



NTCA Constitution

Appendix: Powers and Functions conferred on the Authority

APPENDIX

Powers and Functions conferred on the Authority

Ref	Description of Functions	Principal Legislative Provisions	Application
A.	<u>Economic Development and Regeneration</u>		
	The Authority has a general power of competence to be exercised concurrently with the constituent councils so far as those functions are exercisable for the purposes of economic development and regeneration.	Section 1 of the Localism Act 2011	Article 13(1) (a), 2018 Order.
	<p>The general power of competence gives the Authority the same power as an individual generally has. This includes the power to do things that unlike anything that any other public body has done before, or may currently do.</p> <p>There are boundaries on the exercise of the general power, including the definition of “an individual” and statutory restrictions include:-</p> <p>(a) those that apply to existing powers that are overlapped by the general power;</p> <p>(b) any express prohibitions, restrictions and limitations within primary or secondary legislation, to the use of the general</p>		

	<p>power (but restrictions in post-commencement legislation will only apply to the general power where they are expressed to do so);</p> <p>(c) that the general power does not give local authorities power to delegate or contract out of their functions, nor to alter governance arrangements; and</p> <p>(d) the limits on doing things for commercial purpose in exercise of the general power.</p>			
B.	<u>Housing and Regeneration Functions</u>			
	Subject to the limitation of the exercise of the functions, the Authority can concurrently exercise with the constituent councils the following powers in relation to housing, shops and acquisition of land:-		The following provisions of the Housing Act 1985 are modified so as to correspond with the Combined Authority and the combined area:-	Article 13, 2018 Order.
	The consideration of housing conditions in the area and the needs of the area with respect to the provision of further housing accommodation;		Section 8 (periodical review of housing needs)	
	The provision of board and laundry facilities; shops, recreation grounds etc.		Sections 11 (provision of board and laundry facilities) and 12 (provision of shops, recreation grounds etc.).	
	The acquisition of land for housing purposes and the duties relating to buildings acquired for housing purposes.		Sections 17 (acquisition of land for housing purposes) and 18 (duties with respect to buildings acquired for housing purposes)	

C.	<u>Housing and Regeneration functions corresponding to those of the Homes and Communities Agency (HCA)</u>			
	<p>Subject to the limitation on the exercise of the functions the Authority can concurrently exercise with the HCA for the purposes of, or for purposes incidental to, the objects listed in the 2018 Order* the following:</p> <ul style="list-style-type: none"> • provide housing or other land and facilitate the provision of housing or other land • regenerate or develop land • provide infrastructure and to facilitate the provision of infrastructure. <p>The Authority will therefore be able to acquire, hold, improve, manage, reclaim, repair or dispose of housing or other land or property, or facilitate these activities. It will also be able to carry out building and other operations, including the demolition or conversion of buildings, or facilitate such operations.</p> <p>The acquisition of land by the Authority may be by agreement or compulsorily if the Secretary of State authorises it to do so. Compulsory acquisition may include the extinguishment of private rights of way or rights in relation to apparatus and for apparatus to vest in the Authority.</p> <p>Where compulsory acquisition of land and new rights over land is intended, the procedure contained in The Acquisition of Land Act 1981 is required to be followed. In summary:</p>		<p>The following provisions of the Housing and Regeneration Act 2008 are modified so as to correspond with the Combined Authority and the combined area:-</p> <p>Section 5 (powers to provide housing or other land);</p> <p>Section 6 (powers for regeneration, development or effective use of land); and</p> <p>Section 7 (powers in relation to infrastructure).</p> <p>Section 8 (powers to deal with land etc.);</p> <p>Section 9 (acquisition of land);</p> <p>Section 10 (restrictions of disposal of land);</p> <p>Section 11 (main powers in relation to acquired land); and</p> <p>Section 12 (powers in relation to, and for, statutory undertakers).</p>	Article 14, 2018 Order.

