

Cabinet –16 September 2009

14-19 Learning and Skills Council (LSC) transfer

Portfolio: Councillor Walker, Children's Services

Service: Walsall Children's Services, Serco

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary of report

- 1.1 This report summarises proposals contained in the Government Green Paper, 'Raising Expectations: enabling the system to deliver', for the reform of the pre 19 system of education and training and the benefits of moving responsibility for commissioning and funding of pre 19 education and training from the Learning Skills Council (LSC) to local authority (LA) control after the dissolution of the LSC in 2010 and:
- 1.2 Outlines the Black Country Sub Regional Group (SRG) commissioning proposals, and Walsall Children's Services plans to secure the transfer of staff/resources from the LSC to ensure capacity to commission 16-19 provision before the LSC is wound up and responsibilities for commissioning transfer to local authorities in April 2010.
- 1.3 **Appendix A** gives details of the Black Country proposals for a SRG as required by the DCSF.

2. Recommendations

- 2.1 That the Cabinet agrees the project plan outlined in this report to secure the transfer of staff/resources from the LSC required to ensure LA capacity to commission 16-19 provision after April 2010 and;
- 2.2 Authorises the Executive Director for Children and Young People's Services, following consultation with the Cabinet Member for Children and Young People and the other three Black Country LAs, to agree a final version of the SRG proposal for submission to Government Office West Midlands.

3. Background information

- 3.1 The Government Green Paper, 'Raising Expectations: enabling the system to deliver', is a joint consultation between the Department for Children, Schools and Families (DCSF) and the Department for Innovation, Universities and Skills (DIUS), setting out proposals for the reform of the pre 19 system of education and training and the benefits of moving funding for pre 19 education and training from the LSC to local authority control after the dissolution of the LSC in 2010. These proposals form part of the Machinery of Government changes and will be enacted in the Apprenticeship, Skills, Children and Learning Bill currently going through parliament.
- 3.2 The proposals place responsibility for commissioning 0-19 provision under the leadership of LAs in order to ensure coherence between strategies and funding streams to support educational reform and the Every Child Matters agenda, and to strengthen the role of LAs and Children's Trusts as champions of young people.
- 3.3 Local authorities are already responsible for 14-19 strategy and from 2010 will take on responsibility for commissioning 16-19 activity currently funded by the LSC. In 2009/10 the total funding for 16-19 activity is in excess of £35 million. The LA will have the statutory duty (subject to the Apprenticeship , Skills, Children and Learning Bill) to ensure the learning needs of residents from 16-19 are met through direct commissioning of in-borough providers, inter-borough planning agreements and regional commissioning of specialist providers. In addition LAs will have the statutory duty to ensure 16-19 learning needs of partner LAs are met through direct commissioning of in-borough providers.
- 3.4 From 2013 LAs will have a statutory duty to deliver *full* participation for *all* 17 year olds 'in learning' as part of proposals to Raise the Participation Age (RAP) which also involves securing provision for learners with learning difficulties or disabilities (LLDD) up to the age of 25 and for young people in juvenile custody up to the age of 18; by 2015 *all* 18 year olds will be expected to remain in learning.
- 3.5 The LSC will continue to hold statutory responsibility for commissioning 16-18 provision until September 2010, but the planning and commissioning of post 16 capital, Sixth Form Colleges, School 6th Forms and 16-18 Work Based Learning provision (including Apprenticeships for this age group) will be subject to a phased transfer to LA control by 2010. A national organisation, REACT, has been established under the leadership of John Freeman (previously DCS in Dudley) to support LAs in the transition process.
- 3.6 To achieve a workable model for the future commissioning of 16-18 education and training local authorities are *required* to work collaboratively with neighbouring authorities through a Sub Regional Group (SRG) covering a wider travel to learn area.
- 3.7 The SRGs will provide a forum in which to plan a comprehensive curriculum entitlement through a shared understanding of sub regional demand and travel to learn patterns which will form the basis on which commissioning of General FE College provision will be taken forward by local authorities.

