

Mayoral Development
Corporations in Combined
Authorities & Combined County
Authorities:
Guidance on Legislation and
Scrutiny

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Background

1. This guidance from the Ministry of Housing, Communities and Local Government (MHCLG) is designed for officers and members of combined authorities (CA) and combined county authorities (CCA) The term C(C)A will be used for the remainder of this guidance to refer to a CA or CCA.
2. It seeks to address the recommendation from the Tees Valley Review Report¹, dated 23 January 2024, that Government “ should clarify the regulations in respect of Tees Valley Combined Authority (TVCA) and South Tees Development Corporation (STDC) (and if necessary other combined authorities and development corporations), including oversight, reserve matters, and consent as well as stranded liabilities.”
3. This guidance seeks to:
 - clarify the legislation that enables a mayor of a C(C)A to establish a mayoral development corporation (MDC);
 - explain how legislation relates to relevant provisions on overview and scrutiny; and
 - set out how the various pieces of legislation work together, setting out the mayor’s responsibilities and what the carrying out of those responsibilities means for governance arrangements.

The Legislation

4. MDCs are covered by multiple pieces of legislation. This section sign-posts where the relevant legislation on MDCs can be found.
5. The organisations which can establish an MDC are defined in the following primary legislation:
 - The Local Democracy, Economic Development and Construction Act 2009 (“2009 Act”) for CAs; and
 - The Levelling up and Regeneration Act 2023 (“2023 Act”) for CCAs.
6. The powers and functions of an MDC are also established in primary legislation:
 - The Localism Act 2011 (“2011 Act”).

¹ [Tees Valley Review Report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/121444/tees_valley_review_report.pdf)

7. The scrutiny and oversight of an MDC is defined in both primary and secondary legislation via the following Act and Order:
 - The Local Government and Housing Act 1989 (“1989 Act”); and
 - The Combined Authorities (Overview and Scrutiny Committee, Access to information and audit committees) Order 2017 S.I. 2017/68 (“2017 O&S Order”).
8. Secondary legislation (statutory instruments) sets out the specific provisions which apply locally for an individual C(C)A. This guidance uses the Tees Valley Combined Authority (Functions) Order 2017 S.I. 2017/250 (“2017 TVCA Functions Order”) to illustrate how the secondary legislation works. A list of statutory instruments conferring the powers on other C(C)As is at annex A.
9. All C(C)As where MDC powers have been conferred have similar provisions to Tees Valley Combined Authority regarding the mayor’s role in respect of MDCs, except for the West Midlands Combined Authority where the functions are exercised by the combined authority, not the mayor.

Guidance

Overview

10. There are currently 10 mayoral CAs and 1 mayoral CCA. They are body corporates, established through secondary legislation, with an elected mayor. The secondary legislation confers public authority and local authority functions (including functions related to MDCs) on the C(C)As. These functions are exercised either solely by the mayor or collectively by the members of the C(C)A.
11. An MDC is a body corporate, established by secondary legislation following the mayor designating a mayoral development area with the object of securing regeneration for that area. The mayor may identify a mayoral development area having consulted with, and gaining the consent of, the appropriate bodies and persons. The Orders conferring MDC functions on the C(C)A detail the specific institutions and individuals which are required to provide consent by amending section 197 of the 2011 Act. Taking the 2017 TVCA Functions Order as an example, for the TVCA the relevant bodies and institutions to be consulted are:
 - the Combined Authority;

- the local MPs, whose constituencies are covered by any part of the development area;
- the district and county councils whose areas are covered by any part of the development area;
- a National Park authority if any part of the area is within a National Park; and
- any other person whom the Combined Authority considers it appropriate to consult.

12. Following consultation and consent of the C(C)A, the mayor is able to notify the Secretary of State of their desire to establish an MDC. The Secretary of State on receiving a notification from an elected mayor must establish via secondary legislation an MDC for the mayoral development area, giving it the name notified by the mayor and any planning functions identified by the mayor. The mayor appoints the board members to the MDC and can provide guidance and directions on the operation of the MDC.

13. The legislation sets out a process for the transfer of property, rights and liabilities to an MDC. For this to occur, the Secretary of State must consult with the individuals or institutions whose property, right or liabilities would be transferred, as well as the mayor who oversees the relevant MDC. Once the Secretary of State has undertaken the necessary consultation, they may make a scheme which enables the transfers to occur. In the case of acquiring land, the MDC must obtain consent of the C(C)A and / or mayor, depending on the C(C)A's Order before submitting a compulsory purchase order for the Secretary of State's authorisation.