	<ul style="list-style-type: none"> • the 1981 Act contains requirements as to publicity and notification, to enable any person to submit an objection to the Secretary of State within the specified period; • a statutory objector is a “qualifying person” on whom section 12 of the 1981 Act requires notice to be served and includes owners, leaseholders, tenants and occupiers of any land in the compulsory purchase order, and any other person having a right to claim compensation for interference with rights they enjoy over land, or who are likely to be entitled to make a claim for compensation for “injurious affection” (decrease in value of retained land as a result of the acquisition and proposed use of the land which is being acquired); • if a relevant objection is made by a person with a statutory interest in the land, a public local inquiry will generally be held. It is also open to the statutory objectors to agree to their objections being considered through the written representations procedure; • an inspector will prepare a report and the Secretary of State will then consider the findings of the report and the inspector's recommendation when deciding whether or not to confirm a compulsory purchase order; • where an order is confirmed, the usual compensation regime will apply, which is linked to the value of the land being acquired and may also include compensation for disturbance and other losses and, for example, legal costs in preparing a compensation claim. 		<p>Paragraphs 19 and 20 of the Schedule 3; and</p> <p>Paragraphs 1,2,3,4,6,10 and 20 of Schedule 4.</p>	
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	<p>The legislation ensures that following any compulsory acquisition of land the usual regime for compensation applies.</p> <p>The Authority is not permitted to dispose of land for less than the best consideration it can reasonably obtain, unless the Secretary of State consents. The restriction to dispose of land for less than best consideration does not apply where the Authority proposes to dispose of land by granting or assigning a short tenancy (a term of seven years or less). Unless the Secretary of State consents, the Authority is not permitted to dispose of land that it has acquired by way of compulsory purchase. Such a disposal would also be subject to the restrictions on disposal at less than best consideration. Aside from this, the Authority may dispose of land held by it in any way it considers appropriate.</p> <p>Any burial ground which has been used for the burial of the dead may not be used by the Authority until prescribed requirements about the removal and re-interment of human remains, and the disposal of monuments, has been complied with. The Authority may use consecrated land (other than burial grounds) provided that such use complies with requirements in regulations (which may be made by the Secretary of State under this Schedule) about the disposal of monuments and any provisions prohibiting or restricting use of the land while any church or other building (including any part of) used, or formerly used, for religious worship is on the land.</p>			
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D.	<u>Mayoral Development Corporation Functions – Designation of Mayoral Development Areas and Mayoral Development Corporations</u>			
	<p>The Authority (as proposed by the Mayor) may designate any area of land in the Combined Area, including separate parcels of land, as a Mayoral development area if:</p> <p>(a) the Authority considers that designation of the area is expedient for furthering economic development and regeneration in the area of the Authority; and</p> <p>(b) the individuals and body specified in the 2018 Order* have been consulted and have each consented to the designation including, or excluding, a particular area within the Combined Area.</p> <p>The Secretary of State may, at any time, make a scheme transferring to a Mayoral development corporation property, rights and liabilities of the persons specified in the Act, once the Secretary of State has consulted with the persons concerned and the Authority. The Authority may make a scheme transferring property, rights and liabilities of the Authority or a functional body, (other than the Mayoral development corporation), to a Mayoral development corporation.</p> <p>A Mayoral development corporation's object is to secure the regeneration of its area and it may only do anything it considers appropriate for that purpose or incidental purposes. A mayoral development corporation can also have specific powers, which must be exercised for that purpose or incidental purposes. Once</p>		<p>The following provisions of the Localism Act 2011 are modified to correspond to the Combined Authority and the combined area:</p> <ul style="list-style-type: none"> 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); 	<p>Articles 15, 16, 17, and 26, 2018 Order.</p>

