

APPENDIX A

Council

21 November 2016

**Contents of Draft Norfolk and Suffolk
Combined Authority Order**

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PART 1 ***General***

Commencement

The commencement date for Norfolk and Suffolk Combined Authority (“NSCA”) is 1st March 2017.

Interpretation

Combined authority area is the areas of

- (a) Babergh District Council
- (b) Broadland District Council
- (c) Forest Heath District Council
- (d) Ipswich Borough Council
- (e) King’s Lynn and West Norfolk District Council
- (f) Mid-Suffolk District Council
- (g) Norfolk County Council (the part of the County Council covering King’s Lynn and West Norfolk District Council, South Norfolk District Council and Broadland District Council)
- (h) St Edmundsbury Borough Council
- (i) South Norfolk District Council
- (j) Suffolk County Council
- (k) Waveney District Council

PART 2

Establishment of a combined authority for Norfolk and Suffolk

Establishment

The combined authority is to be a body corporate and is to be known as **the Norfolk and Suffolk Combined Authority**.

Constitution-Mayor and Mayoral elections

According to section 107A of LDEDCA there should be a directed elected mayor for the area of NSCA. The first election will be held in May 2017 and subsequent elections shall take place in the fourth year thereafter (2021) and on the same day of ordinary elections. Thereafter terms shall be four years (5.3).

Constitution – Membership

There will be 14 members of NSCA (12 constituent councils, 1 non-constituent, 1 elected mayor from May 2017 (4.1); The New Anglia Local Enterprise Partnership (NALEP) shall be a non-constituent in NSCA (Intro); Each constituent council appoints one elected member and one substitute member (4.3).

Funding

The NSCA will agree an annual budget identifying its expenditure and source of income (20.3).

Expenses of the NSCA that are reasonable attributable to the exercise of its functions will be met by existing resources of the constituent authorities, and any additional costs will be met in equitable shares by the constituent authorities. (20.1)

NSCA shall be a levying body under s74 LGFA 1988 and shall have the power to issue a levy to its constituent authorities in respect to expenses reasonable attributable to the exercise of its functions (excluding mayoral functions), such levy will be apportioned between the constituent authorities in equitable shares to be agreed in the annual budget. The Constitution will set out a process for agreeing the budget of how these expenses will be met. (20.2 and 20.3)

The constituent councils and the Mayor must ensure that the costs of the Mayor reasonably attributable to the exercise of the mayoral functions are met.

Funding (Mayor)

In financial year 2017/18 the costs of the Mayor that are incurred in (or in connection with) the exercise of mayoral functions will be met by the constituent authorities. Such costs shall be apportioned between constituent authorities in equitable shares to be agreed in the annual budget (21.1). The initial mayoral budget will be agreed by the NSCA prior to the mayoral election so will be agreed by all constituents

In any financial year following 2017/18 the costs of the Mayor that are incurred in (or in connection with) the exercise of mayoral functions may be met from precepts issued by NSCA under s.40 LGA 1992 (21.2)

The CA will be a major precepting authority under section 39 of the Local Government Finance Act 1992 but only in relation to expenditure incurred by the Mayor in or in connection with the exercise of Mayoral functions (21.3)

Any mayoral costs incurred by the constituent authorities will be treated as a loan to the NSCA repayable on the 3rd anniversary of the first mayoral election (21.4)

The Mayor shall exercise the function to issue a precept under Chapter 4 of Part 1 of the Local Government Finance Act 1992, acting on behalf of the CA (21.5)

The Mayor shall maintain a fund in relation to receipts arising and liabilities incurred in the exercise of the mayoral functions (21.6)

Prior to the start of each financial year and beginning with 2018/19 the Mayor shall follow a process for the development of his/her budget for the exercise of mayoral functions for the financial year in question that is in accordance with Regulations, or in the absence of Regulations has the following characteristics (21.7 a-d):

- preparation of a draft budget to include expenditure plans and income including the proposed precept;

- scrutiny of the draft budget by the other members of the Combined Authority and the Overview and Scrutiny Committee;
- the making of changes to the draft budget as a result of such scrutiny; and
- the approval of the draft budget.

