

REPORT TO CABINET

27 June 2018

Subject:	Implementation of Devolution Agreement - Adult Education Budget (AEB) - Transfer of Powers to West Midlands Combined Authority (WMCA)
Presenting Cabinet Member:	Councillor Steve Eling – Leader of the Council
Director:	Director – Monitoring Officer – Surjit Tour
Contribution towards Vision 2030:	
Key Decision:	No
Forward Plan (28 day notice) Reference:	Not applicable
Cabinet Member Approval and Date:	Councillor Steve Eling
Director Approval:	Surjit Tour
Reason for Urgency:	Urgency provisions do not apply.
Exempt Information Ref:	Exemption provisions do not apply.
Ward Councillor (s) Consulted (if applicable):	Ward councillors have not been consulted.
Scrutiny Consultation Considered?	Budget and Corporate Scrutiny Management Board – 20 June 2018
Contact Officer(s):	Surjit Tour – Director – Monitoring Officer surjit_tour@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Cabinet:

1. Approve the transfer of functions to WMCA as set out in the report to ensure the successful devolution of the Adult Education Budget in 2019.
2. Agree to give consent to West Midlands Combined Authority in making the Devolution Order to enable full devolution of the Adult Education Budget.

3. Authorise the Chief Executive in consultation with the Leader of the Council to approve the final draft Devolution Order referred to in (2) above.
4. Require a further report to be brought in due course outlining how working positively with WMCA impacts on closing the skills and employment gaps in the borough and how this enhances provision for adult education services delivered by the Council.

1 PURPOSE OF THE REPORT

- 1.1 To outline the process for agreeing the Devolution Orders required to enable full devolution of the Adult Education Budget (AEB) and the timescale and proposed process for doing so.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 Adults engaged in learning within Sandwell will be able to respond to future business needs, gaining rewarding jobs with will contribute towards the development of the local economy.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The West Midlands Combined Authority's first Devolution Deal was formally agreed by the Combined Authority Shadow Board on 17th November, 2015. The agreement included the transfer of adult skills funding (Adult Education Budget - AEB) to the WMCA and 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.
- 3.2 The principal purpose of AEB is 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.
- 3.3 The Order, to be received in draft by WMCA by 19th March 2018, will set out the details of AEB functions that will be transferred to the WMCA with the agreement to devolve the budget. 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:

- S86 – Duty to provide appropriate 19+ Further Education (not to include apprenticeships, prisoner education or traineeships)
- S87 – Duty to provide appropriate FE to 19+ learners who do not have certain specified qualifications
- 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:

- 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)
- 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)
- S122 – Power to exchange information with providers to enable provision of 19+ FE (to be exercised concurrently with the Secretary of State)

3.4 Mayoral Combined Authorities (MCAs) are required to provide the Department for Education (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. There is a reputational risk to the WMCA if the order is not laid in a timely manner.

3.5 For the first twelve months, WMCA has committed to maintaining current levels of funding to colleges and local authorities and to work collaboratively on improving the mix and balance of provision so that it better meets local needs. Going forward, WMCA expects to create additional flexibility in budgets through a more efficient use of funding, for example, minimizing underspends; reducing sub-contracting; and potentially reducing spend with some out-of-area providers.

- 3.6 The work will include greater local and regional collaboration to map provision and identify gaps. The Regional Skills Plan will highlight the need for AEB to better reflect local priorities. This will also include a commitment to target more action at key areas of high youth unemployment and/or low skills. This approach will be developed with local authorities to enable greater focusing and alignment of skills provision in areas of greatest need.
- 3.7 Target communities and groups will be identified and agreed in collaboration between the Council and WMCA. Initial areas of focus for AEB will also include maximising the impact of employability programmes and ESOL provision across the region.
- 3.8 DfE has provided WMCA with operating budgets to affect the transfer of AEB. From 2019/20, all running costs will be top-sliced from the AEB.

4 THE CURRENT POSITION

- 4.1 The principle of devolution of the Adult Education powers including funding was included in the first devolution deal. However agreement on the funding was not included within the subsequent statutory orders. The transfer of powers now is consistent with the agreed approach to devolution.
- 4.2 Mayoral Combined Authorities (MCAs) are required to provide the DfE with consent to the draft Order by **9th July 2018** to meet the necessary timescales to enable full devolution in 2019/20. The Order will be laid before Parliament by the end of July 2018 and made in November 2018 to meet the timescales to enable devolved arrangements to be in place for the 2019/20 academic year. If the Order is not laid, the WMCA will not receive AEB in 2019/20.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 A formal consultation was undertaken when the original scheme for the creation of the West Midlands Combined Authority was being considered. The Devolution deal at this stage included the transfer of adult skills funding.

6 ALTERNATIVE OPTIONS

- 6.1 The alternative is that the Council could not approve the transfer of functions and refer the matter back to WMCA for consideration.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 The impact of not achieving the proposed timescale as set by DfE is that the devolution of AEB could be delayed by a further year.

- 7.2 DfE has provided WMCA with operating budgets to affect the transfer of AEB. From 2019/20, all running costs will be top-sliced from the AEB.
- 7.3 Once funding has been devolved to WMCA allocations to each local area will remain the same for the first year. However, the distribution of resource in subsequent years will depend on the level of need identified in each area and the discussions held between Combined Authority partners on how it will be allocated. Currently, Sandwell Adult and Family Learning (SAFL) community learning services are provided using AEB funding.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 Devolution of the Adult Education Budget will mean that the WMCA will have the duty and responsibility to deliver the government's commitment to statutory entitlements for fully funded qualifications at Levels 2 and 3, English and Maths and the future digital entitlements for learners, free of charge. Based on figures for 2015/16, 37% of the AEB was spent on delivering statutory requirements. Although there may be a risk that these obligations exceed the available budget in any one year, the statutory entitlements are not time bound and the entitlement does not have to be offered immediately upon request. This will be reflected in the WMCA's AEB Funding Policy where it will be clearly stated that if demand exceeds availability some learners may have to wait to the following academic year.
- 8.2 Section 105(b) of the 2016 Cities and Local Government Devolution Act states that to allow Secretary of State to make an order for the devolution of functions, consent also has to have been given by each appropriate authority which for these purposes are the Combined Authority and the constituent authorities of that Combined Authority.
- 8.3 The timetable for approvals is challenging given the timetable constraints of the Parliamentary process. We have spoken to each constituent authority and agreed that they can provide appropriate consent by approving a report through their Cabinet in a timely manner to ensure that orders are laid before Parliament before the end of June 2018. A delegation is also requested to authorise the final sign off of the draft Orders when requested by the DfE on the basis that there is no material change to the drafting.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 These aspects of the Devolution Agreement are reflected in the WMCA Equalities Scheme.

10 DATA PROTECTION IMPACT ASSESSMENT

- 10.1 A data protection impact assessment is not required.

11 CRIME AND DISORDER AND RISK ASSESSMENT

11.1 A crime and disorder and risk assessment is not required.

12 SUSTAINABILITY OF PROPOSALS

12.1 The transfer of the powers as set out in this report is consistent with the agreed approach to devolution of the adult education functions.

12.2 The constituent authorities do not yet know what local settlements will be or how they will be proportioned.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

13.1 There are no health and wellbeing implications.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

14.1 No impact.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

15.1 To approve the transfer of functions to WMCA to ensure the successful devolution of the Adult Education Budget in 2019 and give consent to the making of the Devolution Order.

16 BACKGROUND PAPERS

None

17 APPENDICES:

None

Surjit Tour
Director – Monitoring Officer