<p>established, the Authority is obliged to review, from time to time, the continuing existence of a Mayoral development corporation.</p> <p>A Mayoral development corporation can become the local planning authority for the purposes, separately or collectively, of plan-making, development control and neighbourhood planning. Once made, these planning functions may be removed or restricted by the Authority.</p> <p>Subject to prior consultation, the power to grant discretionary relief from business rates may be transferred from the relevant local authorities to a mayoral development corporation.</p> <p>The Authority may transfer any Mayoral development corporation property, rights or liabilities and also require the Secretary of State to revoke the order that established a Mayoral development corporation, provided the mayoral development corporation has no property, rights or liabilities.</p> <p>The Authority may, following consultation, issue guidance or revoke or vary previous guidance to Mayoral development corporations, which the Mayoral development corporation must have regard to.</p> <p>Provisions are laid out for membership, terms of appointment of members, Staff, Remuneration etc. members and staff, Committees and Proceedings and meetings of a Mayoral development corporation, together with application of local government provisions concerning political restriction of officers, role of the monitoring officer.</p>		<ul style="list-style-type: none"> 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 221 (consents); l) Paragraph 1 of Schedule 21 (membership); m) Paragraph 2 of Schedule 21 (terms of appointment of members); n) Paragraph 3 of Schedule 21(staff); o) Paragraph 4 of Schedule 21 (remuneration etc. members and staff); p) Paragraph 6 of Schedule 21 (committees); and 	
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			q) Paragraph 8 of Schedule 21 (proceedings and meetings).	
E.	<u>Education, skills and training functions</u>			
	The Authority has the following functions that it can exercise concurrently with the constituent councils:-			
	The giving of a notice to a further education establishment requiring that establishment to provide education to specified individuals over compulsory school age but under the age of 19 years having regard to any guidance given by the Secretary of State.		Section 51A of the Further and Higher Education Act 1992 (duty to provide for named individuals).	Article 18, 2018 Order
	Securing enough suitable education and training to provide for the reasonable needs of persons over compulsory school age but under 19 and persons subject to learning difficulty assessment aged 19 or over but under 25, which may include provision outside the area. In fulfilling this duty the authorities must, amongst others, act with a view to (i) encouraging diversity in the education and training that is available and (ii) increasing opportunities for people to exercise choice. The authorities must co-operate with other authorities in performing the duty. The authorities must have regard to guidance on these matters issued by the Secretary of State.		Sections 15ZA, 15ZB, 15ZC, 18(1)(b), 514A and 560A of the Education Act 1996 (duties and powers related to the provision of education and training for persons over compulsory school age).	

	<p>This includes a duty to encourage participation in education and training by persons in the relevant group, and to encourage employers to participate in education or training provision for such persons.</p> <p>The power to secure the provision of work experience for any person in their area in the relevant group and to encourage participation in it by such persons and to encourage the provision of work experience by employers. The power to secure the provision of boarding accommodation (either within or outside the Combined Area) in connection with education or training provided by any provider, for any person who is (i) aged over compulsory school age, (ii) aged under 25, and (iii) subject to a learning difficulty assessment.</p>			
	<p>Ensuring that the relevant education and training functions are exercised with a view to promoting high standards, ensuring fair access of opportunity for education and training and promoting the fulfilment of learning potential for persons under 20 years of age or persons over 20 years of age with an Education Health and Care Plan.</p>		<p>Section 13A of the Education Act 1996 (duty to provide high standards and fulfilment of potential)</p>	
	<p>Ensuring that that its functions are exercised so as to promote the effective duty of young persons to participate in education or training and to make arrangements to identify those young persons who are not fulfilling that duty.</p>		<p>Sections 10 and 12 of the Education and Skills Act 2008 (local authority to promote fulfilment of duty imposed by section 2 of the Act) and (duty to make arrangements to identify persons not fulfilling duty imposed by section 2)</p>	

	Making available to young persons and relevant young adults such services as it considers appropriate to encourage, enable and assist the effective participation of those persons in education or training or to secure the provision of services by another local authority.		Section 68 and 70 of the Education and Skills Act 2008 (support services: provision by local authorities) and (local authorities: supplementary powers).	
F.	<u>Other Functions</u>			
	<p>The Authority may exercise the following functions concurrently with the constituent councils:-</p> <ul style="list-style-type: none"> • Encourage persons, by advertisement or otherwise, to visit their area for recreation, for health purposes, or to hold conferences, trade fairs and exhibitions in their area; • Undertake, arrange or contribute financially or anything else for the provision of entertainment; and • Prepare, or revise, an assessment of the economic conditions of the Combined Area after consulting such persons as it considers appropriate, including consultation with and participation of the constituent councils, having regard to any material produced by them and guidance from the Secretary of State as to the content and timing of assessments. 		<p>Section 144 of the Local Government Act 1972 (power to encourage visitors and provide conference and other facilities).</p> <p>Section 145 of the Local Government Act 1972 (provision of entertainment).</p> <p>Section 69 of the Local Democracy and Economic Development Act 2009 (duty to prepare an assessment of economic conditions)</p>	Article 19, 2018 Order.