- 3.8 The SRG will also ensure a single commissioning conversation with providers through agreement about who will lead the commissioning dialogue on behalf of the whole group. In all cases SRGs are required to sign off a sub regional 16-19 commissioning plan for all learner places, meaning clear governance, decision making, dispute resolution, staffing needs, reporting responsibilities and accountability structures have to be in place.
- 3.9 In late 2008 the four Black Country LAs submitted a proposal for a Black Country SRG. This was accepted by the DCSF and a Stage 2 proposal for the Black Country SRG was submitted in February 2009. Sandwell has taken the lead on this work for the Black Country and the latest draft of the Black Country SRG Stage 2 proposal is attached as **Appendix A**.
- 3.10 Regional Planning Groups will agree plans of the SRGs, ensuring coherence at regional level. These groups will also be the forums for identifying provision that may need to be commissioned at a regional or national level, for example for learners with complex needs.
- 3.11 Other LSC functions will be taken over by new agencies which will support local authorities and the SRGs.
- 3.12 The Young People's Learning Agency (YPLA) will have an independent board. The YPLA will have both a planning and funding role for 14 – 19 learners. Operating nationally and regionally, it will establish a planning and commissioning framework for 16 -19 provision, provide consistent management information and strategic data analysis, manage the national funding formula and secure national budgetary control for 16 -19 provision. It will ensure the overall coherence of commissioning plans and delivery of statutory entitlements. Funding will be distributed from the Agency to local authorities to meet their commissioning plans.
- 3.13 In cases where SRGs choose, after 2010, not to directly commission General FE College provision, or where sub regional arrangements cannot be agreed, (either locally or by the Secretary of State) the YPLA will initially take over responsibility for managing the commissioning relationship at a regional level.
- 3.14 The Skills Funding Agency (SFA) will be an agency that forms part of its host government department, DIUS. It will be a funding body, not a funding and planning body, and will oversee post 19 demand led funding of FE colleges with the majority of funding received by colleges flowing in direct response to customer choices through the Train to Gain initiative.
- 3.15 The SFA will also focus on performance management of FE colleges. It will maintain oversight of the pattern and range of institutions, and their viability. It will intervene in matters of poor performance or quality both for young people aged below 19 and adults, ensuring minimum standards and levels of performance in FE colleges.
- 3.16 A new National Apprenticeships Service (NAS) will be 'housed' in the SFA, alongside a new National Employer's Service. The NAS will be responsible for securing sufficient apprenticeship places in a range of sectors within each

local authority area and sub-regional group. Local authorities' key responsibility will be to identify local demand in terms of apprenticeship numbers, levels and sectors which NAS will then commission on their behalf, undertaking contract and performance management, alongside employer engagement. It will also work with a new England-wide Adult Advancement and Careers Service.

3.17 LSC staff will transfer to local authorities under TUPE arrangements in order to increase capacity to deliver the new responsibilities for 14-19 education and training.

3.18 National formulae were applied to the LSC staff transfer. The staffing resources to be allocated to the Black Country Local Authorities equate to 22 staff with 7 allocated to Dudley (in recognition of the greater number of FE providers) and 5 to the other LAs, including Walsall. Initial allocation of the 22 staff was:

- 4 x Band 4
- 8 x Band 3
- 5 x Band 2
- 4 x Band 1
- 1 x Apprentice

The initial allocation to each Black County LA, apart from Dudley, was:

- 1 x Band 4
- 2 x Band 3
- 1 x Band 2
- 1 x Band 1

Average salaries are:

- Band 4 - £60k
- Band 3 - £44k
- Band 2 - £31K
- Band 1 - £19K

3.19 In July 2009 the LSC published the results of its matching process for staff within the Black Country. This produces a dramatically different overall staffing profile comprising:

