

**OFFICER DELEGATION SCHEME
RECORD OF EXECUTIVE DECISION**



TO BE UPLOADED TO THE E-MEETINGS MANAGER

Date: 24 January 2019	Ref No:
Responsible Officer: Chief Executive	
Type of Decision:	
Key	<input checked="" type="checkbox"/>
Non-Key	<input type="checkbox"/>
Status: For Publication	
Title/Subject matter: The Greater Manchester Combined Authority (Functions and Amendment) Order 2019	
Budget/Strategy/Policy/Compliance – Is the decision:	
(i) within an Approved Budget	✓
(ii) not in conflict with Council Policy	✓
(iii) not raising new issues of Policy	✓
Equality Impact Assessment [Does this decision change policy, procedure or working practice or negatively impact on a group of people? If yes – complete EIA and summarise issues identified and recommendations – forward EIA to Corporate HR]	This decision does not impact on the Council's equalities duty.

Summary: A draft version of the Greater Manchester Combined Authority (Functions and Amendment) Order 2019 has been received from the Ministry of Housing, Communities and Local Government, who require confirmation of consent to such in order to lay it before Parliament. Consent is required to the draft order by 25 January 2019. The draft order is attached as an appendix to this record form.

This order will fulfil a commitment in the devolution deal agreed with Greater Manchester Authorities in 2015. It will confer of specified transport functions on the Combined Authority and functions to be exercisable by the Mayor. It also provides for the constitution of a joint transport committee to discharge specified functions. Additional provision is made in the order for the funding by the Council and other Greater Manchester Councils of the costs of the Mayor in exercising specified functions, if the Mayor decides not to meet these costs from other resources available to the Mayor. The order also amends current arrangements to ensure consistency of voting requirements for the constituent councils.

Council and Cabinet previously delegated authority to the Chief Executive in consultation with the Leader to finalise the Council's response to the statutory orders. Agreement is required to the draft Order.



Wards affected: All

Consultations: All Greater Manchester Councils

Scrutiny & Review Committee Interest:

Options considered: Due to the urgent nature of the consent required by the Government, no other options were considered.

Decision To confirm consent to the draft Order (as attached to this decision form).

Decision made by:	Signature:	Date:
Director or Chief/Senior Officer		
Members Consulted [see note 1 below]		
Leader		24/11/19
Lead Member		
Opposition Spokesperson		

Notes

1. Where, in accordance with the requirements of the Officer Delegation Scheme, a Chief Officer consults with the appropriate Cabinet Member they must sign the form so as to confirm that they have been consulted and that they agree with the proposed action. The signature of the Opposition Spokesperson should be obtained to confirm that he/she has been consulted.
2. **This form must not be used for urgent decisions.**

DRAFT STATUTORY INSTRUMENTS

2019 No.

LOCAL GOVERNMENT, ENGLAND

TRANSPORT, ENGLAND

The Greater Manchester Combined Authority (Functions and
Amendment) Order 2019

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104(1)(a), 105(3), 105A(1) and (3), 107D(1) and (7), 107E(1) to (4), 114(1) and 117(5) of the Local Democracy, Economic Development and Construction Act 2009(a) ("the 2009 Act").

The Secretary of State, having had regard to a scheme prepared and published under section 112 of the 2009 Act(b), considers that—

- (a) the making of this Order is likely to improve the exercise of statutory functions in the area to which the Order relates, and;
- (b) any consultation required by section 113(2) of the 2009 Act(c) has been carried out.

