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# **COMBINED AUTHORITIES**

## A PLAIN ENGLISH GUIDE

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The LGA would like to thank Shared Intelligence for compiling this guide: [www.sharedintelligence.net](http://www.sharedintelligence.net)

Although every effort has been made to ensure the accuracy of its contents, this document does not constitute legal advice on the setting up of a combined authority.

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# SETTING UP A COMBINED AUTHORITY

## What is a combined authority?

A combined authority (CA) is a legal body set up using national legislation that enables a group of two or more councils to collaborate and take collective decisions across council boundaries.

It is far more robust than an informal partnership or even a joint committee. The creation of a CA means that member councils can be more ambitious in their joint working and can take advantage of powers and resources devolved to them from national government.

While established by Parliament, CAs are locally owned and have to be initiated and supported by the councils involved.

### Top tip: Building effective relationships

To be effective a CA must be built on a firm foundation of collaborative working and trust between constituent councils, other partners and local stakeholders. Establishing the political common ground is crucial. It is important to address any political differences, concerns and fears early on in the process. The work on the CA must be underpinned by a shared narrative for the future of an area and the part that more formal collaboration and, where appropriate, devolved powers could play in delivering that vision. Creating a CA is not a quick fix. The most important and potentially challenging task is maintaining relationships and good collaborative behaviours at leader and chief executive level.

### In more detail

A combined authority (CA) is a statutory form of collective decision-making between at least two councils in order to improve the delivery of public services and other public functions across the area concerned.

The core legislation relating to CAs is the Local Democracy, Economic Development and Construction Act 2009 amended by the Cities and Local Government Devolution Act 2016. The Transport Act 2008 is also relevant in relation to the governance arrangements for CAs because they are based on those originally introduced for Integrated Transport Authorities.

CAs are formally established by the Secretary of State for Communities and Local Government through a Parliamentary Order following the request or consent of the councils concerned. There are two types of combined authority: those with a mayor for the area covered by the CA and those which do not have a mayor. The legislation does not allow the creation of combined authorities in London.

## Why establish a combined authority?

The core purpose of a CA is to deliver better outcomes for local communities as a result of closer joint working and collaboration at a local level. They enable a group of councils and partners which are working together to put their collaboration on a more ambitious and permanent footing. The current focus is on the role of CAs in the context of devolution agreements between central and local government. As such, CAs also provide a way of meeting the governance requirements national government has set for the devolution of powers and resources to a local level through negotiated devolution agreements. It is important to remember, however, that there is no legislative link between CAs and devolution. A group of councils could propose a CA to enable them to, for example, pursue a set of shared public sector reform objectives without any reference to devolution.

## Are there any criteria that a proposal for a combined authority must meet?

There are three key criteria that any proposal for a CA must meet. Expressed in the form of questions they are:

- Will the CA improve the delivery of its functions in the area it covers?
- Will the CA help to secure effective and convenient local government?
- Does the proposed CA reflect local identity and the interests of local communities?

### In more detail

The legislation defines two tests any proposal for a combined authority must meet.

The first test is to establish whether the creation of the CA is 'likely to improve the exercise of [those] statutory functions in the area or areas concerned'. This test (or variations on the theme) is repeated a number of times at key points in the legislation.

The second test is captured in the duty on the Secretary of State to have regard to the identities and interests of local communities and the need to 'secure effective and convenient local government.'

### Top tip: A step by step process

It is important to see the establishment of a CA and the transfer and devolution of functions as a journey. It is not necessary to agree everything at the start of the process. It is important, however, to be clear from the start about the decisions that will need to be taken at an appropriate time. Once underway the process will gather momentum and all participants need to be comfortable with that.

It may make sense to include references to additional functions in the initial proposals for a CA to prevent the need for a further Parliamentary Order at a later date.

## What are the functions of a combined authority?

When the first CAs were established the legislation gave them responsibility for transport, economic development and regeneration. The current position is far more open, leaving the functions of a combined authority to be determined by a combination of local choice and the outcome of negotiations with government. They can include both local authority functions, where it makes sense for them to be delivered at a larger scale across administrative boundaries, and the powers of other public bodies, where this is agreed through a devolution agreement.

In practice most of the CAs created so far have economic development, regeneration and transport as their core functions. Some proposed CAs, such as Gloucestershire's, envisage a wider range of functions including health and social care and community safety. Many places envisage their CA will contribute to the delivery of public service reform. The Greater Manchester CA has the widest range of functions, including health and social care, children's services and public health.