The Mayor's draft budget shall be treated as rejected if two thirds of the constituent authority members of the NSCA vote to reject it and in that event the Mayor shall propose a revised draft budget (21.8)

Property, rights and liabilities

No transfer of property, rights and liabilities between NSCA or the Mayor and the constituent authorities, other than by the agreement of the constituent authorities. (21.1)

General Power and Competence (Mayor)

Mayor may do anything the Combined Authority can do under s113A of the LLEDCA subject to the limitations under s113B (12.2)

General Power and Competence (NSCA)

Full GPC (Chapter 1 of Part 1 of Localism Act 2011) to be applied to NSCA (14.2)

CA approval of Mayoral decisions

The Mayor shall consult the Combined Authority before a decision is taken on the approval of any strategy falling within the remit of the Mayor under the Mayoral Functions, whether that approval is to be given by the Mayor directly.

Any other strategy or spending plans shall be treated as rejected if a two thirds majority of the Constituent Authority Members of the Combined Authority vote to reject such a plan provided that any Constituent Authority directly affected by such a strategy or plan and present and able to vote at the meeting must be part of the deciding vote's majority for that rejection decision to carry (unless they abstain).

PART 3

Transport

Functions: Transport funding (Mayor)

The Mayor is responsible for a consolidated, multi-year local transport budget. NSCA to have powers under section 31 of the Local Government Act 2003, to be exercised by the Mayor via section 107D of the 2009 LDEDCA, to allocate highways funding. A condition will also be attached to the use of that function which provides that the mayor must have due regard to an allocation policy, or factors relevant to the allocation.

Functions: Key Route Network (Mayor)

Take responsibility for delivering a new Key Route Network of local authority roads, the management and maintenance of which shall be undertaken by the constituent authorities.

Functions: Transport Plans (Mayor)

Confer on the Mayor the powers in s. 108, 109 and 112 of the Transport Act 2000 to publish and produce a Local Transport Plan for the CA area. Concurrency still under consideration by constituent authorities. To exercise powers under Part 2 of the Local Transport Act 2000. The Transport Plan and any spending plans or plans for the allocation of transport-related funding shall be treated as rejected if a two thirds majority of the Constituent Authority Members of the Combined Authority vote to modify or reject the Transport Plan and associated spending, provided that any decision to reject or modify the Transport Plan or budget includes the Combined Authority Members from each of Norfolk and Suffolk County Councils.

Functions: Buses (Mayor)

To exercise concurrently, such powers to franchise bus services to support delivery of smart and integrated ticketing.

PART 4

Mayoral Development Corporation

Conferral of function

The Combined Authority shall have in relation to its area functions corresponding to the functions contained in the provisions in the 1999 Act set out in Schedule 2 that the Mayor of London has in relation to Greater London.

Conditions on which the function is to be exercised by the Combined Authority

The functions may be exercised by the Combined Authority only with the consent of each of the members of the Combined Authority who are elected members of a constituent council whose council area contains any part of the area to be designated as a mayoral development area.

PART 5

Incidental Functions

Functions: Planning (Mayor)

A non-statutory spatial framework and supplementary planning documents must be created.

The spatial framework and any supplementary planning documents referred shall require the unanimous approval of all the Constituent Members of the Combined Authority (2.5.1)

Incidental provisions

The following provisions of the Local Government and Housing Act 1989(e), namely—

(a) section 1(f) (disqualification and political restriction of certain officers and staff), and

(b) sections 2 and 3A(g) (politically restricted posts and exemptions from restriction) so far as they have effect for the purposes of that section,

shall apply as if a Corporation were a local authority.

PART 6

Additional functions

General functions of the Combined Authority exercisable only by the Mayor

The general function exercisable on by the Mayor are sections 334 to 342 and 346 of the 1999 Act and the transport functions. The Mayor shall consult the Combined Authority before exercising these functions.

Economic development and regeneration functions

Confer on the NSCA local authority functions under:

- Sections 15ZA, 15ZB, 15ZC, 17 and 18A(1)(b) of the Education Act 1996 and the powers 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)
- Section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities)
- Section 69 of the 2009 LDEDCA (duty to prepare an assessment of economic conditions).

