



BRIEFING PAPER

Number 06649, 4 July 2017

Combined authorities

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Summary

Combined authorities are a legal structure that may be set up by local authorities in England. They can be set up with or without a directly-elected mayor. The relevant legislation is the [*Local Democracy, Economic Development and Construction Act 2009*](#) and the [*Cities and Local Government Devolution Act 2016*](#).

Combined authorities may be set up by two or more local authorities. They may take on statutory functions transferred to them by an Order made by the Secretary of State, plus any functions that the constituent authorities agree to share.

The first combined authority to be established was the Greater Manchester Combined Authority, in 2011. Four additional combined authorities were established in 2014 (North-East, Liverpool City Region, Sheffield City Region, West Yorkshire). During 2014-16, the Government negotiated 'devolution deals' with several areas. These were mostly delivered via the creation of mayoral combined authorities, in some cases building on the existing combined authority structures. This was done via Orders under the 2009 and 2016 Acts, specifying the functions, powers and constitutional structures of individual combined authorities.

Further details on the background to, and content of, devolution deals can be found in the Library briefing paper [*Devolution to local government in England*](#).

1. Combined authorities

1.1 Background and purpose

A combined authority is a legal structure that may be established, via an Order made by the Secretary of State, at the request of two or more local authorities. The combined authority's executive consists either of one representative of each member authority; or one representative of each member authority plus a directly-elected mayor (a 'mayoral combined authority').

The legislation permitting the formation of combined authorities can be found in sections 103-113 of the [Local Democracy, Economic Development and Construction Act 2009](#), which has been substantially amended by the [Cities and Local Government Devolution Act 2016](#). The power to set up a combined authority extends to England only (but not to London).

1.2 Procedure for establishment

There are multiple routes to establishing a combined authority.

Under the original procedure from the 2009 Act, a local authority or authorities may carry out a 'governance review', which must publish a 'scheme' recommending the creation of a combined authority. Publication of the scheme requires the consent of the local authority areas included in the scheme. The Secretary of State may then agree to create a combined authority, by an Order under the 2009 and 2016 Acts. This route has been used by all the combined authorities established to date.

Alternatively, via the 2016 Act, the Secretary of State may decide to establish a combined authority, if the councils in the relevant area consent. The Secretary of State must hold a public consultation, unless one has already been carried out locally and a 'scheme' has been published. The Secretary of State must be satisfied that the establishment of a combined authority is likely to "improve the exercise of statutory functions" in the area in question.¹

An existing combined authority may be changed into a mayoral combined authority via a further Order from the Secretary of State. All the member authorities must consent to this. However, the 2016 Act provides that any authorities that do not consent *must* be removed from the combined authority when the elected mayor is established.

1.3 Combined authorities in existence

Table 1 below lists the Orders that have been made under the 2016 Act at the time of writing.

Six combined authorities held mayoral elections in May 2017. Detailed results can be found in the Library briefing paper [Local election results](#)

¹ [Local Democracy, Economic Development and Construction Act 2009](#), s.110.

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[2017](#). A further election, in the Sheffield City Region, is due to be held in May 2018.

Proposed mayoralities for Greater Lincolnshire, the North-East, and Norfolk & Suffolk were abandoned in 2016 when devolution deals in those areas collapsed. Cornwall and West Yorkshire have agreed devolution deals that did not require a directly-elected mayor.

Cornwall's devolution deal does not establish a combined authority: powers have been devolved to Cornwall Council.

The membership of existing combined authorities can be found in appendix 2 of the Library briefing paper [Devolution to local government in England](#).

Table 1: combined authority orders

Area	Combined authority
Greater Manchester	1 April 2011 Mayor: May 2017 Interim mayor: 2015/960² Powers: 2016/1267 Powers: 2017/612
Liverpool City Region	1 April 2014 Mayorality: 2016/782 Powers: 2017/430
Sheffield City Region	1 April 2014 Mayorality: 2016/800
West Yorkshire	1 April 2014
North-East	8 April 2014
Tees Valley	1 April 2016 Mayorality: 2016/783
West Midlands	17 June 2016 Mayorality: 2016/933
West of England	8 Feb 2017 (including mayoralty)
Cambridgeshire / Peterborough	2 March 2017 (including mayoralty)

² The Government passed an amending Order to create an eleventh member of the Greater Manchester Combined Authority (alongside the ten borough leaders) to be the 'interim mayor' in advance of the first mayoral election. Tony Lloyd, then Greater Manchester Police and Crime Commissioner, was appointed to the post (by the existing members of the GMCA) on 29 May 2015. His appointment ended with the election of Andy Burnham as mayor of Greater Manchester on 4 May 2017.