14. The mayor is able to decide whether an MDC should have planning functions for some or all of the mayoral development area it covers. To do so, consent from the affected local planning authorities is required; the consent requirements are set out in the Orders conferring MDC powers to the relevant C(C)A (see Annex A); for C(C)As, they are not set out in the Localism Act 2011. With consent given, the conferral of planning functions upon an MDC can be made via secondary legislation.

15. Where a mayor² of a C(C)A is exercising functions in relation to an MDC, oversight of the MDC is provided through:

- the ability of the mayor to give directions and guidance to support an MDC in the carrying out of its activities and functions;
- the provision that some decisions - such as the dissolution of an MDC, the transfer of property to an MDC, or the restriction of planning function to an MDC - require the consent of the mayor;
- the ability of the overview and scrutiny committee of the C(C)A to scrutinise the mayor's decisions regarding the MDC (the committee has a right to see all documents relating to mayor's decisions and can require the mayor, C(C)A members and officers, MDC members to attend meetings to answer questions regarding decisions on the MDC);
- the duty of the mayor to periodically review the continuing existence of the MDC; and
- the requirement that the C(C)A monitoring officer is also the monitoring officer for any MDCs in the authority's area.

16. As set out in paragraph fifteen, the role of the mayor of a C(C)A is to establish an MDC, make appointments to the MDC board, and provide oversight through the provision of guidance and directions on the exercise of the functions of the MDC and the provision of consent to decisions, such as compulsory purchase and disposal of land below value. Whilst legislation does not prevent a mayor from being the chair of an MDC, their oversight role is not compatible with them also taking the role of chair. The oversight function should be clearly separate from decision making to avoid conflicts of interest. As the Mayor provides oversight of the MDC, and has powers in relation to the issuing of guidance and direction to an MDC, the mayor should not be the chair of an MDC.

17. The principle of the separation of the role of oversight from those involved in the decision making, in order to avoid conflict of interest, should also apply to officer roles within the C(C)A, MDC, and any other body corporate established by the MDC. Where individuals hold roles in multiple organisations throughout a group structure, for example in a constituent council and in an MDC or a corporate body

² Where the relevant functions are exercised by the C(C)A, the oversight roles are fulfilled by the C(C)A. Currently this is only applicable to the West Midlands Combined Authority.

established by an MDC, there should be no circumstances where one individual has a key role in one organisation that provides oversight to another organisation while also having decision-making responsibilities. The avoidance of conflicts of interest also means that individuals need to recuse themselves from decisions in which they have a stake.

18. Where the relevant functions are exercised by the C(C)A, rather than the mayor - currently only in the West Midlands Combined Authority - there is less risk of a conflict of interest if the mayor is the chair of an MDC but the C(C)A should carefully consider local circumstances when appointing the chair and apply the principle of separation of the oversight and decision making.

The Localism Act 2011

19. When seeking to understand how MDC functions and powers are applied to C(C)As, it is important to have consideration and understanding of Part 8 of the 2011 Act. The 2011 Act is the primary legislation for MDCs and describes the powers, functions and duties of an MDC; secondary legislation then confers MDC powers onto individual C(C)As and their mayors and appropriately amends the 2011 Act as required.
20. Part 8 of the Localism Act 2011 confers functions on the Mayor of London which enables the mayor to designate a mayoral development area and set up an MDC with the object of securing regeneration for that area. The statutory instruments that establish and confer functions on a C(C)A apply these same provisions to the mayor for the area of a C(C)A (or in the case of West Midlands Combined Authority, the WMCA).
21. This guidance uses the example of the 2017 TVCA Functions Order to illustrate the application of the 2011 Act, which applies in the same way to provisions set out in the statutory instruments for other C(C)As that confer the same functions on a mayor. See Annex A for a list of the relevant statutory instruments.
22. Although these functions are based on the 2011 Act, it is not possible to confer equivalent functions in respect of MDCs that the Localism Act 2011 confers on the Mayor of London directly onto e.g. the Mayor of Tees Valley Combined Authority, as the mayor of a C(C)A is not a body corporate. The legislative route used in the 2017 TVCA Functions Order is to first confer the functions on the institution of the C(C)A, of which the mayor is a member, through article 3 of that

Order, and then to specify in article 5 that the functions conferred on the C(C)A in article 3 may only be exercised by the mayor. The effect is to make these functions mayoral; the C(C)A ‘board’ (the cabinet of the C(C)A) does not have a role in exercising any functions that article 5 states are to be exercised only by the mayor.