G.	<u>Incidental Provisions</u>			
	<p>The Authority has the power to exercise the following function as if it were a local authority:-</p> <ul style="list-style-type: none"> • for the purposes of placing staff at the disposal of other local authorities; • for the purposes of arranging the publication of information etc. relating to the functions of the Authority; and • the purposes of prosecuting or defending legal proceedings. 		<p>Section 113 of the Local Government Act 1972 (placing staff at the disposal of other local authorities).</p> <p>Section 142(2) of the Local Government Act 1972 (power to arrange for publication of information etc. relating to the functions of the authority).</p> <p>Section 222 of the Local Government Act 1972 (power to prosecute and defend legal proceedings).</p>	Article 20, 2018 Order.
	The Authority has the power to undertake research and collect information for the combined area.		Section 88(1)(a) and (b) of the Local Government Act 1985 (research and collection of information).	
	<p>The Authority has a general power that gives it the power to do:-</p> <p>(a) anything it considers appropriate to its functions;</p> <p>(b) anything incidental to those functions;</p> <p>(c) anything indirectly incidental (however indirectly incidental that might be); and</p>		S113A and S113B of the Local Democracy, Economic Development and Construction Act 2009 (general power of EPB or combined authority) and (boundaries of power under section 113A)	

	<p>(d) anything it considers to be connected with its functions or anything it may do under (a), (b) or (c).</p> <p>It also confirms in paragraph (e) that anything that the Authority now has the power to do for a non-commercial purpose, it may also do for a commercial purpose</p>			
H.	Functions Conferred on the Authority by Local Government Legislation			
	<p>The Authority is defined as a “local authority”, with the duties and powers of a local authority in respect of specified provisions of the legislation.</p> <p>The duties and powers include:-</p> <ul style="list-style-type: none"> a) The holding and conduct of local authority meetings now include the Authority (as defined under section 99 and Schedule 12 of the Local Government Act 1972); b) Access to meetings and documents of certain authorities, committees and sub-committees (as per section 100J of the Local Government Act 1972) includes the Authority; c) The means by which functions may be discharged (as per section 101(13) of the Local Government Act 1972), d) Local Government Ombudsman investigations and complaints (as per section 25(1) of the Local Government Act 1974); 		<p>Section 119 and Schedule 6 of the Local Democracy, Economic Development and Construction Act 2009 (amendments relating to EPBs and combined authorities) applies a number of local government and transport law provisions to the Combined Authority through amendments made to the following:-</p> <ul style="list-style-type: none"> a) Landlord and Tenant Act 1954 b) Trustee Investments Act 1961 c) (Local Government (Records) Act 1962 d) Local Government Act 1966 e) Leasehold Reform Act 1967 f) Transport Act 1968 g) Local Government Grants (Social Need) Act 1969 	

	<p>e) political restriction of officers and staff (Part 1: section 21(1)(jb) of the Local Government and Housing Act 1989);</p> <p>f) Statutory chief officers of head of paid service, monitoring officer ((Part 1: Section 21(1)(jb) of the Local Government and Housing Act 1989 and section 111 of the Local Government Finance Act 1988);</p> <p>g) Duty to consider crime and disorder (as per section 17(2) of the Crime and Disorder Act 1998);</p> <p>h) Best value authority status of the Authority (as per section 1(1) of the Local Government Act 1999);</p> <p>i) Freedom of information (as per Schedule 1 to the Freedom of Information Act 2000);</p> <p>j) recipient of grants by the Secretary of State for the purpose of enabling the authority to carry out any of their functions (as per section 157 Transport Act 2000);</p> <p>k) Capital finance and accounts provisions (as per section 23 Local Government Act 2003)</p>		<p>h) Employers' Liability (Compulsory Insurance) Act 1969</p> <p>i) Local Authorities (Goods and Services) Act 1970</p> <p>j) Local Government Act 1972</p> <p>k) Employment Agencies Act 1973</p> <p>l) Local Government Act 1974</p> <p>m) Health and Safety at Work etc. Act 1974</p> <p>n) Local Government (Miscellaneous Provisions) Act 1976</p> <p>o) Race Relations Act 1976</p> <p>p) Rent (Agriculture) Act 1976</p> <p>q) Rent Act 1977</p> <p>r) Protection from Eviction Act 1977</p> <p>s) Local Government, Planning and Land Act 1980</p> <p>t) Public Passenger Vehicles Act 1981</p> <p>u) Acquisition of Land Act 1981</p> <p>v) Local Government (Miscellaneous Provisions) Act 1982</p> <p>w) Stock Transfer Act 1982</p> <p>x) County Courts Act 1984</p> <p>y) Local Government Act 1985</p> <p>z) Transport Act 1985</p>	
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			<ul style="list-style-type: none"> aa) Housing Act 1985 bb) Housing Associations Act 1985 cc) Landlord and Tenant Act 1985 dd) Local Government Act 1986 ee) Landlord and Tenant Act 1987 ff) Local Government Act 1988 gg) Local Government Finance Act 1988 hh) Housing Act 1988 ii) Road Traffic Act 1988 jj) Local Government and Housing Act 1989 kk) Town and Country Planning Act 1990 ll) Local Government (Overseas Assistance) Act 1993 mm) Railways Act 1993 nn) Deregulation and Contracting Out Act 1994 oo) Housing Grants, Construction and Regeneration Act 1996 pp) Audit Commission Act 1998 qq) Crime and Disorder Act 1998 rr) Local Government Act 1999 ss) Greater London Authority Act 1999 tt) Local Government Act 2000 	
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			uu) Freedom of Information Act 2000 vv) Transport Act 2000 ww) Police Reform Act 2002 xx) Local Government Act 2003 yy) Courts Act 2003 zz) Railways Act 2005 aaa) Concessionary Bus Travel Act 2007 bbb) Local Government and Public Involvement in Health Act 2007 ccc) Local Transport Act 2008	
I.	<u>Overview and Scrutiny Committees, Access to Information and Audit Committees</u>			
	In addition to or in place of, the general local government provisions above, specific powers and duties are established for combined authorities in respect of : <ul style="list-style-type: none"> • Overview and Scrutiny Committee(s); • Key decisions; and • Audit Committee(s) 		The Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017	