The functions of the constituent councils set out in Schedule 4 are exercisable by the Combined Authority in relation to its area and in cooperation with the constituent councils.

Incidental provisions

The following provisions shall have effect as if the Combined Authority were a local authority for the purposes of those provisions—

(a) section 113 of the Local Government Act 1972(c) (power to place staff at the disposal of other local authorities);

(b) section 142(2) of the Local Government Act 1972(d) (power to arrange for publication of information etc relating to the functions of the authority); and

(c) section 222 of the Local Government Act 1972(e) (power to prosecute and defend legal proceedings).

“(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 is a member of one of the constituent councils as defined by article 2 of the Norfolk and Suffolk Combined Authority Order 2016.”

In Part 2 of Schedule 3 (pension funds) to the Local Government Pension Scheme Regulations 2013(b) in the table insert at the end—

“An employee of the TBC Council”
Norfolk and Suffolk
Combined Authority
established by the
Norfolk and Suffolk
Combined Authority
Order 2016

Schedule 1

Constitutional Provisions

Membership

There would be 14 members of NSCA (12 constituent councils, 1 non-constituent, 1 elected mayor) from May 2017 (4.1). The New Anglia Local Enterprise Partnership (NALEP) shall be a non-constituent in NSCA (Intro)

Each constituent council must appoint one of their members to be a member of the Combined Authority and another of its elected members to act as a substitute member.

The Local Enterprise Partnership must also nominate one of its Directors to be a member of the NSCA and another Director to act as a substitute member. Such nominated Directors shall become a Member or Substitute Member from the date on which written notice of nomination by the NALEP is received by the NSCA.

If a person ceases to be a member of the constituent council that appointed them or the Local Enterprise Partnership that nominated them, then they cease to be members or substitute members of the Combined Authority. A person may also resign as a member or substitute member of the Combined Authority by written notice served on the proper officer of the constituent council that appointed them or the chairman or vice-chairman of the Local Enterprise Partnership that nominated them. Where a member or substitute member of the Combined Authority's appointment ceases, the constituent council that made the appointment or the LEP must give written notice as soon as possible to the Combined Authority and appoint/nominate another of its elected members.

The constituent councils or NALEP may terminate the appointment of their appointed member or substitute member and replace them at any time by giving not less than 14 days written notice to the NSCA and the termination and replacement shall take effect on the expiry of such notice (6.5)

An elected Mayor of a constituent council is to be treated as a member of the constituent council.

Chair and vice-chair

At the first meeting of the Combined Authority and after the appointment of its members, the CA must appoint a chair. A person ceases to be chair of the Combined Authority if they cease to be a member of the Combined Authority. If a vacancy arises in the office of chair, an appointment to fill the vacancy is to be made at the next ordinary meeting of the Combined Authority. The chair ceases to hold office on 7 May 2017 and the position of chair is abolished with effect from 8 May 2017.

After the appointment of the chair, the CA must in each year appoint a vice-chair from among its members and agree on the order of the rotation of the vice-chair. These will happen during the first meeting of the CA and in subsequent years at the annual meeting of the CA. A person ceases to be vice-chair of the Combined Authority if they cease to be a member of the Combined Authority. If a vacancy arises in the office of vice-chair, an appointment to fill the vacancy is to be made at the next ordinary meeting of the Combined Authority.

Proceedings

Each member, or substitute member is to have one vote and no member or substitute member is to have a casting vote. If a vote is tied on any matter it is deemed not to have been carried. Members appointed from the Local Enterprise Partnership shall be non-voting members of the CA.

N.B. Voting rights can't be conferred on the LEP through the order. The Combined Authority can confer.

