

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Single Member Decision – Cabinet Member for Children and Young People	
MEETING/ DECISION DATE:	On or after 12th May 2018	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3061
TITLE:	Devolution of the Adult Education Budget – Legislative Process	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		

1 THE ISSUE

- 1.1 To give consent to The West of England Combined Authority (Adult Education Functions) Order 2018 prepared by the Department for Education passing statutory duties regarding the provision of adult education currently held by the Secretary of State for Education to the West of England Combined Authority.

2 RECOMMENDATION

The Cabinet Member is asked to;

- i. Give consent to The West of England Combined Authority (Adult Education Functions) Order 2018
- ii. Delegate to the Chief Executive, Bath and North East Somerset Council, authority to confirm the final form of the West of England Combined Authority (Adult Education Functions) Order 2018 on behalf of the Council and to provide written confirmation to the Secretary of State consenting to the making of the West of England Combined Authority (Adult Education Functions) Order 2018

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 Finance

- (1) There are no financial implications arising from the agreement to the Order. In discussion with Authority S151 Officers some concerns were raised that by devolution of related funding, WECA would become financially liable for the costs of the insolvency and subsequent special administration regime of any

Further Education College provider. It has now been clarified WECA will not be expected to pay for the immediate costs of the Special Administration Regime itself, nor to provide any form of exceptional financial support to a college. WECA will be responsible for the continuation of funding for the relevant learners resident in their area who are affected by the insolvency, while a solution to protect those students is identified and delivered.

- (2) As set out in 5.8, WECA will be asked to approve detailed allocations of devolved funding during the budget setting process for 2019/20 following the co-production approach described in 5.9.

3.2 Legal

- (1) The West of England Combined Authority (Adult Education Functions) Order 2018 will be specified in regulations made under the Education Act 1996.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 This report is to gain consent for the duties under sections 86, 87, 88, 90, 115 and 122 of the Apprenticeship, Skills, Children and Adult Learning Act will be transferred from the Secretary of State for adult education to the West of England Combined Authority.
- 4.2 There are no direct equalities implications arising in relation to this report and these would be set out in the relevant investment decisions at the time.

5 THE REPORT

- 5.1 The devolution of funding to address the provision of adult skills (what is currently known as Adult Education Budget) from government along with relevant Statutory Duties was part of the West of England Devolution deal. The agreed deal set out that:
- 5.2 “HMG will fully devolve to WECA all Adult Education Budget by 2018/19. In addition, grant to WECA co-commissioning rights to all non-devolved post-16 skills funding including that controlled by the EFA. Decisions on the devolved and co-commissioned programmes will be led by Local Outcome Agreements developed in conjunction with local employers and focusing on key sectors identified in the West of England Strategic Economic Plan.”
- 5.3 The Government now intends to bring forward the necessary Order to pass the duties to WECA to be laid before Parliament before the summer recess and coming into force from start of the academic year 2019/20. Funding is likely to arrive as a section 31 grant on a financial year basis. Our indicative funding budget is £17.6m and has been recalculated after the 17/18 academic year; the indicative budget is in-line with expectations.
- 5.4 The duties to be devolved are as anticipated and have been unchanged since officers began working with civil servants on the devolution of adult skills funding in 2015/16. The duties all come from the Apprenticeship, Skills, Children and Adult Learning Act (ASCAL) and are summarised below:

Section 86: Education and training for persons aged 19 or over (*excluding those subject to adult detention*)

Securing the provision of suitable facilities (*by which is meant 'courses of learning', not premises*) for education and training of those aged over 19. Suitable facilities are determined in relation to the scale of available resources and should be of a suitable quantity and quality such that they can reasonably be expected to be provided.

Section 87: Learning Aims for persons aged 19 or over, provision of facilities.

The securing of suitable provisions to enable those without a first full level 1 or 2 qualification in English and/or maths or other subjects to gain those qualifications.