When thinking about the functions a combined authority might have it is important to take account of:

- the need to meet the 'improve the exercise of test' referred to above
- the Government's ability to devolve some functions specifically to the mayor, rather than the CA, such as responsibility for a devolved transport budget in the West Midlands.

CAs also have a general power of competence. This mirrors councils' general power of competence, which means councils can do anything an individual may do unless it is specifically prohibited from doing so.<sup>1</sup>

<sup>1</sup> 'The General Power of Competence: Empowering councils to make a difference', 2013, LGA: [www.local.gov.uk/c/document\\_library/get\\_file?uuid=83fe251c-d96e-44e0-ab41-224bb0cddf0e](http://www.local.gov.uk/c/document_library/get_file?uuid=83fe251c-d96e-44e0-ab41-224bb0cddf0e)

It is important to see the creation of CAs and the transfer of powers to them as a process rather than a one-off event.

The early CAs all built on longstanding partnership arrangements between the councils concerned. The legislation enables both councils and the Government to transfer additional functions to a CA once it has been established.

## What are the financial powers of a combined authority?

This is an area in which there are some significant differences between those CAs which have a mayor and those which do not.

All CAs can be funded by their constituent councils through a levy. This is a shift in funding from the councils that make up the CA to the authority. It is not a means of raising additional resources. Elected mayors can raise additional resources through a precept (or additional charge) on local council tax bills, but only where the order establishing them allows them to do so. Where the mayor is also the police and crime commissioner and raises a precept in that role, the funds must be kept separate.

All CAs will have the power to borrow money under the local government prudential borrowing regime, but the order establishing the authority must specify the purposes for which the money may be borrowed. Many devolution deals include the retention of local business rate growth above an agreed threshold and the Government is committed to passing 100 per cent of business rates to local government by 2020. In addition, elected mayors will be able to increase business rates by 2p in the pound if the relevant Local Enterprise Partnership (LEP) agrees.

Many devolution deals also include other devolved resources including an investment fund.

## In more detail

The legislation covering the functions of CAs is very much enabling. For example it leaves open the scope of powers a CA may have rather than prescribing them. The responsibilities may include:

- any function of a local authority (for example to deliver the council's trading standards or public health responsibilities on a bigger scale)
- other public functions, which may be delivered by the CA itself or jointly with another public body (for example, health-related activities or functions currently undertaken by the Skills Funding Agency or the Department of Work and Pensions).

But it does impose a number of constraints on the powers of a CA. In particular the legislation:

- enables the Secretary of State to impose conditions on how the power of another public body is used, including, for example, requiring joint working arrangements
- enables the Secretary of State to specify which functions are to be exercised by the mayor and which by the authority in a mayoral CA
- allows the Secretary of State to transfer the role of the Police and Crime Commissioner to a mayor of a combined authority area.

There are specific constraints on the devolution of health service functions, ruling out the transfer of:

- any of the Secretary of State for Health's core duties
- any health-related regulatory functions vested in national bodies.

The legislation also requires that where health functions are transferred national service standards and national information and accountability obligations must be transferred too.

## What area should a combined authority comprise?

The starting point for thinking about the area to be covered by a CA is that it should make sense in terms of the functions and purpose of the authority:

- Is it a functional economic area?
- Does it reflect the local health economy, housing market and transport patterns and corridors?
- Does it provide a critical mass and does it have the capacity for collaboration and public service reform?

This is reflected in the legislation by the requirement that the CA should be likely to improve service delivery in the area or areas concerned.

Recent legislation has removed a number of constraints on the area covered by a CA. A CA must include at least two councils and can now include:

- councils which are not immediately adjacent to each other
- part of a county council area.

Where this flexibility is used the legislation contains a more stringent test of the likelihood that the CA will improve delivery. In these cases, the Government must consider the impact on the other councils in the area.

Two other factors are important in thinking about the area to be covered by a CA:

- building on a history of collaboration and joint working is important in terms of creating a CA that works
- whether the area to be covered by a CA has featured in the negotiation of a number of devolution agreements in which the Government has pressed for the CA to cover a particular geographical area.