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

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- (a) 2009 c. 20. Section 104 was amended by sections 8 and 14 of, and Schedule 5 to, the Cities and Local Government Devolution Act 2016 (c.1) ("the 2016 Act"). Section 105 was amended by sections 6, 9, and 14 of the 2016 Act. Section 105A was inserted by section 7 of the 2016 Act. Sections 107D and 107E were inserted by section 4 of the 2016 Act. Section 114 was amended by Schedule 5 to the 2016 Act. Section 117 was amended by section 13(2) of the Localism Act 2011 (c. 20) and Schedule 5 to the 2016 Act.
- (b) Section 112 was amended by sections 6 and 23 of, and paragraphs 17 and 23 of Schedule 5 to, the 2016 Act.
- (c) Section 113 was amended by sections 12, 14 and 23 of, and paragraph 24 of Schedule 5 to, the 2016 Act.
- (d) Section 113(3) of the 2009 Act requires the Secretary of State, when making an order under sections 104, 105, 106 or 107 of the 2009 Act in relation to an existing combined authority, to have regard to these matters.
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In accordance with sections 105(3A) and 105B(1) and (2) of the 2009 Act, the Greater Manchester Combined Authority (“the GMCA”) and the district councils whose areas are comprised in the area of the GMCA have consented to the making of this Order(a).

In accordance with section 107D(9) of the 2009 Act the Mayor for the area of the GMCA, the GMCA, and the district councils whose areas are comprised in the area of the GMCA have consented to the making of this Order.

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

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

Citation and commencement

1.—(1) This Order may be cited as the Greater Manchester Combined Authority (Functions and Amendment) Order 2019.

(2) This Order comes into force on the day after the day on which it is made.

Interpretation

2. In this Order—

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

“the 2011 Order” means the Greater Manchester Combined Authority Order 2011;

“constituent councils” means the district councils for the local government areas of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford, and Wigan;

“GMCA” means the Greater Manchester Combined Authority, a body corporate established by the 2011 Order(c); and

“the Mayor” means the mayor for the area of the GMCA(d).

PART 1

Transport

Conferral of functions on the GMCA

3.—(1) The GMCA has in relation to its area the functions contained in the following provisions, that Transport for Greater Manchester(e) has in relation to that area—

(a) section 149(1) of the 2000 Act (reimbursement of operators)(a);

(a) This Order relates to the Greater Manchester Combined Authority, which was established by the Greater Manchester Combined Authority Order 2011 (S.I. 2011/908) as amended by the Greater Manchester Combined Authority (Amendment) Order 2015 (S.I. 2015/960), the Greater Manchester Combined Authority (Functions and Amendment) Order 2016 (S.I. 2016/1267), the Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612) and by the Greater Manchester Combined Authority (Amendment) Order 2018 (S. I. 2018/444).

(b) 2000 c. 38.

(c) Article 3(2) of the Greater Manchester Combined Authority Order 2011 provides that “the combined authority is to be a body corporate and to be known as the Greater Manchester Combined Authority (“the GMCA”)”.

(d) Article 3 of the Greater Manchester Combined Authority (Election of Mayor with Police and Crime Commissioner Functions) Order 2016 (S.I. 2016/448) provides for there to be a mayor for the area of the GMCA.

(e) Transport for Greater Manchester is an executive body of the GMCA as designated by article 9(2) of the 2011 Order.

- (b) section 150(1) and (2) (procedure for reimbursement arrangements determined by authority) of the 2000 Act (b);
 - (c) sections 88 to 92 and 93(6) of the Transport Act 1985(c); and
 - (d) section 9A(4) to (7) of the Transport Act 1968 (general functions of Authorities and Executives)(d).
- (2) The functions are exercisable by the GMCA instead of by Transport for Greater Manchester.

PART 2

Mayoral functions

4. The functions of the GMCA specified in Schedule 1 are general functions exercisable only by the Mayor(e).
5. For the purposes of the exercise of the general functions conferred by article 4—
- (a) members and officers of the GMCA may assist the Mayor; and
 - (b) the Mayor has the power to do in relation to the general functions anything that the GMCA may do under section 113A of the 2009 Act (general power of EPB or combined authority) for the purposes of its functions(f).

PART 3

Joint transport committee

6. The Mayor may enter into arrangements jointly with the GMCA and with the constituent councils in accordance with section 101(5) of the Local Government Act 1972 for the discharge of the functions listed in Schedule 2.

7.—(1) Where a joint transport committee is established in accordance with article 6 the members of the joint transport committee must be appointed in accordance with paragraphs (2) to (5).

