corporation”;
    - (ii) for the reference to “the Mayor of London (“the Mayor”)” there were substituted “the Combined County Authority”;
  - (d) in paragraph 1(2) for “each relevant London council” there were substituted “each relevant district council”;

- (e) in paragraph 1(3)—
  - (i) sub-paragraph (a) were omitted; and
  - (ii) in sub-paragraph (b) for “a London council” there were substituted “a district council”;
- (f) in paragraph 1(5), for “an MDC” there were substituted “A Corporation” and for “MDC’s” there were substituted “Corporation’s”;
- (g) in paragraph 2(5)(d) for “a relevant London council” there were substituted “a relevant district council”;
- (h) in paragraph 3—
  - (i) for “an MDC” there were substituted “a Corporation”;
  - (ii) for “An MDC’s” in each place in which it occurs there were substituted “A Corporation’s”; and
  - (iii) for the “the MDC’s” there were substituted “the Corporation’s”.
- (i) in paragraph 4(4) for “the London Assembly” there were substituted “the Combined County Authority”;
- (j) in paragraph 9(c) for “each relevant London council” there were substituted “each relevant district council”; and
- (k) in paragraph 10(1)(c) the reference to “and to the London Assembly” were omitted.

## SCHEDULE 4

Regulation 20(4)

### Permit schemes: modification of the application of Part 3 of the Traffic Management Act 2004

1.—(1) Part 3 of the 2004 Act is modified as follows.

(2) Section 33A (implementation of permit schemes of strategic highways companies and local highway authorities in England) has effect as if—

- (a) subsection (1) were omitted;
- (b) for subsection (2) there were substituted—
 

“(2) A permit scheme prepared in accordance with section 33(1) or (2) by the Combined County Authority does not have effect in the Area unless the Combined County Authority gives effect to it by order.”;
- (c) subsection (3) were omitted.

(3) Section 36 (variation and revocation of permit schemes) has effect as if, for subsections (1) to (3) there were substituted—

“(1) The Combined County Authority may by order vary or revoke a permit scheme to the extent that it has effect in the Area by virtue of an order made by the Combined County Authority under section 33A(2).

(2) The Secretary of State may direct the Combined County Authority to vary or revoke a permit scheme by an order under subsection (1).

(3) An order made by the Combined County Authority under subsection (1) may vary or revoke an order made by the Combined County Authority under section 33A(2), or an order previously made by the Combined County Authority under subsection (1).”.

(4) Section 39 (interpretation of Part 3) has effect as if, in subsection (1), after the definition of “the appropriate national authority”, there were inserted—

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

“the Combined County Authority” means the East Midlands Combined County Authority;”.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations establish the East Midlands Combined County Authority (“the Combined County Authority”), and provide for the conferral of functions of local authorities and other public authorities on the Combined County Authority.

Part 2 of the Levelling-up and Regeneration Act 2023 (c. 55) (“the 2023 Act”) provides for the establishment of combined county authorities for the areas of two or more local authorities in England. Combined county authorities are bodies corporate which may be given power to exercise specified functions in their area.

The Secretary of State may establish a combined county authority for an area where a proposal for such an authority has been submitted under section 45 of the 2023 Act. These Regulations have been made following the publication of such a proposal in March 2023 by the constituent councils whose areas together make up the combined area of the new authority. The proposal is available at: <https://committee.nottinghamcity.gov.uk/documents/s145908/Appendix%201%20-%20East%20Midlands%20CCA%20Proposal.pdf>.

Part 2 of these Regulations establishes the new Combined County Authority, and makes provision for its constitution (in Schedule 1).

Part 3 of these Regulations provides for the election of a Mayor and for the appointment of a political advisor to the Mayor.

Part 4 of these Regulations confers on the Combined County Authority functions in relation to housing and regeneration which are to be exercised concurrently with the Homes and Communities Agency. It also makes provision about the acquisition and appropriation of land for planning and public purposes and sets out conditions on the exercise of various functions. Regulation 10 and Schedule 2 apply and modify relevant provisions in legislation.

Part 5 of these Regulations confers on the Combined County Authority functions corresponding to those of the Mayor of London in relation to the designation of a Mayoral development area. Schedule 3 to these Regulations modifies Part 8 of and Schedule 21 to the Localism Act 2011 (c. 20) which make provision about the establishment of a Mayoral development corporation, its objects and powers as well as its constitution and governance.