## In more detail

A CA must be comprised of a minimum of two councils. Following the introduction of the 2016 Act they need not be immediate neighbours. The minimum building blocks for a CA are now the areas covered by a district or unitary council. A CA can comprise part of a county council's area. There is, however, a more stringent 'improve the exercise of' test applied in cases where the councils proposing to create a CA are not immediate neighbours. When considering a proposal of this type the Secretary of State must consider the impact of the creation of the CA on the other councils in the area.

The legislation also:

- prohibits councils from being a full member of more than one CA
- prevents either a district council from blocking the creation of a CA in which a county council wished to participate or a county from blocking a proposal in which a district wishes to participate.

During the passage of the 2016 Act the Parliamentary Under Secretary of State for Communities and Local Government assured MPs that wherever possible the Secretary of State would seek consensus between councils in an area.

In practice, several CAs have made a distinction between constituent authorities (that is full members of the CA) and non-constituent or associate authorities which work closely with the CA. This means that a council can be a constituent member of one CA and a non-constituent member of another. A majority of members of a CA must be councillors from constituent councils.

In the case of the West Midlands CA, for example, the authority's area is that covered by the seven metropolitan councils which form the constituent councils. Other councils, from neighbouring areas including those covered by two of the three LEPs in the West Midlands, are non-constituent councils. This is a useful way of managing a complex geography.

## What are the governance arrangements for a combined authority?

The legislation is absolutely clear that CAs must be led by councillors. A majority of the members of a CA must be councillors appointed by the councils comprising the authority and each council must appoint at least one representative.

In the case of Mayoral CAs:

- the mayor is directly elected
- the mayor is both a member of the CA and the chair of it
- a deputy mayor is appointed by the other members of the CA.

### CAs and partners in practice

The CAs that have been established to date have adopted different approaches to the role of partner organisations, particularly Local Enterprise Partnerships. In many cases the chair of the LEP is a member of the CA, generally as a non-constituent member and in some cases with voting rights. In other cases, there is a partnership relationship between the CA and the LEP. Gloucestershire's proposals for a CA envisage the Police and Crime Commissioner, the LEP chair and the chair of the Clinical Commissioning Group being members of the CA.

### Voting rights in practice

There is an emerging pattern of voting rights in CAs. This is that all constituent members of the CA have one vote each and the chair does not have the casting vote. If the vote is tied, it is deemed not to have been carried. Where a CA has non-constituent members they are non-voting members unless the constituent members choose to extend voting rights to them for a particular decision.



Most other issues relating to the governance of a CA will be set out in the order establishing it and in the CA's constitution. These would cover issues such as:

- the ability to have different types of member (such as the chair of a LEP) with different voting rights
- executive arrangements and the powers of any executive bodies (such as a CA cabinet).

The 2016 Act introduced two governance requirements: that CAs should establish at least one overview and scrutiny committee and an audit committee.

### **CA committees in practice**

There are close similarities between the committee structures of the existing CAs which generally include committees responsible for transport and investment as well as overview and scrutiny and audit.

Many CAs also have links with other boards – such as a skills board or leadership group – which in some cases are intended to address the fact that the LEP and CA cover different geographies.

At the time of writing the West Yorkshire CA was reviewing its substructures and those of the LEP to ensure proper and speedy decision-making to support the delivery of its growth deal.

Greater Manchester CA has the most elaborate structure, reflecting its range of functions.

### **Top tip: Establishing effective scrutiny from the outset**

Giving early thought to the overview and scrutiny arrangements of a CA is important both in terms of ensuring that effective arrangements are put in place and securing wider ownership of and engagement in the process. Too often only a small group of members and officers are involved. Asking current scrutiny members to think about what scrutiny arrangements might be put in place may be a useful way of involving more people early on in the process.

Further advice on overview and scrutiny arrangements for a CA is available in 'Cards on the table: English devolution and governance' produced by the Centre for Public Scrutiny (CfPS).<sup>2</sup>

## **What is the process for establishing a combined authority?**

A CA is formally created by a Parliamentary Order introduced by the Secretary of State for Communities and Local Government. But the creation of a CA must either be proposed by or supported by the councils concerned.

### **The process for establishing a CA has three stages:**

**Stage 1 Review:** a group of councils proposing to establish a CA must carry out a governance review, including consultation, in order to decide whether or not to proceed.

**Stage 2 Scheme preparation:** having decided to proceed, the councils must prepare and publish a scheme for the CA.

**Stage 3 Order making process:** the Secretary of State introduces in Parliament a statutory instrument establishing the CA.