2. Combined authority powers and structures

2.1 Mayoral combined authorities

The 2016 Act permits a combined authority to establish a directly-elected mayor. This can be done by either a new or an already existing combined authority. Combined authority mayors are elected using the Supplementary Vote system, used for local authority mayors and the Mayor of London.³

Each member of the combined authority has one vote. Individual Orders make additional provisions for voting rights, and for quorums for meetings of the combined authority. Members may receive expenses but may not be paid.

2.2 Powers

The Library briefing note [Devolution to local government in England](#) sets out the powers on offer to each combined authority under its devolution deal. Some of these powers are made available via each area's Orders under the 2009 and 2016 Acts. Alongside these, other responsibilities are non-statutory and may simply be transferred by Government. Many of the transferred powers are to be held 'concurrently' with other bodies. This means that those powers can also be exercised by, for instance, local authorities (but it does not mean that the powers have to be exercised *jointly*).

The 2009 Act provided that a combined authority could only undertake functions related to economic development, regeneration, or transport, or other functions that its member authorities agreed to transfer to it. The 2016 Act removed these limits, permitting the Secretary of State to transfer other statutory functions or the functions of public bodies to combined authorities. The 2016 Act gives the Secretary of State broad power to transfer functions, though it includes a number of qualifications with regard to the transfer of health service functions.

Section 10 of the 2016 Act permits the general power of competence for local authorities, introduced by the *Localism Act 2011*, to be applied to combined authorities via regulations. The West of England and Cambridgeshire & Peterborough authorities have the general power, whilst a more limited version is available to Greater Manchester, Liverpool and the West Midlands.

2.3 Financial powers

Mayoral combined authorities will have a number of powers to raise small quantities of additional funding:

³ The Conservative Party's 2017 general election manifesto contained a commitment to replace the Supplementary Vote system with First Past the Post for mayoral elections. It is not yet clear whether this commitment will be implemented.

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- Elected mayors will be able to raise a precept on constituent authorities' council tax bills. Where the mayor is also the Police and Crime Commissioner and thus raises a precept in that capacity, the funds must be kept separate;
- Combined authorities (with or without mayors) may raise a levy on their members, for any of their functions. This constitutes a shift of funding between tiers of government rather than a means to raise 'new money' locally;
- A number of devolution deals permit local retention of 100% of business rate revenue growth above an 'agreed baseline'. Furthermore, several areas are piloting full retention of business rate *revenue*. [Details of the pilots are available](#) on the DCLG website. Reports after the 2017 election indicated that the England-wide introduction of 100% business rate retention, planned for April 2019, had been 'suspended indefinitely';⁴
- Elected mayors were to have the power to raise an additional 2% 'levy' on business rates. This power was to have been introduced by the *Local Government Finance Bill 2016-17*. However, this Bill fell due to the snap General Election in 2017, and it did not feature in the post-election Queen's Speech;
- Combined authorities will have the power to borrow money under the local government prudential borrowing regime;
- Many of the devolution deals provide combined authorities with an investment fund (see Appendix 1 of the note [Devolution to local government in England](#)).

The powers and functions that are to be transferred to combined authorities will come with existing funding streams in the first instance. Future levels of funding for these activities will be dependent on Government decision-making. The Government has produced a number of [devolution 'guidance notes'](#) which include indicative budget levels for some devolved functions.