(2) The members appointed by the GMCA must be members or substitute members of that authority or members of the constituent councils.

(3) The members appointed by the constituent councils must be members of those councils.

(4) The members appointed by the Mayor must be members of the GMCA or of the constituent councils.

(5) In appointing members to the joint transport committee—

(a) the Mayor, the GMCA and the constituent councils must ensure that—

(i) the number of members of the committee does not exceed twenty three;

(ii) members are appointed to act as members of the joint transport committee in the absence of the members appointed under paragraph (1) (“substitute committee members”); and

(a) Section 149 was amended by section 3 of the Concessionary Bus Travel Act 2007 (c. 13).

(b) Section 150 was amended by section 3 of the Concessionary Bus Travel Act 2007.

(c) 1985 c. 67.

(d) 1968 c. 78. Section 9A was inserted by section 57 of the Transport Act 1985 and amended by sections 161 and 274 of and paragraph 3 of Schedule 11 and paragraph 1 of part 2 of Schedule 31 to the 2000 Act; sections 10, 67, 77 and 131 of and paragraph 3 of Schedule 4 to and paragraph 1 of Schedule 7 to the Local Transport Act 2008; and by S.I. 2014/864; S.I. 2014/866; and by S.I. 2016/653.

(e) Section 107D(2) of the 2009 Act provides that in Part 6 of that Act references to “general functions”, in relation to a Mayor for the area of a combined authority, are to any functions exercisable by the Mayor other than PCC functions.

(f) Section 113A was inserted by section 13 of the 2011 Act and amended by section 23 of, and paragraph 25 of Schedule 5 to, the 2016 Act.

- (b) the GMCA and the constituent councils must ensure that the members of the committee appointed from among the members of the GMCA and the constituent councils, and any substitute committee members acting in place of those members, taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the constituent councils.

(6) Questions relating to the apportionment of membership under paragraph (5)(b) require a unanimous vote in favour by all members, or substitute committee members acting in place of those members, of the GMCA to be carried.

Chair of the joint transport committee

8.—(1) Where a joint transport committee is established in accordance with article 6 the Mayor must in each year appoint the chair of the joint transport committee from among the members of that committee.

(2) If a vacancy arises in the office of chair, the Mayor must make an appointment to fill the vacancy at the next ordinary meeting of the joint transport committee, or, if that meeting is to be held within the period of 14 days beginning with the day on which the vacancy arose, at the meeting following that meeting.

Proceedings of joint transport committee

9. Any questions that are to be decided by the joint transport committee are to be decided by a majority of the members and substitute committee members, acting in place of members, present and voting on that question at a meeting of the joint transport committee.

PART 4

Funding

10.—(1) 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 specified in Schedule 1 to the extent that the Mayor has not decided to meet these costs from other resources available to the Mayor.

(2) Any amount payable by each of the constituent councils to ensure that the costs referred to in paragraph (1) are met is to be determined by apportioning such costs between the constituent councils in accordance with the proportion to the total resident population of the GMCA which resides in the area of each constituent council at the relevant date as estimated by the Statistics Board(a), or in the alternative in such proportions as the members of the GMCA, or substitute members acting in place of those members, may unanimously agree.

(3) For the purposes of paragraph (2) the relevant date in relation to a payment for a financial year is 30th June in the financial year which commenced two years previously.

(4) In respect of the expenditure mentioned in paragraph (1) the total amount to be met by the constituent councils must not exceed £86.7 million per annum.

(5) No constituent council can be required to—

(a) vary its contribution to the expenditure mentioned in paragraph (1) as determined by the apportionment made in accordance with paragraph (2); or

(b) vary the total amount of expenditure set out in paragraph (4),

unless there is unanimous agreement by the members of the GMCA appointed by the constituent councils, or substitute members acting in place of those members.

(a) Section 25 of the Statistics and Registration Service Act 2007 (c. 18) provides that the Statistics Board is responsible for the functions in section 19 of the Registration Service Act 1953 (c. 37).

