

REPORT TO: Executive Board
DATE: 15 March 2018
REPORTING OFFICER: Chief Executive
PORTFOLIO: Leader/Children, Young People and Families
SUBJECT: Consent to Legislation to Enable Devolution Of Adult Education Budget
WARD(S) All

1.0 PURPOSE OF REPORT

The purpose of this report is to outline a process for agreeing the Devolution Order required to enable full devolution of the Adult Education Budget from Government to the Liverpool City Region Combined Authority and the timescale for doing so.

2.0 RECOMMENDATIONS: That Members

- 1) Note the requirement to provide consent for the draft legislative Order to enable the transfer of Adult Education Budget powers to the Liverpool City Region Combined Authority by June 2018; and**
- 2) Delegate authority to the Chief Executive in consultation with the Leader and Portfolio Holder, Children, Young People and Families, to agree the final Order on the basis that this is in line with the existing principles of the City Region's Devolution Agreement.**

3.0 BACKGROUND

- 3.1** The Liverpool City Region Combined Authority agreed its first Devolution Deal in November 2015. That Agreement includes the transfer of adult skills funding (the Adult Education Budget) to the Combined Authority. The subsequent Order establishing the Combined Authority contained details of a number of Adult Education powers, but did not deal with the agreed devolution of this funding.

- 3.2 The principal purpose of the Adult Education Budget is to engage adults in learning which supports wider economic and social priorities: this includes the community learning provided by constituent local authorities and “second chance provision” within colleges. The final expected funding value has yet to be confirmed. Having the powers to commission this funding will allow the Combined Authority to set out priorities for delivery, rather than resorting to influence. The Combined Authority called for this aspect of devolution because it would represent a significant change from the current situation, and would provide the Combined Authority with more ability to meet the needs of local employers.
- 3.3 In order to prepare for devolution, the Combined Authority is required to meet a series of readiness conditions: these include completion of the Area Based Review and having an up to date Skills Strategy. A number of these readiness conditions were set out in detail in the November 2015 Devolution Agreement, including conferring the relevant legal powers onto the Combined Authority.
- 3.4 At this stage, the Combined Authority still does not have the legal powers to be able to administer the Adult Education Budget. The Government did not include the required powers in the Order which created the role of the Metro Mayor and enabled the implementation of the majority of the Devolution Agreement. The Combined Authority expressed its concern in December 2015 about the delay in providing the necessary powers. The delay in providing these powers has meant that the original plan for devolution in time for the 2018/19 academic year has been delayed and it is now expected to happen with effect from 2019/20.
- 3.5 In order to enable the legal powers to be conferred on the Combined Authority, an Order needs to be laid and agreed in Parliament: this is in line with previous processes which included the creation of the Combined Authority and the enabling of the Devolution Agreement. An initial draft of the Order is expected to be received in mid-March 2018, and any subsequent technical and drafting changes will need to be submitted by mid-April 2018. The final draft of the Order is then expected to be circulated in late May 2018, at which point the Government will require the constituent local authorities and the Combined Authority each to provide formal consent by mid-June 2018.
- 3.6 The Order will set out the details of the functions to be transferred to the Combined Authority alongside the agreement to devolve the Adult Education Budget. The Government has 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 expected that the following functions contained in the Apprenticeships, Skills, Children and Learning Act 2009 will form the basis of the Order :-

- s86 – duty to provide appropriate 19+ further education (not to include apprenticeships, prisoner education or traineeships);
- s87 – duty to provide appropriate further education to 19+ learners who do not have certain specified qualifications; and,
- s88 – duty to ensure that provision is free for relevant learners who do not have certain specified qualifications.

3.7 In addition, the Order is expected to provide that 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 relevant local authority as they are treated as 16-18 year old learners); and,
- s122 – power to exchange information with providers to enable provision of 19+ further education (to be exercised concurrently with the Secretary of State).

3.8 There is a tight legislative window to allow for the Order to be laid in Parliament and thereby enable the duties to be conferred onto the Combined Authority in time for the 2019/20 academic year. The Combined Authority and the constituent local authorities will be required to provide consent to the final draft Order by mid-only June 2018, with the text having been received in late May 2018. This is a tight timescale and therefore, in order for it to be achieved, it is proposed that authority to agree the draft Order should be delegated to the Chief Executive in consultation with the Leader and Portfolio Holder for Children on the basis that this is in line with the existing principles of the Devolution agreement.

4.0 LEGAL IMPLICATIONS

- 4.1 Section 105(b) of the 2016 Cities and Local Government Devolution Act states that the Secretary of State may make an Order for the devolution of functions if consent has also given by each appropriate authority (i.e. the Combined Authority and the constituent local authorities in this case).
- 4.2 The timetable for approvals is challenging given the constraints of the Parliamentary process. All constituent local authorities and the Combined Authority will need to provide formal consent in a timely manner to ensure that the Order is laid before Parliament before the end of June 2018.

5.0 RESOURCE IMPLICATIONS

5.1 Financial

There are no specific financial implications associated with the implementation of the recommendations in this report. The arrangements for the implementation and management of the Adult Education Budget will be subject to future reports to the Combined Authority.

5.2 Human Resources

There are no human resource implications associated with the implementation of the recommendations in this report.

5.3 Physical Assets

There are no physical asset implications associated with the implementation of the recommendations in this report.

5.4 Information Technology

There are no information technology implications associated with the implementation of the recommendations in this report.

6.0 RISKS AND MITIGATION

- 6.1 There is a reputational risk for the City Region if consent to the draft legislative Order cannot be provided in time. This will be mitigated by agreeing the recommendations in this report.
- 6.2 There is a risk that the government will not adhere to the timescales

set out in this report. This will be mitigated by working closely with Department for Education to ensure that documents are available when they are required.

7.0 EQUALITY AND DIVERSITY IMPLICATIONS

7.1 The management and implementation of the Adult Education Budget will be subject to a full equality and diversity assessment.

8.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

8.1 Children and Young People in Halton

8.2 Employment, Learning and Skills in Halton

8.3 A Healthy Halton

8.4 A Safer Halton

8.5 Halton's Urban Renewal

9.0 CONCLUSION

9.1 This report has outlined the process for agreeing the Devolution Order required to enable full devolution of the Adult Education Budget and the timescale and proposed process for doing so.

10.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None.