⁴ David Paine, "[100% rates retention reforms 'suspended indefinitely'](#)", *Local Government Chronicle*, 21 June 2017

3. Combined authorities: governance

3.1 Structures

The mayor must appoint a deputy mayor, who must act if the mayor becomes incapacitated. A mayor who is also a Police and Crime Commissioner (PCC) may also appoint a 'deputy PCC mayor', separate from the deputy mayor. This person will be able to take on most of the mayor's PCC functions.⁵ Table 2 shows the mayor and deputy mayor appointments made after the May 2017 elections.

Table 2: mayors and deputy mayors

	Mayor	Deputy Mayor
Greater Manchester	Andy Burnham	Sir Richard Leese (Manchester City Council) Baroness Beverley Hughes (PCC deputy)
Liverpool City Region	Steve Rotheram	
Cambridgeshire / Peterborough	James Palmer	John Holdich (Peterborough UA)
West Midlands	Andy Street	Bob Sleigh (Solihull Council)
West of England	Tim Bowles	Tim Warren (Bath & North East Somerset Council)
Tees Valley	Ben Houchen	Bob Cook (Stockton Council)

3.2 Mayor – combined authority relations

The mayor is a member of the combined authority and has one vote. However, the Orders specify that, in many cases, majorities in favour of a decision must include the vote of the Mayor. This means the member authorities cannot take decisions in the face of the Mayor's opposition: or, put another way, the mayor has a veto over decision-making.

The Order setting up the combined authority may confer functions solely on the mayor or on the combined authority. This is significant for decision-making, as the participating local authorities also have specific powers as members of the combined authority.

Table 3 sets out the functions that have been conferred solely on the mayor where they have been devolved. In each case, mayoral action can be overruled by member authorities via a supermajority – or unanimous

⁵ The 2016 Act requires these matters to be included in the Order establishing a combined authority mayor who is also a PCC.

agreement from member authorities is required for a decision to be taken. These provisions have particular significance where an elected mayor faces combined authority members a majority of whom come from a different political party – as is the case at present in Tees Valley and the West Midlands.

Table 3: voting requirements

Function	Decision-making requirement
Paying grant to member authorities	Mayor only
Preparation of Spatial Development Strategy	Unanimous agreement
Preparation of Local Transport Plan and transport spending	Can be overturned on 2/3 majority of combined authority members ⁶
Compulsory purchase	Agreement required from authority where property is located
Setting up Mayoral Development Corporation	Agreement from required authority/ies where corporation is located
Budget	Can be overturned on 2/3 majority of combined authority members

The mayor may establish a ‘cabinet’ made up of the local authority leaders representing the member authorities. This has been done in Greater Manchester and Liverpool, where leaders have taken on conurbation-wide portfolios alongside their local leadership responsibilities. However, the mayor is not obliged to do this. S/he may also appoint a single ‘political adviser’, and delegate functions to Cabinet members, committees, or officers of the combined authorities.

3.3 Overview and scrutiny

The 2016 Act requires each combined authority to set up at least one overview and scrutiny committee. The committee must publish a plan indicating how it will exercise its powers, and it will have the power to suspend decisions of the combined authority whilst it reviews them. It will be able to require members and officers of the authority to attend and answer questions.

The Centre for Public Scrutiny published a report on combined authority scrutiny in March 2016 entitled [Cards on the table: English devolution](#)

⁶ The two-thirds proportion is altered in the Tees Valley and West of England authorities, which have only five and three members respectively alongside the mayor. This also applies to rejecting the budget in those areas.

[and governance](#). This was followed in March 2017 by a report entitled [Overview and scrutiny in combined authorities: a plain English guide](#).

3.4 Alternative governance arrangements

In the first round of devolution deal negotiations in 2015-16, local areas that did not wish to create a mayoralty were invited to propose 'alternative governance arrangements'. This could involve a reduction in councillor numbers; a move to all-out elections (where councils currently elect in thirds); district council mergers; or the creation of unitary authorities.

The opportunity to take this route to the devolution of power appears to have receded. Shortly after taking office as Prime Minister, Theresa May asserted that the Government's position remained that any deal with substantial powers would require a mayoralty.⁷ The 2017 Conservative Party manifesto then stated:

We will support those authorities that wish to combine to serve their communities better. For combined authorities that are based around our great cities, we will continue to support the adoption of elected mayors, but we will not support them for the rural counties.⁸

Cornwall and West Yorkshire are the only areas that have successfully negotiated a non-mayoral deal. The Cornwall devolution deal said the following about Cornwall's governance arrangements:

Cornwall Council will take forward a council boundary review. This boundary review is expected to reduce the number of local councillors and will be taken forward by the Boundary Commission. This review will commence in 2017.

