

Report To:	EXECUTIVE CABINET
Date:	20 June 2018
Executive Member/ Reporting Officer:	Councillor Leanne Feeley, Executive Member – Lifelong Learning, Skills and Employment James Thomas, Interim Director of Children’s Services
Subject:	DEVOLUTION OF ADULT EDUCATION BUDGET TO GREATER MANCHESTER COMBINED AUTHORITY
Report Summary:	The Greater Manchester Combined Authority is working towards the devolution of the Adult Education Budget from Central Government for the year 2019/20 onwards. To achieve devolution the Department for Education has advised that each constituent Greater Manchester Local Authority gives consent in conjunction with the Combined Authority to a statutory Order giving effect to the same. The final Order is not available until mid-June 2018 however we must provide consent by the 30 June 2018. This report provides background and requests delegated authority to ensure Tameside Council can provide consent in line with timescales.
Recommendations:	That Executive Cabinet RECOMMEND to Council to CONSENT to the order attached herewith known as Greater Manchester CA (Adult Education Functions) Order 2018 marked Appendix 1 and APPROVE delegated authority to the Chief Executive in consultation with the Executive Leader to consent to the Order or any minor variations to give effect to the transfer of budget to the GMCA.
Links To Community Strategy:	Prosperous and Learning Tameside.
Policy Implications:	Tameside is below the GM average for residents with qualifications at Levels 1-4. Addressing this gap will support economic growth, productivity and wages in the borough. Devolution will enable local control and decision making to improve adult education outcomes.
Financial Implications: (Authorised By Section 151 Officer)	There are no direct financial implications.
Legal Implications: (Authorised By The Borough Solicitor)	The draft Order provides for the conferral of certain adult education functions of the Secretary of State under the Apprenticeships, Skills, Children and Learning Act 2009 on the Greater Manchester Combined Authority. Article 3 of the Order provides for the transfer to the Combined Authority of adult education functions under section 86 to 88 of the 2009 Act, with the exception of such functions relating to apprenticeships training, persons subject to adult detention or any power to make regulations or orders. The transferred functions will be exercisable by the Combined Authority instead of by the Secretary of State in relation to the area of the Combined Authority. Article 4 also provides for the functions of the Secretary of State under section 90 of the 2009 Act, which relate to the encouragement of

education and training for persons aged 19 or over, and under section 100(1) of that Act, which relate to the provision of financial resources, to be exercisable by the Combined Authority in relation to the area. The functions will be exercisable by the Combined Authority concurrently with the Secretary of State.

Article 5 sets conditions on the exercise of the functions mentioned in Articles 3 and 4. The Combined Authority must adopt rules of eligibility for awards by an institution to which it secures financial resources under section 100 of the 2009 Act in accordance with any direction given by the Secretary of State. In addition, in exercising the transferred functions, the Combined Authority must have regard to guidance issued by the Secretary of State (as amended from time to time or replaced by a subsequent document).

The GMCA and each of the 10 districts must give authority for the Order to be laid before Parliament. This needs to be completed by the 30 June 2018 in order to meet the parliamentary timetable. It may mean that minor amendments are required and therefore delegation is required to effect this.

Risk Management:

Failure to provide consent will delay the Devolution of the Adult Education Budget to Greater Manchester for the intended start date of 2019/20.

Access To Information:

The background papers relating to this report can be inspected by contacting the report writer, David Berry, Head of Employment and Skills by:



Telephone: 0161 342 2246



e-mail: david.berry@tameside.gov.uk

1.0 INTRODUCTION

- 1.1 The Adult Education Budget is a nationally delivered single budget stream bringing together adult further education (all 19yrs+ provision with the exception of apprenticeships/traineeships), community learning, and discretionary learner support. The Adult Education Budget is intended to fund provision which supports the local labour market and economic development. In particular, it focuses on ensuring that adults have the basic and core skills that they need for work, including guaranteeing a number of statutory entitlements relating to English, maths and (from 2020 onwards) digital skills, as well as first level 2/3 qualifications.
- 1.2 As such, the devolved Adult Education Budget will play a key role in Greater Manchester's reform agenda, linking with other activity aimed at supporting our residents into productive and sustained employment as part of an integrated education, skills, employment and health system. Tameside Council will continue to work with GMCA in the design and implementation of devolved Adult Education Budget to ensure maximum benefits for our residents to promote economic growth.
- 1.3 The Department for Education (DfE) has indicated a budget of £92.2 million for GM in 2019/20. Around 78,000 learners are funded each year across 312 institutions including Colleges, private providers and Local Authorities. The Adult Education Budget funds the Tameside Council Adult Community Education Service.