23. Schedule 1 to the 2017 TVCA Functions Order sets out the modifications made to the 2011 Act in order to confer the functions onto the CA. In this Schedule, there is a general modification to substitute references to ‘the mayor’ with references to ‘the combined authority’. This Schedule is to be read in conjunction with article 5 of the 2017 TVCA Functions Order to identify which functions are then to be exercised by the mayor.
24. All other mayoral C(C)As have similar provisions conferring functions in respect of MDCs onto the mayor, with the exception of the West Midlands Combined Authority³.

Consents

25. In order for an MDC to make use of some of its functions and powers, the securing of consent from certain parties first needs to have taken place. The consent requirements for an MDC are outlined in the 2011 Act; these consent requirements are applicable to C(C)A mayors via their establishing secondary legislation. Using the 2017 TVCA Order by way of illustration⁴:

- Part 8 of the 2011 Act provides that, in London, an MDC may: carry out the compulsory purchase of land; disposal of land below value by an MDC; form or acquire interests in bodies corporate; and provide financial assistance (sections 207, 209, 212 and 213 of the 2011 Act) but requires the consent of the Mayor of London to do so.
- Schedule 1 to the 2017 TVCA Functions Order (paragraphs 3 and 11) covers all the functions under Part 8 but modifies the requirements in sections 207, 209, 212 and 213 of the 2011 Act so that it is the consent of the combined authority in the TVCA area that is required.

³ The relevant statutory instruments (see Annex A) provide that these functions are the responsibility of the West Midlands Combined Authority.

⁴ With the exception of the West Midlands Combined Authority.

- Section 221 of the 2011 Act makes provision about the giving of consent; this section is conferred on TVCA by article 3 of the 2017 TVCA Functions Order and then article 5 of the 2017 Order provides that the function is exercisable only by the mayor. The Mayor of TVCA, like the Mayor of London, must consent for an MDC to: carry out the compulsory purchase of land; disposal of land below value by an MDC; form or acquire interests in bodies corporate; and provide financial assistance.

Directions

26. A similar approach is taken to the conferral of functions regarding the issuing of guidance and directions to an MDC; the statutory instruments conferring these functions on other mayoral C(C)As contain the same provisions:

- Sections 219 and 220 of the 2011 Act provides for the Mayor of London to issue guidance and directions regarding the exercise of an MDC's functions.
- Schedule 1 to the 2017 TVCA Functions Order (paragraphs 3 and 11) modifies the requirements in Sections 219 and 220 of the 2011 Act so that it is for the combined authority to issue guidance and directions.
- Article 3 of the 2017 TVCA Functions Order confers 2011 Act functions on TVCA and article 5 of the 2017 TVCA Functions Order provides that these functions of the TVCA are exercisable only by the mayor. The Mayor of TVCA, like the Mayor of London, is able to issue guidance and directions regarding the exercise of an MDC's functions.

Membership of the MDC board

27. A mayor is able to appoint the members of an MDC's board. Schedule 21 of the 2011 Act, which is applied to C(C)As by the secondary legislation, is outlined in Annex A. Schedule 21 outlines the various requirements a mayor must undertake when making an appointment.

28. In order for the mayor to appoint members to an MDC board, the mayor must have considered the desirability of appointing a person who has experience in matters relating to the functions of an MDC. The mayor also needs to be satisfied the person they are appointing does not have any financial or other interest which may prevent them from exercising their functions as a member.

29. To ensure that the mayor is satisfied that the person being appointed does not have any financial interest or interests which may prevent them from being a member, the mayor may require the person to provide information which they consider necessary in order for the mayor to make their decision.

Monitoring officer

30. Article 7 of the 2017 TVCA Functions Order provides that section 5 of the Local Government and Housing Act 1989 applies to the CA as if a Corporation were a committee of the authority. This means that the monitoring officer of TVCA is automatically the monitoring officer of any MDC in the area. The same provision is made for MDCs in other C(C)A areas.