- 1 x Band 4
- 7 x Band 3
- 14 x Band 2
- 6 x Band 1

3.20 The mismatch between existing staff and initial staffing allocations has led to a review of staffing needs and acknowledgment that the Black Country SRG proposals will need to be reconsidered. The DCS and Head of Economic Well Being service are actively involved in planning the Black Country SRG. **(Appendix A).**

- 3.21 A Walsall Children's Services/Serco LSC Transition Group has been meeting monthly since November 2008 to plan for the changes in responsibilities and the staffing required. A Learning Skills Council (LSC) Transfer project to manage the transfer of LSC personnel or resource to the LA, considering secondments to WCS-S's 14-19 team for certain roles is in place.
- 3.22 Staffing resources transferred from the LSC, which will be in the form of staff or funding, will be seconded through a contract variation to Walsall Children's Services/Serco's 14-19 team, to ensure that the appropriate skills and expertise is available to audit, plan, commission and quality assure provision within Walsall borough which was formerly managed through the LSC. There is also a need to agree the transfer of an element of the LSC staffing resource as centralised resource (staffing &/or budget) to the SRG, the LA, not the SRG, will have the ultimate accountability for 14-19 provision within the Borough.
- 3.23 The DCSF and REACT have confirmed that within the overall envelope of each borough's staffing allocation it is possible, in effect, to trade posts, for example forgoing the Band 4 in favour of additional lower grade posts.
- 3.24 Initial analysis of staffing needs and capacity within the Commissioning Unit and the 14-19 team within Walsall Children's Services/Serco's Economic Well Being Service indicates that this option will best meet Walsall LA's needs. Final proposals will be put forward when the LSC releases final details of the matching process.

4. Resource considerations

4.1 Financial:

- Identified LSC staff will transfer to local authorities, and local authorities will receive a special purpose grant from the DCSF to meet the costs of employment. Approx salary costs will total £229K and will be covered by this grant for a minimum of 3 years.
- Transfer will be formalised in legislation and will take place under TUPE regulations. As a transfer under TUPE regulations LSC staff's contractual terms and conditions are protected and there is commitment to no harmonisation of T&Cs in that time.
- To support staff transferring to Local Authorities DCSF have offered a package of support where:
 - funding for the staff transferring to Local Authorities will be ring fenced for 3 years
 - bonuses and flexible benefits will be bought out at the value of two and a half years cover
- The LSC is working with the Government Actuaries Department to ensure there is broad comparability of pensions for staff moving to Local Authorities.

4.2 Legal:

In dealing with any transfer of staff the Council will have to comply with the requirements of the TUPE regulations, and the contractual requirements of their employment...

4.3 Staffing

The proposals will enhance capacity of Walsall Children's services /Serco staff to deliver changes outlined and effectively commission, monitor and evaluate 14-19 provision.

5 Citizen impact

- 5.1 Effective post 16 commissioning arrangements at both the Walsall and sub regional level will support the priorities of Every Child Matters – especially in relation to Enjoy and Achieve and Achieving Economic Wellbeing – and the skills agenda by supporting improvement in attainment at KS4 and KS5, raising aspirations, improving post 16 participation and reducing NEETs.
- 5.2 Successful quality assurance, planning, commissioning and delivery of provision in the Further Education College, within sixth forms in schools and through training providers will ensure high quality, best value provision for approximately 3000 young people.
- 5.3 Links with the development of capital programmes particularly BSF, including shared 'skills centres', will support regeneration.

6. Community safety

- 6.1 These proposals will challenge discrimination and harassment by monitoring the incidence of complaints relating to discrimination and harassment relating to providers and working with partners to remove barriers to engagement, checking on the policies and processes of providers in monitoring and addressing complaints and modifying their practice to eliminate discrimination and/or harassment.
- 6.2 Community cohesion (good community relations) will be promoted by the development of collaborative provision of a broad range of progression pathways within education, training and youth apprenticeships, linking with local employers in the planning and delivery of provision. This will enable the integration of students from different cultural backgrounds from various schools and training providers and promote good Information Advice and Guidance (IAG), transition and progression through education, training, employment and higher education.
- 6.3 Monitoring of the take-up of the full- range of courses, will identify where more effective communication and marketing, the commissioning of additional provision, and more culturally sensitive provision would enable greater participation and success.