PART 5

Amendment of the Greater Manchester Combined Authority Order 2011 and consequential provision

Amendment of the Greater Manchester Combined Authority Order 2011

11.—(1) Schedule 1 (constitution) to the 2011 Order is amended as follows.

(2) In paragraph 3(1) (proceedings), for “and (4B)” substitute “, (4B) and (4C)”.

(3) For paragraph 3(2B) (proceedings), substitute—

“(2B) Questions relating to expenditure in respect of the following matters require at least 7 votes in favour by members, or substitute members acting in place of those members, appointed by the constituent councils to be carried—

(a) amounts payable under the arrangements made under article 14(4)(a) of the Greater Manchester Combined Authority (Functions and Amendment) Order 2016;

(b) amounts payable under the arrangements made under article 12(4)(a) of the Greater Manchester Combined Authority (Functions and Amendment) Order 2017.”

(4) After sub-paragraph (4B), insert—

“(4C) In order to be carried questions relating to functions exercised pursuant to section 93(1) of the Transport Act 1985 (travel concession schemes) require a vote in favour—

(a) by at least 8 members, or substitute members acting in place of those members, present and voting on that question at a meeting of the GMCA; and

(b) by the Mayor (or the deputy Mayor acting in place of the Mayor).”

Consequential provision

12. The Advanced Quality Partnership Schemes (England) Regulations 2018(a) have effect in relation to the GMCA as if any reference to an authority were a reference to a local transport authority within the meaning of section 108(4) of the 2000 Act, or to the Mayor in respect of the functions specified in articles 4 and 5.

13. The Franchising Schemes and Enhanced Partnership Plans and Schemes (Provision of Information) Regulations 2017(b) have effect in relation to the GMCA in respect of the functions specified in articles 4 and 5 as if any reference to a local transport authority included a reference to the Mayor.

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

Date

Name
Parliamentary Under Secretary of State
Ministry of Housing, Communities and Local Government

(a) S.I. 2018/21.
(b) S.I. 2017/1091.

SCHEDULE 1

Article 4

Transport functions to be exercised by the Mayor

1. The functions contained in section 9A(4) to (7) (general functions of Passenger Transport Authorities and Executives) of the Transport Act 1968 (a) to the extent that such functions relate to bus services.

2. The functions contained in the following provisions of the Transport Act 1985—

- (a) section 88 (expenditure on public passenger transport services)(b);
- (b) section 89 (obligation to invite tenders for subsidised services)(c);
- (c) section 90 (provisions supplementary to section 89)(d);
- (d) section 91 (exceptions from section 89);
- (e) section 92 (general provisions with respect to the exercise of service subsidy functions)(e);
- (f) section 93(1) (travel concession schemes)(f); and
- (g) section 93(6).

3. The functions contained in the following provisions of the 2000 Act(g)—

- (a) section 113C(1) to (11) (advanced quality partnership schemes);
- (b) section 113D(1) to (4) (advanced quality partnership schemes: registration restrictions);
- (c) section 113G(1) to (4) (notice and consultation requirements);
- (d) section 113H(1) to (11) (making of scheme);
- (e) section 113I(1) to (5) (postponement of scheme or of provision of particular facilities, taking of particular measures or provision of particular standards of service);
- (f) section 113J(1) to (7) (effect of scheme);
- (g) section 113L(1) to (4) (variation or revocation of schemes);
- (h) section 123G(4) (response to consultation);
- (i) section 123H(1) to (10) (making and publication of scheme);
- (j) section 123I(1) to (4) (postponement of local service contracts);
- (k) section 123J(6) (effect of local service contracts: registration requirements and provision of service);
- (l) section 123K(1) and (6)(local service contracts);
- (m) section 123L(1) to (2) (exceptions to section 123K);
- (n) section 123M(1) to (9) (variation of scheme);
- (o) section 123N(1) to (8) (revocation of scheme);
- (p) section 123O(1) to (9) (interim services and replacement services);
- (q) section 123P(1) and (2) (service permits);
- (r) section 123Q(1) to (7) (application for service permit);

(a) 1968 c. 73.