Overview and scrutiny

31. Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 sets out the remit of the Overview and Scrutiny Committee(s) of a CA, with equivalent requirements for CCAs in Schedule 1 to the Levelling-up and Regeneration Act 2023.
32. Paragraph 1(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 provides that the overview and scrutiny committee of a mayoral CA may scrutinise decisions made, or actions taken, to discharge the mayor's general functions; make reports or recommendations to the mayor in the respect of the discharge of those functions; and make reports or recommendations to the mayor on matters that affect the authority's area or inhabitants of the area. The equivalent requirement for mayoral CCAs is set out at paragraph 1(3) of Schedule 1 to the Levelling-up and Regeneration Act 2023.
33. Paragraph 2(6) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009 provides that the overview and scrutiny committee of a CA may require the members or officers of the authority to attend before it to answer questions (including, in the case of a mayoral combined authority, the mayor for the authority's area and deputy mayor) and may invite other persons to attend meetings of the committee. The equivalent requirement for mayoral CCAs is set out at paragraph 2(6) of Schedule 1 to the Levelling-up and Regeneration Act 2023.

34. The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 sets out further provisions for CA and CCA overview and scrutiny committees. Article 10 provides that a member of the overview and scrutiny committee is entitled to a copy of documents in the possession of the mayor that contains any material relating to business that has been transacted at a decision-making body of that authority, or any decision made by an individual member of that authority. Following a request, such documentation must be provided as soon as practicable or no later than 10 days following the request.
35. Exempt or confidential information is excluded from this provision unless it is relevant to an action or decision being scrutinised by the committee or is relevant to a review in an overview and scrutiny committee work programme. Advice from political advisers is also excluded from this provision.
36. The Scrutiny Protocol for English institutions with devolved powers provides further guidance on effective overview and scrutiny in C(C)As.⁵ It sets out 18 key principles for good scrutiny, including expectations of co-operation from mayors and combined authority members.
37. Taken together, these provisions mean that the scrutiny committee of a C(C)A:
- may scrutinise the decisions of a mayor or C(C)A that relate to MDCs;
 - have a right to see documentation relating to mayoral and C(C)A decisions on an MDC;
 - may require the mayor to attend a meeting to answer questions in relation to mayoral decisions relating to an MDC; the Scrutiny Protocol makes it clear that the mayor should commit to engage regularly with the committee both informally and formally and must attend the committee when requested;
 - may require C(C)A members who are on the board of an MDC to attend a meeting to answer questions about their role on the MDC. The Scrutiny Protocol set out that Members who are portfolio-leads (or equivalent) should also commit to engaging regularly with the committee and attend when requested. Even if members of the institution have assigned or delegated areas of responsibility to others, it should be standard practice

⁵ [Scrutiny Protocol - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/Scrutiny-Protocol-2017.pdf)

for them to attend to present any reports within their portfolio alongside the appropriate officers;

- have a right to see documentation relating to the monitoring officer's role in respect of an MDC;
- may require the monitoring officer to attend a meeting to answer questions about their role in respect of an MDC; and
- may invite officers and board members of an MDC to a meeting of the overview and scrutiny committee to discuss the MDC.

38. The overview and scrutiny committee of a C(C)A should engage in all these activities and the mayor, C(C)A members and officers, and MDC board members and officers should facilitate such scrutiny, in order for local residents to be confident that public assets and money are being used for public benefit.

Annex A - List of statutory instruments conferring mayoral development corporation functions on a C(C)A as of January 2025

Area	Statutory Instrument (S.I.)	S.I. number	Date
West of England	The West of England Combined Authority Order 2017	2017/126	2017
Tees Valley	Tees Valley Combined Authority (Functions) Order 2017	2017/250	2017
Liverpool	The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017	2017/430	2017
West Midlands	The West Midlands Combined Authority (Functions and Amendment) Order 2017	2017/510	2017
Greater Manchester	The Greater Manchester Combined Authority (Functions and Amendment) Order 2017	2017/612	2017
South Yorkshire	The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020	2020/806	2020
West Yorkshire	The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021	2021/112	2021
North Yorkshire	The York and North Yorkshire Combined Authority Order 2023	2023/1432	2023
East Midlands	The East Midlands Combined County Authority Regulations 2024	2024/232	2024
North East of England	The North East Mayoral Combined Authority (Establishment and Functions) Order 2024	2024/402	2024

Annex B – Mayoral Development Corporations in England as of January 2025

Area	Mayoral Development Corporation	Established
Greater London Authority	London Legacy Development Corporation	9 March 2012
	Old Oak and Park Royal Development Corporation	1 April 2015
Tees Valley Combined Authority	South Tees Development Corporation	1 August 2017
	Hartlepool Development Corporation	27 February 2023
	Middlesbrough Development Corporation	27 February 2023
Greater Manchester Combined Authority	Stockport Town Centre West Mayoral Development Corporation	2 September 2019