7. Environmental impact

Shared collaborative provision will give value for money and reduce the need to travel to study as the full range of courses will be available within the borough, and through joint planning within the sub-region.

8. Performance and risk management issues

8.1 Risk:

The following risks are associated with the Machinery of Government proposals

- The transfer of the appropriate number of staff from LSC at the right level and with relevant skills.
- The Handover of commissioning process is not aligned with Walsall's 14-19 strategy
- Integration of planning and commissioning role across the strategic partnership with Serco
- Failing to achieve the correct balance of accountability and decision-making between the SRG and the LA

Risk assessment has been carried out and controls put in place.

- 8.2 The commissioning process will ensure that providers have good Risk Assessment processes in place, minimising the risk of young people partaking in the range of courses and progression pathways.

8.3 Performance management:

- 8.3.1 Institutions will retain clear responsibility for their own performance and be held to account against a clear framework of measures common across providers. The system will be supported by data, collected in a low-burden way, shared with those who need it.
- 8.3.2 The home LA will have the lead responsibility for improving quality and raising standards in relation to School Sixth Forms and Sixth Form Colleges, and will work through the DIUS Skills Funding Agency in relation to performance management FE Colleges. School Improvement Partners (SIPs) will continue to hold performance discussions with School Sixth Forms on behalf of local authorities as part of the single conversation.

9. Equality implications

- 9.1 The reform of 14-19 qualifications and curriculum is intended to ensure that an appropriate range of courses and qualifications is available so that every young person can learn a way that engages and motivates them. Walsall's 14-19 Strategy reflects this aim and its effective delivery through the new systems

will directly and positively impact on the reduction of gaps in attainment as well as promoting the achievement of socially excluded groups.

- 9.2 Local commissioning will be based on analysis of local demand, and funding will follow the learner, promoting equality of opportunity for young people across the 14-19 age and ability range.

10. Consultation

Consultation on these proposals has taken place through:

- Walsall Children's Services/Serco LSC Transition Group
- The 14-19 Strategic Partnership Board
- Black Country LAs SRG Group
- Black Country DCS meetings
- Regional LSC meetings

Background papers

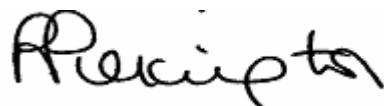
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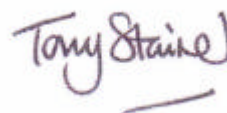
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Date: 27 August 2009



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Managing Director, Walsall Children's
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Date: 3 September 2009

Black Country Sub Regional Groupings

Introduction

1. This paper presents the draft Stage 2 proposal for a Sub regional Grouping of the four Black Country Authorities: the City of Wolverhampton, and the Boroughs of Dudley, Sandwell, and Walsall. The paper details the arrangements to manage the 16-19 commissioning following the transfer of responsibility for 16-18 funding from the LSC to Local Authorities and reflects the guidance provided by the DCSF.

