

PART 3

FUNCTIONS OF THE AUTHORITY

A Introduction

1. The functions of the Authority are those functions conferred or imposed upon it by the 2014 or the 2020 Order or by any other enactment (whenever passed or made), or as may be delegated to it by or under the Order or any other enactment (whenever passed or made).

B Transport Functions of the former ITA transferred to the Authority pursuant to the 2014 Order

1. Pursuant to the 2014 Order the property, rights and liabilities and all the functions of the former ITA have been transferred to the Authority, including, without prejudice to the generality of the forgoing the discharge of all the functions of the former ITA that are provided for within the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport and Works Act 1992 and the Local Transport Act 2008.

C. Economic Development and Regeneration Functions to be exercised by the Authority concurrently with the Constituent Councils pursuant to the 2014 Order

1. Pursuant to the Order, the following economic development and regeneration functions of the Constituent Councils are exercisable by the Authority in relation to its area concurrently with the Constituent Councils:-
 - 1.1 Such functions of the Constituent Authorities as are exercisable for the purpose of economic development and regeneration in reliance on the general power of competence under section 1, Localism Act 2011 (see paragraph 6 below)
 - 1.2 The power under section 144, Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
 - 1.3 The duty under section 8(1), Housing Act 1985 (duty of local housing authorities to consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation); and

- 1.4 The duties under sections 15ZA, 15ZB, 15ZC, 17A, 18A(1)(b), Education Act 1996 and the power under sections 514A and 560A of that Act (duties and powers related to the provision of education and training for persons over compulsory school age).
2. Any requirement in any enactment for a Constituent Council to exercise any of the functions set out in paragraph 1.1 above may be fulfilled by the exercise of that function by the Authority.
3. The Authority and the Constituent Councils may draw up and agree such Protocols as they may from time to time consider appropriate in relation to the discharge of the economic development and regeneration functions set out at paragraph 1.1 above.
4. The Authority and the Constituent Councils will keep the Protocols referred to at paragraph 3 above under regular review and may revise them from time to time, such revisions to be agreed by the Chief Executives of the Constituent Councils and the Head of Paid Service of the Authority.
5. Protocols drawn up, agreed, or revised under paragraphs 3 and 4 above will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
6. By virtue of Section 91(5), Local Democracy, Economic Development and Construction Act 2009, the Authority must exercise the functions in paragraph 1.1 above with a view to promoting the economic development and regeneration of its area.

D. Incidental Provisions pursuant to the 2014 Order

1. Pursuant to the Order, the following provisions have effect as if the Authority were a local authority for the purposes of these provisions:-
 - 1.1 Section 142(2), Local Government Act 1972 (the power to arrange for publication of information etc. relating to the functions of the Authority);
 - 1.2 Section 222, Local Government Act 1972 (the power to instigate and defend legal proceedings).
2. The Authority shall have the power to exercise any of the functions

described in subsection 1(a) and (b) of section 88, Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section, and for these purposes paragraphs (a) and (b) of section 88(1) shall have effect as if a reference to “that area” were a reference to the Combined Area.

3. Section 13, Local Government and Housing Act 1989 shall have effect as if:-

3.1 in subsection (4) after paragraph (h) there were inserted – “(i) subject to subsection (4A), a committee appointed by the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority;” and

3.2 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 shall for all purposes be treated as a non-voting member of that committee or sub-committee unless that person – (a) is a member of one of the constituent councils as defined by article 2 of the Barnsley, Doncaster, Rotherham and Sheffield Combined Authority Order 2014; or (b) is given voting rights by resolution of the Combined Authority in accordance with paragraph 4(6) of Schedule 1 to that Order.”.

4. The Authority is required to maintain a pension fund and is an administering authority for the purposes of the Local Government Pension Scheme Regulations 2013.

E. Functions conferred on the Combined Authority by the 2020 Order (see also Appendix 1C for overview of 2020 functions Order)

1. Transport

1. The functions of the constituent councils specified in section 6 of the Highways Act 1980, (powers to enter into agreements with the Minister or strategic highways companies relating to the exercise of functions with respect to trunk roads etc);
2. The functions of the constituent councils as local highway authorities specified in section 8 of the

Highways Act 1980 (power to enter into agreements with local highway authorities and strategic highways companies for the doing of certain works)

The functions referred to in paragraphs (i) and (ii) are exercisable by the Authority concurrently with the Constituent Councils.

3. The functions of a Minister of the Crown specified in section 31 of the Local Government Act 2003 Act (power to pay grant). The functions are exercisable by the Authority concurrently with a Minister of the Crown. In determining the amount of grant to be paid towards expenditure incurred or to be incurred by a Constituent Council in relation to the exercise of its highways functions, the Combined Authority must have regard to the desirability of ensuring that the council has sufficient funds to facilitate the effective discharge of those functions.