Any questions that are to be decided by the Combined Authority are to be decided by a majority of at least two-thirds of the members and substitute members, acting in place of members, present and voting on that question at a meeting of the Combined Authority. NSCA quorum is 7 voting members or substitute members and must include a district member and a county member from each of Norfolk and Suffolk (16.8)

The following decisions shall only be taken in a meeting of the full Combined Authority and shall require a unanimous vote in favour by all constituent council members or substitute members standing in their place (16.2, 16.4):

- Approval of borrowing limits, treasury management strategy including reserves, investment strategy, borrowing and budget of the NSCA including the amount of any expenses to be met by the constituent councils; (16.2a)

- Approval of NSCA standing orders and any amendments, including any standing orders requiring other matters to be determined by unanimous vote; (16.2b, 16.4)
- Approval of the establishment of committees, their terms of reference and composition; (16.2d)
- Approval of the establishment of an Overview and Scrutiny Committee, its terms of reference and composition and accepting appointments to it; (16.2d)
- Approval of the spatial planning framework and any supplementary planning documents (14.3a)
- Making of proposals to the SoS for the conferral of additional powers and functions; (16.2f)
- Approval of the making of arrangements for the exercise of functions of the Combined Authority; (16.2g)
- Admission of non-constituent members or conferral of voting rights on such members; (16.2h)
- Giving consent to orders made by the SoS for the NSCA; (16.2i)
- Appointment and dismissal of Head of Paid Service, Monitoring Office and office responsible for financial affairs.(16.2j)
- Approval of NSCA constitution and further changes to the NSCA constitution other than changes required by legislation or minor or consequential drafting changes (16.7)
- Appointment of members drawn otherwise than from the elected members of the constituent councils or conferral of voting rights on such members; and
- Provision of consent to orders made under Part 6 of the 2009 Act.

Pending the appointment of a mayor, decisions on the appointment of the Chair of NSCA should only be taken in a meeting of the full NSCA and require a majority vote in favour by all constituent council members or substitute members standing in their place: (16.2, 16.2c and 16.4)

Decisions to change the CA's constitution other than changes required by legislation or minor drafting or consequential amendments shall require a unanimous vote in favour by all constituent members present or substitute members standing in their place (16.7)

Decision-making for mayoral strategies reflected under powers sections

NSCA may in Standing Orders provide for special majority arrangements contained on specified reserved decisions and may include arrangements to ensure that constituent authorities affected by a decision must be part of a majority. (16.5). It should not be possible to vary voting arrangements for voting on any strategy falling within the remit of the mayor. (14.3, 16.6)

Proceedings shall not be invalidated by any vacancy amongst the NSCA members or by any defect in the appointments or qualification of any member (16.12)

Committees/Boards

The Combined Authority shall make arrangements in its constitution to establish appropriate bodies for the discharge of functions (11.1) based on thematic or geographic clusters.

The Combined authority S101 and 102 LGA 1972 shall apply to the NSCA so that may delegate functions other than those reserved to it under paragraph 16.2 to a board or to another officer or authority. (11.2 and 16.1)

Chairs of the boards will act as a supporting and advisory function to the Mayor in respective policy areas (11.3b)

NSCA shall be permitted to exercise any of the functions of constituent authorities concurrently. Any such functions shall only be exercised with the agreement of a simple majority of the constituent authorities and include the constituent authority whose functions are to be exercised by the combined authority.

Committees- Overview and Scrutiny

The Combined Authority must appoint at least one member of each of the constituent councils to the overview and scrutiny committee appointed by the Combined Authority so that the members of the committee taken as a whole reflect so far as reasonably practicable the balance of political parties. An overview and scrutiny committee may not include any substitute member of the Combined Authority and no business is to be transacted unless at least seven members from at least three constituent councils are present at the meeting.

Chair of O&S Committee is an appropriate member of one of the constituent councils who is not a member of a registered political party of which the mayor is a member. (17.3) If the mayor is an independent candidate, then the Chair cannot be a member of the party that holds a majority within the Combined Authority.

Each O&S member has one vote and there is no casting vote (17.4). A tied vote is deemed not to be carried (17.5).

