

Cabinet – 21st March 2018

Implementation of Devolution Agreement – Adult Education Budget

Portfolio: Councillor Sean Coughlan

Related portfolios: All

Service: All

Wards: All

Key decision: No

Forward plan: No

1. Summary

- 1.1 As part the West Midlands Devolution Deal and subsequent Mayoral WMCA 'Powers and Functions' Scheme approved by Cabinet on 2 June 2016, and Full Council of the same date, it was proposed that decisions regarding allocation of the Adult Education Budget (AEB) be transferred to the West Midlands Combined Authority (WMCA) to enable local decision-making.
- 1.2 The purpose of this report is to seek to put in place the necessary approval mechanisms to enable the required statutory order to be laid before Parliament for approval.
- 1.3 The decision to approve the draft Order is an executive function, and the seeking of delegated authority to do so is a formality to put in place the approval process due the timescales involved in the Parliamentary approval process. It is therefore proposed, as with all the previous draft Orders, that the decision to approve the wording of the Order is delegated to the Chief Executive in consultation with the Leader.

2. Recommendations

- 2.1 That Cabinet delegate authority to the Chief Executive, in consultation with the Leader, to agree the draft Parliamentary Order(s) that will enact the transfer of Adult Education Budget decision-making.

3. Report Detail

- 3.1 On 2 June 2016 Cabinet approved The West Midlands Devolution Deal and the draft Mayoral WMCA 'Powers and Functions' Scheme. Although decisions relating to the transfer of powers to the Combined Authority are executive decisions and therefore Cabinet to make, Full Council also considered these documents on the 2 June 2016.

- 3.2 Included within the said Devolution Deal and Scheme was a proposed transfer of adult skills funding (Adult Education Budget - AEB) to the WMCA, consequently the subsequent Order establishing the Combined Authority contained details of a number of Adult Education powers although it did not deal with the devolution of funding. In order to prepare for devolution, the Combined Authority is required to meet a series of readiness conditions including the transfer of the Secretary of State for Education's statutory duties in relation to the provision of further education for adults.
- 3.3 The principal purpose of transfer from central government of AEB as to enable decisions as to allocation of funding to be made locally so as to engage adults in learning that supports wider economic and social priorities. Devolution of AEB will only be applied within constituent member areas, and the indicative budget will be approximately £112m for 2019/20 based on current spend on residents.
- 3.4 It is anticipated that the draft Order transferring these powers will be received in draft by the 19th March 2018, which will set out the details of AEB functions that will be transferred to the WMCA with the agreement to devolve the budget. The Department for Education (DfE) have been clear that the Order will not cover apprenticeships, adult offender learning or provision for people aged 16 -18. Subject to these exceptions, it is proposed that the following functions contained in the Apprenticeships, Skills, Children and Learning Act (ASCAL) 2009 will transfer to the WMCA in relation to constituent member areas so as to enable local decision-making:
- I. S86 – Duty to provide appropriate 19+ Further Education (not to include apprenticeships, prisoner education or traineeships).
 - II. S87 – Duty to provide appropriate FE to 19+ learners who do not have certain specified qualifications
 - III. S88 – Duty to ensure that provision is free for relevant learners who do not have certain specified qualifications

The following powers will be exercised concurrently with the Secretary of State:

- IV. S90 – Duty to encourage learner and employer participation in education and training of people aged 19+ (except those in adult detention) (to be exercised concurrently with the Secretary of State)
 - V. S115 – Duty to consider/have regard to the needs of 19+ learners with Special Education Needs (other than those aged 19-25 with Educational Health Care plans, who will remain the responsibility of the LAs as they are treated as 16-18 year old learners).
 - VI. S122 – Power to exchange information with providers to enable provision of 19+ FE (to be exercised concurrently with the Secretary of State).
- 3.5 Combined Authorities, as well as the constituent members, are required to provide the DfE with consent to the draft Order by the end of April 2018 to meet the necessary timescales to enable full devolution in 2019/20. The Order will need to be laid before Parliament by the end of June 2018 and made in November 2018 to meet the timescales to commission for the 2019/20 academic year.