(b) Section 88 was amended by S.I. 1996/974, S.I. 2003/1615 and by S.I. 2010/1158.

(c) Section 89 was amended by sections 152 and 274 of and paragraph 1 of Part 2 of Schedule 31 to the Transport Act 2000, and by section 10 of the Local Transport Act 2008. There are other amendments which are not relevant to this instrument.

(d) Section 90 was amended by section 152 of the Transport Act 2000 and by section 70 of the Local Transport Act 2008.

(e) Section 92 was amended by section 152 of the Transport Act 2000.

(f) To which there are amendments not relevant to this instrument.

(g) Sections 113C, 113D, 113G, 113H, 113I, 113J and 113L were inserted by section 1 of the Bus Services Act 2017 (c. 21). Sections 123H to 123S were inserted by section 4 of the Bus Services Act 2017. Sections 134C to 1234E were inserted by section 7 of the Bus Services Act 2017. Sections 138A, 38F, 138G and 138I to 138O were inserted by section 9 of the Bus Services Act 2017. Section 139 was amended by section 7 of and paragraph 4 of Schedule 1 to the Local Transport Act 2008 (c. 26) and by S.I. 2013/1644. Section 140 was amended by S.I. 2013/1644. Section 143A was inserted by section 5 of the Bus Services Act 2017. Section 143B was inserted by section 10 of the Bus Services Act 2017.

- (s) section 123R(1) to (9) (conditions);
- (t) section 123S(1) to (5) (revocation and suspension);
- (u) section 134C(1) to (11) (advanced ticketing schemes);
- (v) section 134D(1) to (4) (notice and consultation requirements);
- (w) section 134E(1) to (8) (making of scheme);
- (x) section 138A(1) to (14) (enhanced partnership plans and schemes);
- (y) section 138F(1) to (12) (preparation, notice and consultation);
- (z) section 138G(1) to (11) (making of plans and schemes);
- (aa) section 138I(1) to (6) (postponement of scheme or part of scheme);
- (bb) section 138J(1) to (10) (effect of plans and schemes);
- (cc) section 138K(1) to (8) (variation);
- (dd) section 138L(1) to (10) (variation: preparation, notice and consultation);
- (ee) section 138M(1) to (9) (variation: making the variation);
- (ff) section 138O(1) to (12) (revocation);
- (gg) section 139(1) to (6) (information about bus services);
- (hh) section 140(1) to (4) (duty of authority to make information available);
- (ii) section 143(1) to (6) (power to obtain information about local services);
- (jj) section 143A (1) to (10) (power to obtain information: franchising schemes);
- (kk) section 143B(1) to (11) (power to obtain information about local services: enhanced partnership schemes);
- (ll) section 149(1) (mandatory concessions: supplementary); and
- (mm) section 150(1) and (2) (procedure for reimbursement arrangements determined by authority).

SCHEDULE 2

Article 6

Mayoral functions which may be made the subject of joint arrangements under the Local Government Act 1972

1. Section 9A(4) to (7) (general functions of Authorities and Executives) of the Transport Act 1968 to the extent that such functions relate to bus services;
2. The functions contained in the following provisions of the Transport Act 1985—
 - (a) section 88 (expenditure on public passenger transport services);
 - (b) section 89 (obligation to invite tenders for subsidised services);
 - (c) section 90 (provisions supplementary to section 89);
 - (d) section 91 (exceptions from section 89);
 - (e) section 92 (general provisions with respect to the exercise of service subsidy functions);
and
 - (f) section 93(6) (travel concession schemes).
3. The functions contained in the following provisions of the 2000 Act—
 - (a) section 108(1)(b), (2ZA), (2ZB) and (3B) (local transport plans);
 - (b) section 112 (plans and strategies: supplementary);
 - (c) section 113C(1) to (11) (advanced quality partnership schemes);