<sup>2</sup> [www.cfps.org.uk/cards-on-the-table-devolution](http://www.cfps.org.uk/cards-on-the-table-devolution)

The key tasks for a group of councils proposing to establish a CA are to carry out a governance review of the case for doing so and then to develop a detailed proposal (a 'scheme') for submission to government.

### **Governance reviews in practice**

Governance reviews follow a similar pattern and many are available online. They include the reviews for the Sheffield City Region,<sup>3</sup> West Midlands<sup>4</sup> and Tees Valley.<sup>5</sup> The focus of these reviews has been to consider the potential of different governance models to improve the delivery of the proposed functions of the CA. The models considered include: maintaining the current model, restructuring the current model, establishing an Economic Prosperity Board or a joint committee, or creating a combined authority.

The governance review has to conclude which of these models would result in the necessary improvements which have been identified. Each of the reviews that have taken place so far have identified the need to integrate decision-making for economic development and transport in one strategic body. All three governance reviews, but particularly the Tees Valley review, identified a need for more formal relationships between public and private sectors.

#### **Top tip: A clear plan for getting the governance right**

To manage this process effectively there must be:

- a senior commitment to governance with regular chief executive and leader boards
- strong programme management, which can withstand a fast pace, with a forward plan of milestones and decisions
- dedicated resources with clear roles and responsibilities, while recognising the need to secure wide engagement in the process.

The legislation does not prescribe the nature of the review, but it is clear that its focus must be to show that the creation of a CA would be likely to improve the delivery of whatever functions it is proposed the CA should have in the area it is proposed the authority should cover. The review will also need to show how the proposals meet the requirement on the Secretary of State, when creating a CA, to:

- have regard to the identities and interests of local communities
- secure effective and convenient local government.

#### **Top tip: A clear communications plan**

Effective, regular communication must form a key element of the process to create a CA. This should include all councillors, council staff, key partners and the public. MPs are also an important constituency given the process of negotiation with government. This aspect is particularly important at a time of severe and continuing budget pressures and, in some quarters, scepticism about the relationship between different levels of government.

3 [www.sheffieldcityregion.org.uk/wp-content/uploads/2013/02/Governance-Review-April-20133.pdf](http://www.sheffieldcityregion.org.uk/wp-content/uploads/2013/02/Governance-Review-April-20133.pdf)

4 [www.westmidlandscombinedauthority.org.uk/media/110777/](http://www.westmidlandscombinedauthority.org.uk/media/110777/)

5 [www.darlington.gov.uk/media/823939/combined-authority-tees-valley-governance-review-6-may.pdf](http://www.darlington.gov.uk/media/823939/combined-authority-tees-valley-governance-review-6-may.pdf)

## Consultation in practice

Many places have undertaken consultation with nearby councils, key stakeholders and the public following the completion of the governance review. Examples of the approach taken are available online, including those in the West Midlands<sup>6</sup> and Tees Valley.<sup>7</sup> Both used a range of methods to promote the consultation which included an online survey, letters to stakeholders, a contact page on the website, presentations, events and meetings.

Similarly, the legislation does not specify the contents of a scheme, but it is clear from the other provisions in the legislation that it should:

- confirm the area to be covered and the consent of the relevant councils to the proposal
- identify the statutory functions to be transferred, report the results of the review and explain why the transfer of those functions to the CA is likely to improve their delivery
- propose appropriate governance arrangements including membership, voting and any proposed executive arrangements
- in the case of a CA including councils which are not immediate neighbours, address the implications of the proposal for other councils in the area
- report the results of public consultation on the proposal.

## The scheme in practice

The key elements of the scheme in effect form the local councils' first draft of the Order that the Secretary of State must lay before Parliament. The headings of the key provisions are: area, name, membership, voting, executive arrangements, transport, scrutiny, functions, powers and duties, incidental provisions, funding and sub-structures.

6 [www.westmidlandscombinedauthority.org.uk/media/1110/combined-authority-consultation-analysis-summary-150216.pdf](http://www.westmidlandscombinedauthority.org.uk/media/1110/combined-authority-consultation-analysis-summary-150216.pdf)

7 [www.darlington.gov.uk/media/823939/combined-authority-tees-valley-governance-review-6-may.pdf](http://www.darlington.gov.uk/media/823939/combined-authority-tees-valley-governance-review-6-may.pdf)

## Top tip: Draw on what others have done

There is a lot of useful material available on CA websites and those of the councils involved, which will be of use to a council considering establishing a CA. This includes copies of:

- governance reviews
- reports of public engagement
- the schemes submitted to government
- the orders laid before parliament.