4 Council Corporate Plan priorities

- 4.1 The Councils Corporate Plan 2018-2021 seeks to serve the people and communities of Walsall, to create an environment that provides opportunities for all individuals and communities to fill their potential, key to this is that inequalities are reduced or potential is maximised.

The priorities that will support this purpose are:-

- Economic growth for all people, communities and businesses by further increasing adult educational attainment.
- People have increased independence, improved health and can positively contribute to their communities with increased access to the workplace through improvement of skills.
- Communities are prosperous and resilient with all housing needs met insight from healthy places to build a strong sense of belonging and cohesion by AEB funding allocations decisions being made locally local with a focus upon individual community needs.

5. Risk management

- 5.1 Currently decision-making as to the allocation of AEB it made centrally. The proposal is that that funding allocation decision-making becomes a local decision, thus enabling funding to be allocated in accordance with identified local need. By enabling local decision-making it means that decisions can be made on an informed local basis to meet the West Midland's adult education skills needs.
- 5.1 There is a reputational risk to if the order is not laid in a timely manner. Further, the impact of not achieving the proposed timescale as set by DfE is that the devolution of AEB the local decision-making could be delayed by a further year.

6. Financial implications

- 6.1 Whilst the Council provides an adult education facility there are no direct financial implications for the Council as the decision relates to decision-making on allocation of funding being in the future been made locally and not centrally. Any allocation of future funding will always be dependent upon meeting government criteria and statutory obligations.

7. Legal implications

- 7.1 The process for conferring of the new powers on to the WMCA includes the Secretary of State preparing a draft order, which is debated in Parliament and then approved. Just before Parliament approve the final wording of the Draft order each Constituent Council, the Mayor and the WMCA have to approve the final draft wording. Unfortunately, the exact dates of Parliamentary approval will be not be known in advance therefore a delegation will be needed to meet the tight Parliamentary timescales.

8. Procurement Implications/Social Value

8.1 No direct procurement impact for the Council.

9. Property implications

9.1 There are currently no property implications for the Council.

10. Health and wellbeing implications

10.1 The proposals are governance related and therefore have no direct health and wellbeing implications.

11. Staffing implications

11.1 There are currently no human resources implications for the Council.

12. Reducing inequalities

12.1 As the proposals are governance related and not operational delivery of services there are no direct equalities implications.

12.2 Subsequent decisions on allocation of funding made by the WMCA will need to meet set government adult education criteria, education legislation requirements as well as the Public Sector Equality Duty.

13. Consultation

13.1 The proposals as included within the Mayoral 'Powers and Functions' Scheme were the subject of statutory consultation undertaken on behalf of the Secretary of State undertaken between fourth of July and 21st of August 2016.

13.2 The outcome of the consultation was reported to Cabinet on 6 December 2016, when Cabinet considered the first transfer of functions Order. The consultation survey consisted of nine key questions, profile based questions and a free text option to provide any further feedback. Over a 1000 responses were received through this medium (excluding 45 duplicates and 4 tests). Further paper copies were available in public buildings, such as libraries, in the seven constituent Council areas and 19 responses received (excluding 2 spoil paper copies).

13.3 In summary on the Skills and Employment element the responses received were: 994 strongly agree/agree (77%), 39 strongly disagree/disagree (19%) and 61 don't know (5%). Subsequently the Secretary of State indicated that he was satisfied that the statutory test had been met and that no further consultation was required.

Background papers

- Cabinet report 7 March 2016 - approval of the order to establish the WMCA
- Cabinet report 2 June 2016 - approval of the WMCA draft Mayoral Scheme, Mayoral Order and West Midlands Devolution Deal.

- Cabinet report – 6 December 2016 - approval of the draft WMCA (functions and amendments) order.



Dr Helen Paterson
Chief Executive

6 March 2018



Councillor Sean Coughlan
Leader of the Council

6 March 2018