- (d) section 113D(1) to (4) (advanced quality partnership schemes: registration restrictions);
- (e) section 113G(1) to (4) (notice and consultation requirements);
- (f) section 113H(2) to (11) (making of scheme);
- (g) section 113I(1) to (5) (postponement of scheme or of provision of particular facilities, taking of particular measures or provision of particular standards of service);
- (h) section 113J(1) to (7) (effect of scheme);
- (i) section 113L(2) to (4) (variation or revocation of schemes);
- (j) section 123H(1) to (10) (making and publication of scheme);
- (k) section 123I(1) to (4) (postponement of local service contracts);
- (l) section 123J(6) (effect of local service contracts: registration requirements and provision of service);
- (m) section 123K(1) and (6) (local service contracts);
- (n) section 123L(1) and (2) (exceptions to section 123K);
- (o) section 123M(1) to (5) and (7) to (9) (variation of scheme);
- (p) section 123N(1) to (6) and (8) (revocation of scheme);
- (q) section 123O(1) to (9) (interim services and replacement services);
- (r) section 123P(1) and (2) (service permits);
- (s) section 123Q(1) to (7) (application for service permit);
- (t) section 123R(1) to (9) (conditions);
- (u) section 123S (1) to (5) (revocation and suspension);
- (v) section 134C(1) to (11) (advanced ticketing schemes);
- (w) section 134D(1) to (4) (notice and consultation requirements);
- (x) section 134E(2) to (5) and (7) to (8) (making of scheme);
- (y) section 138A(1) to (14) (enhanced partnership plans and schemes);
- (z) section 138F(1) to (12) (preparation, notice and consultation);
- (aa) section 138G(2) to (11) (making of plans and schemes);
- (bb) section 138I(1) to (6) (postponement of scheme or part of scheme);
- (cc) section 138J(1) to (10) (effect of plans and schemes);
- (dd) section 138K(2) to (8) (variation);
- (ee) section 138L(1) to (10) (variation: preparation, notice and consultation);
- (ff) section 138M(1) to (9) (variation: making the variation);
- (gg) section 138O(2) to (12) (revocation);
- (hh) section 139 (information about bus services);
- (ii) section 140 (duty of authority to make information available);
- (jj) section 143 (power to obtain information about local services);
- (kk) section 143A (1) to (10) (power to obtain information: franchising schemes);
- (ll) section 143B(1) to (11) (power to obtain information about local services: enhanced partnership schemes);
- (mm) section 149(1) (mandatory concessions: supplementary); and
- (nn) section 150(1) and (2) (procedure for reimbursement arrangements determined by authority).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the conferral of certain transport functions on the Greater Manchester Combined Authority (“the GMCA”). This Order has been made following the publication on 30 June 2016 of a scheme for the conferral of functions on the GMCA.

Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (“the 2009 Act”) provides for the establishment of a combined authority for the areas of two or more local authorities in England. Combined authorities are bodies corporate which may be given power to exercise specified functions of a local authority under section 105 and specified functions of a public authority under section 105A of the 2009 Act.

Part 1 of the Order confers on the GMCA specified transport functions of Transport for Greater Manchester, the Passenger Transport Executive for the area of the GMCA.

Part 2 of the Order makes provision in relation to the Mayor. Article 4 and Schedule 1 set out the functions of the GMCA which are to be exercisable by the Mayor.

Part 3 of the Order makes provision allowing for the constitution of the joint transport committee which may discharge the functions listed in Schedule 2.

Part 4 of the Order makes additional provision for funding. Article 10 makes provision for the funding, by the constituent councils, of the costs of the Mayor arising from the exercise of the specified functions.

Part 5 of the Order amends the Greater Manchester Combined Authority Order 2011, which establishes the GMCA, to ensure consistency of voting requirements for constituent council contributions, and makes consequential provision for the application of the Advanced Quality Partnership Schemes (England) Regulations 2018 (S.I. 2018/21) and the Franchising Schemes and Enhanced Partnership Plans and Schemes (Provision of Information) Regulations 2017 (S.I. 2017/1091) to the GMCA and to the Mayor.

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