2.0 LEGISLATION: PARLIAMENTARY ORDERS

- 2.1 The legislation enabling devolution of the Adult Education Budget are set out in the Order attached at Appendix 1, which confirms the powers and duties transferring to the CA and make provision for the subsequent range of amendments required to existing legislation.
- 2.2 In due course we expect to follow:
 - a statutory guidance document setting out matters to which the CA should have regard but which are not mandatory;
 - an MoU formalising the strategic relationship and ways of working between DfE and CAs, building upon an MoU already in place for the transition year in 2018/19.
- 2.2 The high level content of the Orders and functions to be transferred as we currently understand them are set out in **Appendix 2**. The Order set out in **Appendix 1** is in line with GMCA's expectations with regards to powers to be transferred for direct responsibility of GMCA and to be concurrently exercised between Secretary of State and GMCA.
- 2.3 The DfE recognises the challenging timetable and has indicated that failure to meet the timetable will delay the process of devolution by one year.

3.0 RECOMMENDATIONS

- 3.1 As set out on the front of the report.

APPENDIX 2

Content of Orders/functions to transfer to MCAs

Implementing full devolution in 2019/2020 – Secondary Legislation

In order to deliver devolution there is a requirement for Parliament to legislate to enable the transfer of the current statutory duties on the SoS to the MCA in relation to the delivery of adult education provision. To do this secondary legislation is required, in the form of a Devolution Order made under the affirmative procedure, which requires consent of each House of Parliament.

The Orders

1. Section 105A of the Local Democracy, Economic Development and Construction Act 2009 gives the Secretary of State for Education (SoS) the power to, by Order, transfer functions to an MCA. An order may include provision for the function to be exercisable subject to conditions or limitations specified in the order; and provision as to joint working arrangements.

2. The intention is to put in place an Order for each MCA detailing functions that will be transferred or exercised concurrently with the Secretary of State. This Order will only pertain to functions necessary for the delivery of adult education provision and will not include:

- Anything related to apprenticeships;
- Anything related to adult offender learning;
- Anything related to training or education people aged 16-18;
- Any power to make regulations or orders;
- Anything related to SoS's spending authority.

Where specific duties have been transferred to the MCAs, there will also be a responsibility on the MCAs for having regard for people with learning difficulties when carrying out those duties under section 115 of the Apprenticeships, Skills, Children and Learning Act 2009.

Measure considered relevant for transfer

It is proposed to transfer the following measures in relation to the area of the MCA. These functions are contained in the Apprenticeships, Skills, Children and Learning Act 2009 and are subject to the exceptions specified above:

- i. S86 – MCAs will be responsible for exercising the function of securing provision of education and training for people aged 19+;
- ii. S87 – MCAs will be responsible for securing provision of facilities for relevant education or training for people to obtain qualifications in subjects defined under paragraph 1 of Schedule 5 (currently English, maths and specified vocational qualifications at Level 2 (or comparable)) when they meet the following conditions:

- a. Are aged 19 or over (other than people under 25 with learning difficulties;
- b. Do not have the qualifications in question or a comparable or higher qualification (including awards from outside of England);
- c. Satisfy such conditions as specified in relevant regulations.

iii. S88 – MCAs will be responsible for securing provision of free study for learners who meet certain conditions for study for specified qualifications provided as a result of s86 and s87. This relates to ‘Statutory Entitlements’ which currently apply to English, maths and specified vocational qualifications as defined in Schedule 5. It should be noted the Digital Economy Act 2017 amends s88 to extend the current statutory duties to create a new duty to ensure that specified qualifications in making use of information technology are free of charge to people aged 19 and over who do not already have a relevant qualification. The qualifications or descriptions of qualification to which the duty applies are to be set out in secondary legislation. The level of attainment demonstrated by the qualification to which the duty applies must be the level that the Secretary of State considers is the minimum required by a person aged 19 or over to be able to operate effectively in day-to-day life. MCAs will take on this duty.

It is proposed that the following functions of the Secretary of State should be exercised concurrently with the MCA in relation to their area (also subject to the restriction set out above):

iv. S90 – MCAs will assume the general duty to encourage participation by individuals and employers in education and training amongst people aged 19 or over. The SoS for Education will retain the duty for encouraging participation in training in respect of England as a whole so this duty will be exercised concurrently.

v. S122 – This section enables information sharing as between specified persons for the purpose of enabling or facilitating the exercise of a relevant function. This power will be extended to include the MCA in respect of the transferred functions, and will continue to be exercisable by the Secretary of State.