J.	<u>Transport Functions of an Integrated Transport Authority</u>			
	<p>The role and functions of the Tyne and Wear Integrated Transport Authority (TWITA) that were subsumed by the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority is now the responsibility of the Authority insofar as they relate to the Combined Area.</p> <p>The role and functions of Northumberland County Council as a local transport authority that were subsumed by the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority as a Local Transport Authority is now the responsibility of the Authority.</p>		<p>The discharge of all duties and responsibilities of the Integrated Transport Authority and local transport authority, which are provided for within the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport & Works Act 1992 and the Local Transport Act 2008.</p>	<p>Article 7, 2018 Order</p>
K.	<u>Joint Transport Committee</u>			
	<p>The Authority and the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority (operating as the North East Combined Authority) are obliged to appoint members to the Joint Transport Committee which alone exercises the following transport functions:-</p> <ul style="list-style-type: none"> - Making appointments to the Board of the Passenger Transport Executive; - Formulating general policies with respect to the description of public passenger services; 		<p>The exercise of all duties and responsibilities of the Integrated Transport Authority which are provided for within the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport & Works Act 1992 and the Local Transport Act 2008.</p>	<p>Articles 8 and 9, and Paragraphs 1, 2 and 3 of Schedule 2, 2018 Order.</p>

	<ul style="list-style-type: none"> - Developing policies for the promotion and encouragement of safe, efficient and economic transport facilities and services to, from and within its area; - Instructing the Passenger Transport Executive to secure the provision of such public passenger transport services as it considers appropriate to secure public transport requirements within the area in accordance with the Authority's policies; - Reviewing from time to time the organisation of the Passenger Transport Executive's undertaking - A duty to produce Local Transport Plans; - The production of a Bus Strategy as part of the Local Transport Plan; - Having regard to the Local Transport Plan, consider the making of a Quality Partnership Scheme, a Quality Contracts Scheme, a Ticketing Scheme and establishing Travel Concession Schemes; - Determine what local bus information should be made available and the way it should be made available; - The delegation of any of its duties and responsibilities as appropriate and, conversely, the Authority can undertake the duties of its committees. - Setting the annual levy on the constituent councils of each Combined Authority - Powers and duties concerning the Tyne Tunnels, including the toll and related finance provisions, regulation, communication and works. - Formulating transport policies and publishing them as a local plan 			
	<p>For the purposes of exercising the transport functions that it must exercise, the Joint Transport Committee may do anything that either Combined Authority could do that it considers</p>		<p>Section 113A of the Local Democracy, Economic</p>	<p>Article 9(4), 2018 Order.</p>

	appropriate for the purposes of exercising any of the functions, or is incidental to those functions.		Development and Construction Act 2009	
L.	<u>Passenger Transport Executive</u>			
	<p>The passenger transport executive (Nexus) is made an executive body of the Authority and remains the executive body of the Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority.</p> <p>The passenger transport executive is to be treated as an “officer” of the Combined Authorities for the purpose of the delegation of functions to it by either Combined Authority.</p>		<p>Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009</p> <p>Section 101 Local Government Act 1972.</p>	<p>Article 10 (2), 2018 Order</p> <p>Article 10(3), 2018 Order.</p>

*The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018.