

AGENDA ITEM 9

**REPORT TO THE TEES VALLEY
COMBINED AUTHORITY CABINET**

23 NOVEMBER 2017

**REPORT OF THE HEAD OF
EDUCATION, EMPLOYMENT & SKILLS**

PORTFOLIO: EDUCATION, EMPLOYMENT & SKILLS

ADULT EDUCATION BUDGET

SUMMARY

This report updates Cabinet on proposals for devolution of the Adult Education Budget, supporting training opportunities for people over 19, now scheduled from Autumn 2019. Following discussions with DfE officials, it proposes an approach to the enhanced involvement of the Combined Authority in an interim arrangement for the year preceding devolution.

RECOMMENDATIONS

It is recommended that the Combined Authority Cabinet:

- i. Note the government's commitment to implement devolution from 2019, rather than 2018, and the discussions between officials to establish an appropriate transition arrangement for 2018-19;
- ii. Agree that the Combined Authority should secure an effective transition arrangement for 2018-19; which secures as much flexibility as possible over priorities for adult skills, strengthens genuine influence, and supports an effective lead into full devolution from 2019;
- iii. Delegate to the Managing Director, in consultation with the Mayor and Portfolio Holder for Education, Employment and Skills, the establishment of arrangements to maximise the influence of the Combined Authority and its partners during 2018-19.

DETAIL

Background

1. The Adult Education Budget (AEB) is an element of national skills funding that is provided to equip adults over the age of 19 with the skills and learning they need for work, apprenticeship or further learning. This includes provision for statutory entitlements such as first full level 2 qualifications; and maths and English qualifications. AEB is currently administered by the Education and Skills Funding Agency (ESFA). We, and other devolution areas, sought full devolution of this funding; in order to raise local skill levels, promote reform and improved performance, and strengthen the links between training and local job opportunities.
2. The Devolution Deal signed with government in 2015 included agreement to devolve the AEB to the Combined Authority from August 2018. The Department of Education (DfE) has encountered significant delays in developing a plan to enable devolution, including the delays in being able to place an Order with parliament that is required to enable devolution of this budget. As a result devolution of this budget is now delayed by 12 months and is planned for August 2019. It is important to stress that delay is not a result of any failure on the part of the Tees Valley to meet the so-called “readiness conditions” agreed as part of the Devolution Deal.
3. The Tees Valley Mayor, Leaders and Mayors of other Combined Authority areas have expressed serious concerns about this delay to the commitments entered into by government, and will continue to express these concerns. In parallel, we have continued a dialogue with DfE to secure a sensible transition arrangement during the 2018-19 academic year, enabling the Tees Valley to secure some of the benefits of devolution as soon as possible, and supporting a smooth transition to new responsibilities.

Options for Transition in 2018-2019

4. In August, when DfE announced the delay for devolution, they proposed two options for the transitional academic year 2018/19 as an interim arrangement. The two options are:
 - a. An influencing option where the Combined Authority steer the use of the funding by influencing the Education and Skills Funding Agency to purchase relevant skills provision, as set out in locally developed delivery plans.
 - b. A delegated option where the funding is delegated from the Secretary of State to the Combined Authority under Section 16 of the Localism Act that would provide local direct contracting and management of training providers, whilst local commitment to undertake DfE systems and processes.
5. Combined Authority officers from Tees Valley and eight other Combined Authorities have been working closely with DfE and ESFA officers to explore the detail behind both options. Regular workshops and communication has taken place and much detail explored. Within the group of Combined Authorities, Tees Valley has been particularly willing and ready to take on additional responsibilities during the transition year; reflecting the effective local partnership arrangements we have in place. We have, however, been careful to ensure that additional responsibilities are manageable, properly resourced, and allow genuine flexibility to make a difference in our area.

6. The detail around the two options is:

Delegation

- a. The Secretary of State for Education (SoS) delegates AEB functions and funding to the Combined Authority
- b. The Combined Authority would act as an agent of the SoS and within a rigid set of parameters set out in a delegation agreement and would commission skills provision, fund providers and manage delivery. This would not apply to full devolution.
- c. The Combined Authority would be required to satisfy the SoS regarding a set of stringent practical readiness conditions, including handling provider risk and intervention on financial and quality matters, prior to any delegation agreement being entered into.
- d. This option enables the Combined Authority to exercise greater control over AEB but with a greater share of risk and requires all relevant systems, policies and practices to be in place in a very short timeframe
- e. Commissioning and procurement processes would be required to be completed by January 2018

Influencing

- a. The Combined Authority would work closer with DfE colleagues to prepare for full devolution in 2019
- b. A set of terms will be developed through which the Combined Authority may be able to influence a proportion of the 2018/19 funding allocated to training providers, colleges and local authorities.
- c. DfE will continue to consider the Combined Authority's performance data requirements
- d. The combined Authority's strategic skills plan will be discussed and agreed with DfE as an opportunity to establish alignment of provision with national policies
- e. This option enables less direct control over AEB but does not require the implementation of new systems and practices.