Part 6 of these Regulations confers on the Combined County Authority functions relating to transport. It transfers functions relating to local transport planning and public transport from the local authorities to the Combined County Authority and makes provision for specified highways and traffic powers held by the local authorities to be exercised concurrently by the Combined County Authority. It confers powers for the Mayor to pay grants, including to bus service operators. It also makes incidental provision.

Part 7 of these Regulations provides for the conferral of certain public health functions of local authorities on the Combined County Authority, which are exercisable concurrently with the constituent councils (see regulation 2). The Combined County Authority has a duty to make steps for improving the health of the people in its area. The Combined County Authority is considered a NHS body in certain circumstances; may enter into partnership with an NHS body; and must have due regard to the NHS Constitution.

Part 8 of these Regulations sets out the functions of the Combined County Authority which are to be only exercisable by the Mayor and makes provision in relation to Joint Committees.

Part 9 of these Regulations makes provision for the funding, by the constituent councils, of those costs of the Combined County Authority that relate to the exercise of its functions. Regulation 31 provides that the Combined County Authority is to have in relation to its area functions corresponding to the functions that the Greater London Authority has under the Business Rate

Supplements Act 2009 (c. 7) to levy a supplement on business rates to raise money for expenditure on a project which will promote economic development in its area.

Part 10 of these Regulations confers additional functions to be exercisable by the Combined County Authority concurrently with the constituent councils, including functions relating to economic assessments and data sharing.

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

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## **Appendix – Differences to note between powers listed in proposal and the draft East Midlands Combined County Authority Regulations 2023**

As set out in the main report, there are some differences between the powers listed as proposed to be transferred to either the EMCCA or the Mayor in the Proposal, and the powers as reflected in the Statutory Instrument. The changes are generally minor, although there are relatively numerous changes to the timing and sequencing of transport powers. These are listed below for clarity.

### Transport

1. As a result of a change of position on some points by the DfT, there are a number of changes to the provisions in the powers table in relation to concurrency and consent. There is also a change in the specific powers identified in the Regulations in relation to the workplace parking levy:

#### **a. Powers under Part 2 of the Transport Act 2000**

The powers table specified that a number of powers within the 2000 Act would be concurrent and continuing whilst others would be concurrent within the transition period or the transition period and for an extended period to 2027. Under the Regulations, there have been the following changes<sup>1</sup> in respect of concurrency:

- S113C-123, 123A-123X, 124-134B, 142-143B and s152-162 (various provisions relating to bus services) are concurrent for the transition period where they were not to be concurrent under the powers table. This means that the Constituent Councils will be able to exercise these powers until such time as they are transferred to the EMCCA under the transition plan.
- S138A-138S (relating to enhanced partnership plans) are concurrent for the transition period only where they were proposed under the powers table to be concurrent for the duration of the transition period and for an extended period to 2027. This means that the Constituent Councils will have a more limited time during which they can exercise these powers prior to the transfer to the EMCCA.
- S163-177 (road user charging) are no longer concurrent and continuing. Instead, Chapters 2 and 3 of Part 3 (sections 178-200 relating to the workplace parking levy, general and supplementary powers) are concurrent and continuing. This is because powers under s163-177 (Chapter 1 of Part 3) are provided for directly in amendments made in the Act.

The powers table also specified powers that should only be exercised with consent. Specifically, it provided that for powers relating to local transport plans (sections 108, 109 and 112), consent of the Constituent Councils would be required until the end of the transition period. This has changed under the Regulations so that consent is not required but the exercise of powers under sections 108-113 require a unanimous vote during the transition period. In practice, this has the same implications as a consenting requirement.

Additionally, the powers table specified that powers under s163-190 (road user charging and workplace parking levy) would require consent under the act. As s163-177 are provided for under the Act directly, these are not subject to consenting arrangements. Importantly, the power for the EMCCA to make a charging scheme under s163(3)(bb) is a power to make it “jointly” with one or more local traffic authorities. As such, the EMCCA will not be able to make a charging scheme absent the agreement of the relevant Constituent Council.