...The Government recognises that Cornwall has further ambitions around devolution and decentralisation, for example on housing including low cost starter homes and planning. Government will have further discussions with Cornwall on these ambitions, which are set out in "The Case for Cornwall". However any future Devolution Deal will be predicated on strengthening of local governance, which would meet the Government's ambition for visible and accountable leadership that enables residents to understand who is taking local decisions.⁹

⁷ David Paine, "[No mayor, no deal. May tells councillors](#)", *Local Government Chronicle*, 4 October 2016

⁸ Conservative Party, *Forward Together*, 2017, p.32

⁹ HM Treasury, [Cornwall Devolution Deal](#), July 2015, p. 23

4. Combined authorities: geographical issues

4.1 Combined authority boundaries

Combined authority boundaries may not cross those of district or unitary authorities. However, they can cross county council boundaries. This allows combined authority boundaries to reflect ‘functional economic areas’, meaning that they are not bound by traditional local government geographies.

Some district councils have therefore sought to join combined authorities outside their county areas. The 2009 Act gave county councils a veto over district councils doing this. The 2016 Act removed this veto: so a county cannot now be prevented from joining by its district councils, and a district cannot be prevented by its county council.¹⁰ Furthermore, where a district joins a combined authority but a county council does not, the 2016 Act also permits county powers for the district’s area to be transferred to the combined authority.

Similarly, the 2009 Act prevented combined authorities including ‘exclaves’ - i.e. areas that are geographically detached from the main body of the authority. This prohibition was also removed by the 2016 Act.

In practice, these flexibilities have not been used to date. In West Yorkshire, attempts to include some district councils within the North Yorkshire county council area have foundered on county opposition.

In a number of localities, combined authorities do not share boundaries with the Local Enterprise Partnership, creating an obstacle to joint working. This is the case in the West Midlands, West of England and Cambridgeshire & Peterborough.

4.2 Associate membership

To avoid the prohibitions in the 2009 Act, some combined authorities took on ‘associate members’ alongside their ‘full members’. Five district councils from Derbyshire and Nottinghamshire are currently ‘associate members’ of the Sheffield City Region, and York City Council (an enclave) is an associate member of the West Yorkshire combined authority. The West Midlands has several district councils as associate members.

Although the associate members are acknowledged in the Orders setting these combined authorities up, the term ‘associate member’ is not used in either the 2009 Act or the 2016 Act.¹¹

¹⁰ However, where a district council wishes to leave a combined authority of which its county council is not a member, both the district and the county council must consent.

¹¹ The provisions in the Act superseded a Legislative Reform Order developed in 2014-15: see DCLG, [Proposal to amend legislation relating to combined authorities and economic prosperity boards](#), 30 April 2014; DCLG, [Proposal to use a Legislative](#)

Local authorities may not be members of more than one combined authority; but there would appear to be nothing preventing a local authority being a member of one and an 'associate member' of another. The Orders for the West Midlands, Sheffield and West Yorkshire make provision that the associate members have no voting rights unless specifically agreed by the authority as a whole. This also applies to the Local Enterprise Partnership (LEP), which holds membership of the combined authority in all mayoral areas except the West of England and Greater Manchester.

A controversy developed throughout 2016 in the Sheffield City Region when Bassetlaw (in Nottinghamshire) and Chesterfield (in Derbyshire) applied to join as full members: they are currently associate members. [A local consultation](#) on this proposal took place in July-August 2016. Subsequently, Derbyshire County Council launched judicial review proceedings regarding the consultation, which were heard on 11-12 November 2016. The judge found that the consultation was defective and ordered that it be rerun. This led to the Sheffield City Region mayoral election being delayed by a year, to 2018. Subsequently, Chesterfield and Bassetlaw withdrew their applications for full membership.

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