7. Having considered both options in detail, officers recommend that, whilst the delegation option is the closest to full devolution, the way it is specified by DfE creates too many risks for the Combined Authority, without adequate corresponding benefits. In summary, our concerns are that:
- a. The Secretary of State has yet to conclude if delegation is achievable within the Localism Act.
 - b. Clarity of the detail and the legal basis of the delegated option proposed is not provided by DfE at this point and so cannot be assessed by the Combined Authority.
 - c. The operational readiness conditions are not finalised so resource implications cannot be assessed.
 - d. That timescales and rigidity of DfE parameters for flexibilities for the delegation option are impractical, in particular the required commissioning timescale for the transition year.
 - e. That the delegated option could create additional risk for providers receiving this funding
8. We also consider that there is limited benefit to the influencing option, beyond the opportunity to provide a necessary development year for closer working with DfE. In practice, the degree of influence could be inadequate to meet our objectives for the Tees Valley. Officers have therefore worked closely with senior DfE, DWP and ESFA

officers to establish a joint working relationship that has enabled Tees Valley to propose an enhanced option (effectively a “third option” which resolves some of the limitations of the original proposals set out by DfE). This has been positively received and is continuing to be explored within central government.

9. The enhanced proposal includes two additional requests:
 - a. A stronger joint governance arrangement to oversee funding allocations and contracting management in 2018/19.
 - b. A higher degree of flexibility in the funding rules, building on the positive track-record established through the SSI Task Force.
10. These enhancements would achieve an improved level of knowledge to the Combined Authority of training providers’ provision, direct influence of funding allocations to national providers (approximately 200), more learners to benefit from this funding stream, and improvements to the skills provision directly linked to employers’ needs. It is therefore recommended that further discussions continue with the DfE to develop a 2018-19 arrangement on the basis of:
 - a. Rejecting the delegation option, as currently specified;
 - b. Seeking to improve on the influencing option;
 - c. Seeking extensions to strengthen joint governance and added flexibility.

Next Steps

11. Officers have consulted the Mayor and Cabinet Portfolio Member throughout these discussions, while making clear that a formal response to the proposed options depends on agreement from the full Cabinet. We are now at the point our position needs to be confirmed. It is therefore recommended that Cabinet agree the approach to the transition year set out in this report. Under established delegation powers, the Cabinet could then delegate to the Managing Director, in consultation with the Mayor and Portfolio Holder, the finalisation of these arrangements.

FINANCIAL IMPLICATIONS

12. The full financial delegation of the Adult Education Budget is now due for Autumn 2019, and further agreements will be required by Cabinet at that point. During the transition year 2018-19, central government would remain financially accountable for the AEB.
13. Internal staffing resources are required to prepare for devolution of the AEB. A business case has been submitted to DfE to request funding for the period prior to devolution, and a decision is expected imminently. The draft Combined Authority Budget, also on this Cabinet agenda, identifies some additional capacity for Education, Skills and Employment, which will be considered through that process. The relevant Combined Authority team is currently undertaking a review and restructure to meet new responsibilities, and a revised structure will identify a lead officer to ensure the effective project management of the transition to devolution.

LEGAL IMPLICATIONS

14. The delegated option raised significant legal issues, and would be the first use of the relevant powers under the Localism Act. For other options, the legal issues are much less significant, since there would be no fundamental transfer of legal responsibility. Any relevant legal issues and implications are being considered as

part of the discussions with DfE over each option, and will be considered further as formal agreements are brought forward.

RISK ASSESSMENT

15. The level of risk for the delegation option could be significant, and on that basis it is not recommended. The risk associated with other options is much lower, since no formal transfer of legal or financial responsibility would take place. Significant issues of risk are likely to arise from devolution after 2019, which will be considered separately and advised to the Cabinet in advance of devolution.

CONSULTATION

16. Formal consultation is not necessary but detailed discussions have been undertaken with Local Authorities, Colleges of Further Education via a steering group, Local Authority officers, Chief Executives and Leaders.

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