It is also important to keep in close touch with the relevant Department for Communities and Local Government (DCLG) officials throughout the process in order to ensure that the appropriate steps are being taken to feed into the final Parliamentary stages.

Councils should ensure that the review and scheme preparation processes include meaningful public consultation. If this is not done at this stage the Secretary of State will be required to carry out a separate consultation exercise.

To establish a CA the Secretary of State has to lay before Parliament a Statutory Instrument containing an order to establish. The legislation defines the scope of the order-making powers which includes: the area covered, the functions covered and governance arrangements.

The creation of a CA must either be proposed by or supported by the councils covered by the authority. This is secured in the legislation through a condition that the Secretary of State can only make an order if:

- the relevant councils have submitted a proposal for a CA, or
- the councils have formally given their consent to the establishment of the CA and the Secretary of State is confident that it will meet the 'improved exercise of' test.

The Secretary of State also has to lay before Parliament a report explaining the effect of the order and why it is considered appropriate to make the order. That report must include:

- the results of any public consultation
- information on any representations that have been taken into account
- any other evidence or contextual information the Secretary of State considers it appropriate to include.

The Secretary of State must carry out a public consultation unless one has been carried out by the councils concerned and no further consultation is necessary.

The Secretary of State can transfer additional functions to a CA once it has been established, as has happened with the Greater Manchester Combined Authority. He or she can also change the boundaries of an authority. In both steps a further Parliamentary order and the consent of the relevant councils are required.

### **Combined authorities and managerial leadership in practice**

A number of combined authorities are putting in place senior teams to support them in their work. The Tees Valley CA has appointed a managing director of the Tees Valley CA. The West Midlands CA has appointed two serving chief executives as interim chief executive and interim chief operating officer of the authority (in addition to their commitments to their current authorities). The Sheffield CA has appointed an interim executive director as the lead officer for the authority and the LEP.

### **Top tip: Dedicated capacity to deliver**

Do not underestimate the capacity needed to establish and then support a combined authority. The process of development and engagement requires considerable effort. Seconding staff to support the delivery of CA functions and resourcing some dedicated capacity at a CA level will also be necessary. This activity will only be truly effective if it is seen by members and officers as 'part of the day job' rather than an add-on.

## **What is the process for abolishing a combined authority?**

Just as the creation of a CA requires a Parliamentary Order, so does the abolition or dissolution of one. A majority of the councils in the area covered by the combined authority must agree to its abolition before an order abolishing it can be tabled. This is a further example of the robustness of CAs and the fact that they are, in effect, jointly owned by Parliament, the Secretary of State and the councils concerned. There is a double lock on the ability of the Secretary of State to create and abolish them, requiring Parliamentary and local approval.

# COMBINED AUTHORITIES IN PRACTICE

At the time of writing (May 2016) six combined authorities have been established.

They are:

Greater Manchester CA  
[www.greatermanchester-ca.gov.uk](http://www.greatermanchester-ca.gov.uk)

Liverpool City Region CA  
[www.liverpoolcityregion-ca.gov.uk](http://www.liverpoolcityregion-ca.gov.uk)

North East CA  
[www.northeastca.gov.uk](http://www.northeastca.gov.uk)

Sheffield City Region CA  
[www.sheffieldcityregion.org.uk](http://www.sheffieldcityregion.org.uk)

Tees Valley CA  
[www.teesvalley-ca.gov.uk](http://www.teesvalley-ca.gov.uk)

West Yorkshire CA  
[www.westyorks-ca.gov.uk](http://www.westyorks-ca.gov.uk)

The draft order for a seventh CA has been laid before Parliament:

West Midlands CA  
[www.westmidlandscombinedauthority.org.uk](http://www.westmidlandscombinedauthority.org.uk)

**For more information, visit:**  
[www.local.gov.uk/devolution](http://www.local.gov.uk/devolution)





**Local Government Association**

Local Government House  
Smith Square  
London SW1P 3HZ

Telephone 020 7664 3000  
Fax 020 7664 3030  
Email [info@local.gov.uk](mailto:info@local.gov.uk)  
[www.local.gov.uk](http://www.local.gov.uk)

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