O&S committee shall have the power to (17.6 a-f):

- Invite Combined Authority Members and officers, including the Mayor and Deputy Mayor, to attend and answer questions;
- Review or scrutinise decisions or other actions taken in connection with the discharge of any functions which are the responsibility of the Combined Authority or the Mayor;
- Make reports or recommendations to the Combined Authority and the Mayor with respect to the discharge of any functions which are the responsibility of the Combined Authority or the Mayor;
- Make reports or recommendations to the Combined Authority and the Mayor on matters that affect the authority's area or the inhabitants of the area;
- In respect of any decision made but not implemented by either the Combined Authority or the Mayor, direct that the decision is not to be implemented while it is under review or scrutiny and to recommend that the decision be reconsidered; and

- Invite others to attend meetings of the Committee.

Where an overview and scrutiny committee makes a report or recommendation the committee may publish the report or recommendations and by notice in writing require within two months the Combined Authority to consider the report or recommendations, respond to the overview and scrutiny committee indicating what (if any) action the Combined Authority proposes to take; and if the overview and scrutiny committee has published the report or recommendations publish the response.

Audit Committee

The membership of the audit committee shall be determined by the NSCA but must include at least one independent person as a member (18.2)

The audit committee will have the power to (18.3 a-d):

- Review and scrutinise the Office of the Mayor and Combined Authority's financial affairs;
- Review and assess the Mayor and Combined Authority's risk management, internal control and corporate governance arrangements;
- Review and assess the economy, efficiency and effectiveness with which resources have been used in discharging the Combined Authority's functions and the Mayoral Functions; and
- Make reports and recommendations to the Combined Authority and/or the Mayor in relation to any reviews carried out in relation to the matters stated above.

Records

The CA must make arrangements for the names of members and substitute members present at any meeting to be recorded.

Minutes of the proceedings of a meeting of the Combined Authority, or any committee or sub-committee of the Combined Authority, are to be kept in such form as the Combined Authority may determine. Any such minutes are to be signed at the same or next suitable meeting of the Combined Authority, committee or sub-committee as the case may be, by the person presiding at that meeting. Any minute purporting to be signed as mentioned is to be received in evidence without further proof. A meeting of the Combined Authority, committee or sub-committee, a minute of whose proceedings has been signed is deemed to have been duly convened and held, and all the members and substitute members present at the meeting are deemed to have been duly qualified.

Standing orders

The Combined Authority may make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders

Remuneration

No remuneration is to be payable by the Combined Authority to its members.

Schedule 2

1.—(1) The Combined Authority is to have in relation to its area the functions contained in the following provisions in Chapter 2 of Part 8 of the 2011 Act—

- (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 Combined Authority); and
- (k) section 221 (directions by the Combined Authority).

(2) The Combined Authority is to have in relation to its area the functions contained in the following provisions in Schedule 21 to the 2009 Act—

- (a) paragraph 1 (membership);
- (b) paragraph 2 (terms of appointment of members);
- (c) paragraph 3 (staff);
- (d) paragraph 4 (remuneration etc: members and staff);
- (e) paragraph 6 (committees); and
- (f) paragraph 8 (proceedings and meetings).