Section 88: Learning aims for persons aged 19 or over: payment of tuition fees

The duty to provide the courses for English and maths required under Section 87 free to learners aged between 19 and 23 years.

Section 90: Encouragement of education and training for persons aged 19 or over (*excluding those subject to adult detention*).

Encourage participation of those to whom a duty is owed in training and education. Encourage employers to participate in the education and training of the same.

Section 115: Persons with special educational needs.

In meeting the other duties, have regard to persons with special educational needs.

Section 122: Sharing of information for education and training purposes.

Defined people can share information with each other in pursuit of enabling or facilitating a particular function to be delivered.

- 5.5 There are no new 'powers' being devolved, only duties. Grants therefore are anticipated to be made using the general power of competence. Procurement of some activities may also be required, depending on the income structure of the provider.
- 5.6 The existing Combined Authority Order already gives WECA some skills related functions (in the Economic Development and Regeneration schedule). These are unrelated to adult skills and are summarised in the attached annex 1.
- 5.7 This paper seeks approval to the proposed Order only and it is highlighted that agreement to the Order does not commit WECA to any budgetary allocations nor approaches to the allocation process. The Readiness Conditions prevent WECA from taking any future funding decisions that would lead to financial destabilisation of the current provider base.
- 5.8 WECA will be asked to agree detailed allocations of the devolved funding during the budget setting process for the 2019/20 financial year. Prior to this process WECA officers will continue to work closely with our constituent Local Authorities

and our provider base to develop our plans for the implementation of funding for adult education.

5.9 The Skills Advisory Board have discussed a number of issues that will need to be considered about the proposed approach by Government to transfer the AEB Budget without associated running costs, essentially meaning the budget will be 'top sliced' to fund administration of AEB. These financial concerns, along with all the other detailed allocations of the devolved funding, will be developed with officers and the Skills Advisory Board during the budget setting process for the 2019/20 financial year. The DFE has set a number of onerous readiness conditions which must be met before the transfer of AEB and the Advisory Board has concerns about WECA's ability to meet these. If the conditions are met, then the strategy for delivery needs to be agreed and the impact on existing providers must be carefully thought through before any significant changes are agreed. The Skills Advisory Board favour the introduction of scrutiny arrangements for the first year of devolution.

5.10 There are a number of potential advantages for West of England residents and learners to devolving control of AEB from central government including:

- Improved coordination of adult learning outcomes with wider local priorities and the specific needs of local public and private sector employers;
- Introduction of new flexible funding rules based on agreed local outcomes and enabling improved responsiveness such as multiple year funding agreements;
- Potential enhanced value for money locally via rationalisation, reduced duplication and greater transparency leading to improved economies of scale in the provider base and a more rigorous measurement of local outcomes; and
- Ability to retain any underspend from the allocation. This is typically 2-3% of the budget which on a £17.6m budget would equate to £352k-£528k which is estimated to be enough to cover predicted administration costs.

6 RATIONALE

6.1 The devolution of AEB formed part of the individual deals to 'transfer of powers and funding from central government to local government and each existing combined authority area (Cambridgeshire and Peterborough, Greater Manchester, Liverpool City Region, North East, Sheffield City Region, Tees Valley, West Midlands, West Yorkshire, the West of England and London) subject to each area meeting strict readiness conditions.

6.2 Devolution of the funding allows for each combined authority to create individual solutions to local skills needs in a responsive and timely way that central government management of these funds has failed to do.

7 OTHER OPTIONS CONSIDERED

7.1 The Order will give effect to the adult skills and education element of the agreed WECA devolution deal.consultation

7.2 Consultation has been undertaken with each of the constituent council Chief Executive, Monitoring and S151 Officers. Consent to the Regulations will also need to be given by each of the constituent councils as an executive function.

8 RISK MANAGEMENT

8.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Benjamin Woods - Group Manager for Economy and Culture</i> <i>Tel: 01225 477597</i>
Background papers	<i>N/A</i>
Please contact the report author if you need to access this report in an alternative format	