Governance

2. All four Black Country Authorities are committed to a model that recognises the sub-regional travel to learn patterns of its 16-18 learners but which also ensures each local authority retains its statutory responsibilities. This translates into a model where commissioning is essentially managed on a local basis with each Local Authority having a commissioning function and responsibility and then bringing these together in a sub regional grouping to ensure a coordinated sub-regional commissioning plan designed to ensure the highest possible quality of provision.
3. Under this model each Local Authority would take principal responsibility for agreeing the 16-18 provision with the FE and other colleges and providers based in its area. This local commissioning function and responsibility would be complemented by a sub regional function covering the Black Country sub-region. It would be expected that at SRG level, the Black Country would liaise with and co-ordinate arrangements with neighbours beyond the sub region but with whom there might be significant travel to learn exchanges.
4. Framing, guiding and sanctioning the commissioning process would be a clear sub-regional governance structure established by a Memorandum of Understanding between the four Local Authorities endorsed by Elected Members in each of the Authorities through their individual political decision making process. The Heads of Agreement of the Memorandum of Understanding are currently being worked up.
5. The governance structure would recognise and reflect the role and statutory responsibilities of individual LAs and their commissioning processes. In keeping with the guidance from the DCSF on the function of the 14-19 Partnership in an LA, each individual LA would have its arrangements for agreeing the 16-18 commissioning plan to be for its area, reflecting its established governance structures for commissioning with in all likelihood, at least, Cabinet approval in each of the respective Local Authorities for its 16-18 plan.

6. Then, at sub-regional level, there would be two principal groups that would inform, manage, and sanction the Black Country SRG commissioning plan to be proposed to the West Midlands Regional Planning Group (RPG). There would be a Black Country Post 16 Commissioning Executive Group composed of the 4 Directors of Children's Services for the Black Country Local Authorities plus supporting officers. This would manage and inform the bringing together of the individual LA commissioning plans, and sanction pan-Black Country 14-19 developments, primarily through a subsidiary 14-19 Operational Group composed of, as a minimum, the 14-19 coordinators of each of the four LAs. The Executive Group would report to a Post 16 Commissioning Board, composed of the four Lead Members for Children's Services which would sanction the SRG plan. These two groups would meet as required during the period of the commissioning cycle.
7. The Black Country Post 16 Commissioning Executive and the Member Level Board would operate under clear and agreed Terms of Reference (to be signed off by Elected Members in each of the 4 LA's) and operate under clear delegated authority from each of the four Local Authorities. It is anticipated that papers would be in the public domain and subject to call in, scrutiny and challenge by the existing Scrutiny arrangements within each of the four Local Authorities. The work programme for the Sub-Regional Executive Group and Board would initially be based on the current LSC business cycle, and be supported by 14-19 Operational Group, with meetings arranged to ensure that timely decisions are made in order to ensure that colleges and other providers received budgets in good time.
8. Discussions are currently underway with colleges, schools, work based learning providers and other stakeholders including learners and employers about how they could be best engaged. It is not envisaged, however, that the provider network would be invited to join the SRG Commissioning Board as the SRG would want to maintain a clear separation between commissioners and providers. It is the case that the Black Country has engaged stakeholders in the 14-19 Implementation Plan agenda for a number of years, having held an annual conference since 2006. There are two provider representative groups, Black Country Partnership for Learning (BCPL), and Black Country Training Group (BCTG), that the SRG has also engaged in taking forward the dialogue around the needs of young people and how best the LAs and the SRG can meet them. It is anticipated that engagement of learners and employers will be conducted at both the local level – based on existing Local authority arrangements for example youth Cabinets and Parliaments – and at the sub regional level.

Decision Making Processes

9. Under the proposed model set out above, decision making processes would, in the first instance be essentially local with each Local Authority having a strategic dialogue with its FE College(s) and other providers. It would then go through an iterative process of co-ordination and moderation on a Black Country basis. The intention is to create a staffing structure which would allow both a local and a sub regional commissioning level. The decision making process at least initially would therefore be similar to that currently operated within the LSC going from strategic dialogue with colleges and other providers (often based on national and regional as

well as local policy priorities) and then moving through sub regional, regional and national iterations as set out in DCSF guidance. The quality of provision would, of course, be a key factor in decisions about commissioning or decommissioning provision. Decisions would be made by the Executive Group and Board where appropriate under delegated authority and where necessary signed off by Elected Members in each of the 4 LA's either acting under individual executive powers or through Cabinet and, where necessary, endorsed by the full Council. The Sub Regional Executive Group will also have a key role in liaising with other Sub Regional partnerships and where appropriate co-ordinating commissioning arrangements in order to ensure that there is no unnecessary duplication of provision or that decisions are not made about provision within our Sub Region which would have an adverse impact on learners in neighbouring Sub Regions. The SRG's proposed commissioning plan would then go to the RPG for final sanction.