Schedule 3

PART 1 Article 11

Modification of the application of Part 8 of the 2011 Act

- 1.—(1) Part 8 of the 2011 Act applies with the following modifications.
- (2) Section 196 of the 2011 Act is to be read as if there is substituted—
“In this Chapter—
“the Combined Authority” means the Norfolk and Suffolk Combined Authority(a);
“MDC” means a Mayoral development corporation (see section 198)”.
- (3) In sections 196 to 222 of the 2011 Act every reference to—
 - (a) the Assembly is to be read as references to the Combined Authority;
 - (b) the Greater London Authority is to be read as a reference to the Combined Authority;
 - (c) the London Assembly is to be read as a reference to a reference to the Combined Authority;
 - (d) “the Mayor” is to be read as a reference to “the Combined Authority”.
- (4) Section 197 of the 2011 Act (designation of Mayoral development areas) is to be read as if —
 - (a) in subsection (1) for “Greater London” there is substituted “the area of the Combined Authority”.
 - (b) in subsection (3)—
 - (i) in paragraph (a) for “any one or more of the Greater London Authority’s principal purposes” there is substituted “economic development and regeneration in the area of the Combined Authority(b)”, and
 - (ii) in paragraph (d) the references to “the London Assembly or” and “ , (e), (f) or (g)” are omitted; and
 - (c) in subsection (4)—
 - (i) paragraph (a) is omitted;
 - (ii) paragraph (b) is omitted;
 - (iii) in paragraph (d) for “each London borough council whose borough” there is substituted “each district council or county council in the Combined Authority’s area whose area”;
 - (iv) paragraphs (e) to (g) [are omitted];
 - (d) in subsection (5) subsection (7) were omitted.
- (5) Section 200 of the 2011 Act (transfers of property etc to a Mayoral development corporation) is to be read as if—
 - (a) in subsection (3)—
 - (i) in paragraph (a), for “a London borough council” there is substituted “a district council or county council [in the Combined Authority’s area]”,
 - (ii) paragraph (b) is omitted,
 - (iii) in paragraphs (d) and (e), for “Greater London” there is substituted “in the area of the Combined Authority”,
 - (iv) paragraph (f) is omitted,
 - (v) paragraph (g) is omitted, and
 - (vi) paragraph (h) is omitted;
 - (b) in subsection (4) paragraph (b) is omitted;
 - (c) subsection (7) is omitted;
 - (d) subsection (8) is omitted; and

- (e) in subsection (10), the definitions of a “functional body” a “public authority” are omitted.
- (6) Section 201 of the 2011 Act (object and powers) is to be read as if subsection (8)(b) is omitted.
- (7) Section 203 of the 2011 Act (arrangements for discharge of, or assistance with, planning functions) is to be read as if for “a London borough council or the Common Council of the City of London” there is substituted “a district council or county council in the Combined Authority’s area”.
- (8) Section 207 of the 2011 Act (acquisition of land) is to be read as if—
- (a) in subsection (2) for “in Greater London” there is substituted “in the Combined Authority’s area”; and
- (b) in subsection (3) the words “of London” are omitted.
- (9) Section 214 of the 2011 Act (powers in relation to discretionary relief from non-domestic rates) is to be read as if—
- (a) in subsection (4)(c) for “or an affected local authority” are omitted; and
- (b) in subsection (4) the definition of “an affected local authority” for the purposes of paragraph (c) is omitted.
- (10) Section 216 of the 2011 Act (transfers of property, rights and liabilities) is to be read as if —
- (a) in subsection (2), “ , (e)” is omitted; and
- (b) in subsection (4)—
- (i) the definition of “functional body” is omitted; and
- (ii) in the definition of “permitted recipient”—
- (aa) paragraph (b) is omitted,
- (bb) for “(d) a London borough council” there is substituted “a district council or county council in the Combined Authority’s area”, and
- (cc) paragraph (e) is omitted.

PART 2

Modification of the application of Schedule 21 to the 2011 Act

- 2.—(1) Schedule 21 to the 2011 Act applies with the following modifications.
- (2) Schedule 21 of the 2011 Act is to be read as if—
- (a) in paragraph 1(1) the reference to the Mayor of London (“the Mayor”) is to be read as the Combined Authority;
- (b) all subsequent references to the Mayor are to be read as the Combined Authority;
- (c) in paragraph 1(2) the reference to each relevant London council is to be read as each district council or county council in the Combined Authority’s area;
- (d) paragraph 1(3)(a) is omitted;
- (e) in paragraph 4(4) the reference to the London Assembly is to be read as a reference to the Combined Authority; and
- (f) in paragraph 10(c) the reference to the London Assembly is to be read as a reference to the Combined Authority.

Schedule 4

Economic development and regeneration functions

1. The functions of the constituent councils under section 1 of the Localism Act 2011(a) to the extent that those functions are exercisable for the purpose of economic development and regeneration.
2. The power under section 144 of the Local Government Act 1972(b) (the power to encourage visitors and provide conference and other facilities).
3. The duties under sections 15ZA, 15ZB, 15ZC, 17 and 18A(1)(b) of the Education Act 1996(c) 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).
4. The duty under section 69 of the 2009 Act (duty to prepare an assessment of economic conditions).

DRAFT