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<sup>1</sup> Note the following identified in the powers table which remain consistent:

- s134C-134G and 135 – 138 are concurrent and continuing, consistent with the powers table.
- S139 to 141A are concurrent for the transition period which is consistent with the powers table
- S145 to 150 has been replaced with 145A, 146, and 148 to 150 as concurrent and continuing. This is consistent with the powers table as s145 has been revoked.

**b. Powers under Part 4 of the Transport Act 1985**

The powers table specified that a number of powers under Part 4 of the 1985 Act would be concurrent and continuing or concurrent for the length of the transition period. Under the regulations, there have been the following changes<sup>2</sup> in respect of concurrency:

- Powers under s57-62 (passenger transport areas), 85-87 (provisions relating to the creation of passenger transport executives) will be concurrent for the duration of the transition period whilst they were not concurrent in the powers table. This means that the Constituent Councils will be able to exercise these powers until such time as they are transferred to the EMCCA under the transition plan.
- Powers under s80-83 and 84 (duties of passenger transport areas, provisions relating to bus stations, and compensation for loss of employment)) will be concurrent for the duration of the transition period whilst they were proposed as concurrent and continuing within the powers table. This means that the Constituent Councils will have a limited time during which they can exercise these powers prior to the transfer to the EMCCA

**c. Powers under Part 5 of the Transport Act 1985**

The powers table specified that a number of powers under Part 5 of the 1985 Act would be concurrent and continuing or concurrent for the length of the transition period. Under the regulations, there have been the following changes<sup>3</sup> in respect of concurrency

- Powers under sections 103-104 (relating to travel concessions) will be concurrent for the duration of the transition period whilst they were not concurrent in the powers table. This means that the Constituent Councils will be able to exercise these powers until such time as they are transferred to the EMCCA under the transition plan.
- Powers under sections 107-109 are identified as concurrent and continuing within the powers table and are not concurrent and continuing in the Regulations. This does not raise concerns as s107 and s109 (in England and Wales) have been repealed and s108 relates to grants for establishment of rural passenger services in Wales and Scotland which is not applicable either for the Constituent Councils or the EMCCA.

Other technical amendments

2. As a result of a change of position on some points by DLUHC there are a small number of technical changes from the provisions in the powers table.
3. The powers table specified that the consent of the local planning authority affected would be required to exercise by the EMCCA of any of the powers in sections 226, 227, 229, 230(1)(a), 232, 233, 236, 238, 239 and 241. In fact, LPA consent is only required to exercise of the compulsory purchase provision in section 226. The other provisions deal predominantly with other dealings in land (i.e. acquisition in the open market, disposal of land, development of land) rather than with planning functions and so it is not necessary for the LPA to consent to the other provisions.
4. The powers table indicated that it would be the EMCCA which had the compulsory purchase power in section 9(2) of the Housing and Regeneration Act 2008, but in fact this is prescribed in the Regulations as a mayoral power. The Regulations provide that as well as the LPA for the area being required to consent to exercise of the power by the Mayor, the Lead Member for the Constituent Council in whose area the compulsory purchase is to take place will also need to consent providing protection for the Constituent Councils. In addition, the EMCCA itself also retains (as referenced above) the compulsory purchase power under section 226 of the Town and Country Planning Act 1990.

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<sup>2</sup> Note that S63-64, 65-71 and 72-79 are concurrent and continuing, consistent with the powers table

<sup>3</sup> Note that s88-92, 93-101, 105,106 and 106A are concurrent and continuing, consistent with the powers table



5. Likewise, the compulsory purchase power in section 17(3) of the Housing Act 1985 are prescribed in the Regulations as Mayoral rather than EMCCA powers, with the same inbuilt safeguards.
6. In relation to public health, the power under section 6C of the NHS Act 2006 for the Secretary of State to make Regulations about health which apply to the EMCCA which was set out in the powers table is not applied to the EMCCA under the Regulations. This was following discussion with the Department for Health and Social Care and DLUHC where they explained that the Secretary of State could use equivalent provisions within the Levelling Up and Regeneration Act 2023 if necessary.
7. In addition, a number of powers which have been included in the East Midlands Combined County Authority Regulations 2023 were not specifically referenced in the powers table. These include the power under section 88 of the Local Government Act 1985 (the power to research and collect information), and section 31 of the Local Government Act 2003 (the power make a grant for any purpose) (which was included in the transport section, but in fact is a more general grant making power).

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