2. Education, skills and training functions

General Functions

1. The functions of the Constituent Council, as follows:-

- (a) section 51A of the Further and Higher Education Act 1992 (duty to provide for named individuals);
- (b) section 13A of the Education Act 1996 (duty to promote high standards and fulfilment of potential);
- (c) section 15A of the Education Act 1996 (powers in respect of education and training for 16 to 18 year olds);
- (d) section 15B of the Education Act 1996 (functions in respect of education for persons over 19);
- (e) section 10 of the Education and Skills Act 2008 (local authority to promote fulfilment of duty imposed by section 2);
- (f) section 12 of the Education and Skills Act 2008 (duty to make arrangements to identify persons not fulfilling duty imposed by section 2);
- (g) section 68 of the Education and Skills Act 2008 (support services: provision by local authorities);
- (h) section 70 of the Education and Skills Act 2008 (local authorities: supplementary powers);
- (j) section 85 of the Education and Skills Act 2008 (co-operation as regards provision of 14–19 education and training); and

- (j) Section 10 of the Children Act 2004(1) (co-operation to ensure well-being) (linked to s.85 above)

The above functions are exercisable concurrently with the constituent councils.

Adult Education Budget (AEB) functions

2. The functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009 are exercisable by the Authority:-

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

The functions mentioned in paragraph 2 above do not include

—

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

The functions mentioned in paragraph 2 above are exercisable by the Combined Authority instead of by the Secretary of State

3. The functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009 are exercisable by the Authority:-

- (a) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention); and
- (b) section 100(1)(provision of financial resources).

4. The functions mentioned in paragraph 3 above do not include—

- (a) any function relating to apprenticeships training;
- (b) any function relating to persons subject to adult detention; or
- (c) any power to make secondary legislation.

The functions mentioned in paragraph 3 above are exercisable

concurrently with the Secretary of State in relation to the Area.

The 2020 Order sets out further conditions on the exercise of the above functions.

3. Housing and regeneration

1. The functions of the Homes and Communities Agency (“HCA”) which are specified in the following provisions of the Housing and Regeneration Act 2008 Act are to be functions of the Authority:-

- (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);
- (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, 10 and 20 of Schedule 4 (extinguishment or removal powers for the HCA).

2. The Authority must exercise the functions described in the provisions specified in paragraph (1) for the purposes of, or for purposes incidental to the objective 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.

The functions described in the provisions specified in paragraph 1 above 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 Housing and Regeneration Act 2008 Act.

4. Mayoral Development Corporation

(1) The Authority has, in relation to its area, functions corresponding to the functions described in the provisions in the Localism Act 2011 referred to below, that the Mayor of London has in relation to Greater London.

- (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);
- (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);
- (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);
- (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).

Schedule 3 of the 2020 Order sets out the modifications to the Localism Act 2011 to accommodate Mayoral Development Corporation functions.

5. Spatial Planning (non-statutory)

The preparation and publication of a document including a statement formulating the Mayor's strategy for spatial development in the Area using the General Power of Competence under Chapter 1 of Part 1 of the Localism Act 2011

F. Functions conferred on a Combined Authority by Local Government Legislation

1. The Authority shall have such other powers and duties as are conferred on a combined authority by any enactment.
2. Without prejudice to the generality of the above, such powers and duties include:-
 - the duty to appoint a head of paid service, a monitoring officer and an officer with responsibility for the administration of Authority's financial affairs;
 - the power to borrow money for a purpose relevant to its transport functions only;
 - the power to appoint staff and to enter into agreements with other local authorities for the secondment of staff;
 - the power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land;
 - the power to pay subscriptions to the funds of local authority associations;
 - the duty (without prejudice to any other obligation) to exercise its functions with due regard to the need to prevent crime and disorder, the misuse of drugs and alcohol or re-offending in its area;
 - the power under Section 99 of the Local Transport Act 2008 to promote the economic, social and environmental well-being of its area;
 - the power under section 113A, Local Democracy, Economic Development and Construction Act 2009 (and subject at all times to the restrictions on this power contained in section 113B of that Act) to do anywhere in the United Kingdom or elsewhere
 - The General Power of Competence under Chapter 1 of Part 1 of the 2011 Act has effect in relation to the Authority as it has effect in relation to a local authority

(see Articles 14(7) and (17) of the 2020 Order.

3. The Authority is a local authority for the purpose of Section 101 of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities).
4. The Authority is a best value authority for the purpose of Section 1 of the Local Government Act 1999.
5. The Authority is a public body for the purpose of the Freedom of Information Act 2000.
6. The Authority is a local authority for the purpose of the power of a Minister of the Crown to pay grants.