Dispute Resolution

10. We anticipate that with both a Member and an Officer group most potential disputes within the four Black Country Authorities could be resolved either by the Executive or by the Member Programme Board. To facilitate this both groups may need a constitution that gives the Chair a casting vote. Where this is not possible disputes will be referred to the Regional Planning Group (or its successors) or by working with and through the Young People's Learning Agency.

Staffing Needs

11. Staffing needs are at this stage difficult to estimate, but based on the early indications of the number of staff likely to transfer to Local Authorities we anticipate that each of the Local Authorities will have a commissioning team headed by the equivalent of a LSC Band 3 officer. These posts will need to be supported by between 2 and 4 posts probably at a level equivalent to LSC Band 2. It is likely that one of these posts in each Local Authority will need to take responsibility for the functions relating to the placement of learners with learning difficulties and other issues around LLDD. These latter posts are likely to be based in existing Inclusion teams to maximise the synergies with other SEN related work.
12. In addition to the 4 local teams we propose a sub regional team probably headed by a post at a level equivalent to an LSC Band 4, again supported by 2 to 3 posts equivalent to a LSC Band 2. The local teams will be managed primarily within the individual Local Authority's Children and Young People's Services structures reporting to an appropriate post at Assistant Director or equivalent level. The more senior sub regional post will need to be managed on behalf of the 4 Local Authorities by a lead Local Authority which will also need to host the Sub Regional Team. This post should be project managed by the Executive Group with day to day line management provided by a lead DCS or Assistant Director. No decision has at this stage been made on which Local Authority will host the Sub Regional Team although Members in one of the Authorities have given an informal indication that they are willing for the Authority to take on this role. The Sub Regional Team and the 4 Local Teams will also need to work together through a matrix management arrangement

allowing the Sub Regional Commissioning Manager, where necessary, to deploy resources across the sub region.

13. At both local and sub regional level close links will need to be established between the teams responsible for commissioning provision and those responsible for IAG. (Decisions are currently being made across the Black Country LA's about the future arrangements for the Connexions Service). This will enable the production of both an Area prospectus, covering the black Country, as well as more local ones for each LA area or part thereof. Links with IAG services will also help develop a learner stakeholder group.

Reporting Responsibilities

14. Reporting lines will be essentially local i.e. from each of the Local Commissioning Teams up through appropriate management and political arrangements in each of the 4 Local Authorities and also sub regional ie to the Sub Regional Commissioning Group made up of the four DCS's and to the Sub Regional Commissioning Board of the four Lead Members for Children's Services in the Black Country Local Authorities. Where necessary these arrangements will allow reports to be made to other sub regional groupings such as the Association of Black Country Authorities, the Black Country Consortium and also allow reporting to regional bodies such as the Regional Planning Group. Reports could also, under this system, be readily produced for national or regional agencies such as the YPLA or the Government Office of the West Midlands.

Financial and Performance Accountabilities

15. There is insufficient information at this stage to say much concrete about this area. At this stage all that can be said is that we would expect the funding for FE colleges and other post 16 providers to flow through the Local Authorities but to be based as now on a national formula. The financial and performance accountability will therefore be both local and regional/national . We await further information on Government's expectation on how financial and performance accountabilities will be managed within the new Sub Regional frameworks.

Annexes:

1. Governance structure
2. Current pan-BC networks and joint working
3. BC 14-19 Balance Sheet
4. BC SRG Scenarios

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February 2009

Annex 1

Black Country SRG Governance Structure

