

# Appendix 3



**CAMBRIDGESHIRE  
& PETERBOROUGH**  
COMBINED AUTHORITY

<b>CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY BOARD</b>	<b>AGENDA ITEM No: X.X</b>
<b>DATE OF MEETING</b>	<b>PUBLIC REPORT</b> <i>This report has a confidential appendix at item x.x of the Agenda (Delete if not applic) – See Appendix 3 for guidance</i>

## AEB DEVOLUTION OF POWERS TO COMBINES AUTHORITY

### 1.0 PURPOSE

- 1.1. To outline the process for agreeing the devolution of powers required to enable transfer of the Adult Education Budget (AEB) and associated powers for delivery of the adult education service and the timescale and proposed process for doing so.

<b><u>DECISION REQUIRED</u></b>	
<b>Lead Member:</b>	<b>Cllr Holdich</b>
<b>Lead Officer:</b>	<b>Martin Whitelely</b>
<b>Forward Plan Ref:</b>	<b>Key Decision: No</b>
<p>The Combined Authority Board is recommended to:</p> <ol style="list-style-type: none"> <li>Approve the transfer of functions to Cambridgeshire and Peterborough Combined Authority (“CPCA”) to ensure the successful devolution of the Adult Education Budget (“AEB”) in 2019.</li> <li>Give consent on behalf of the CPCA to the making of an Order giving effect to this transfer.</li> </ol>	<p><b>Voting arrangements</b></p> <p>Simple majority of Members Or At least two-thirds of all Members (or their Substitute Members) or At least two-thirds of all Constituent Council Members</p>

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| <ol style="list-style-type: none"><li>3. Give delegated authority to the Legal Counsel and Monitoring Officer in consultation with the Portfolio Holder and the Mayor to approve the final draft Order in order to meet the timetable for transfer of the powers.</li><li>4. Note that the constituent councils have been requested to give their consent to the making of an Order giving effect to this transfer including the necessary delegation to approve the final draft Order</li><li>5. Note that only the draft Order can be approved, as the Order cannot be deemed finalised until it has been presented to and approved by Parliament.</li></ol> |  |
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## 2.0 BACKGROUND

- 2.1 The Devolution Deal of June 2016 included the transfer of AEB to the CPCA 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.
- 2.2 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 £12.1m from 2019 based on current spend on residents.
- 2.3 The Order, to be received in draft by CPCA, will set out the details of the AEB functions that will be transferred to the CPCA 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 CPCA in relation to constituent member areas:

I. S86 – Duty to provide appropriate FE to learners aged 19 and over(not to include apprenticeships, prisoner education or traineeships).

II. S87 – Duty to provide appropriate FE to learners aged 19 and over, who do not have certain specified qualifications

III. 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:

IV. S90 – Duty to encourage learner and employer participation in education and training of people aged 19 and over (except those in adult detention) (to be exercised concurrently with the Secretary of State)

V. S115 – Duty to consider/have regard to the needs of learners aged 19 and over, 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).

VI. S122 – Power to exchange information with providers to enable provision of FE to learners aged 19 and over (to be exercised concurrently with the Secretary of State).

- 2.4. Mayoral Combined Authorities (MCAs) are required to provide the Department for Education (DfE) with consent to the draft Order by the end of July 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 July 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 CPCA if the order is not laid in a timely manner.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1. 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

- 3.2. If there are financial implications, the report needs to go to the Investment Board. This paragraph needs to be approved with the Chief Finance Officer (S151).

#### **4.0 LEGAL IMPLICATIONS**

- 4.1 Devolution of the AEB will mean that the CPCA 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, 48% 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 CPCA'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.
- 4.2 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.
- 4.3 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

#### **5.0 EQUALITIES IMPLICATIONS**

- 5.1 These aspects of the Devolution Agreement are reflected in the CPCA Equalities Scheme.

#### **6.0 APPENDIX**

- 6.1 *Affirmative Resolution Procedure:*

The SI is laid in the form of a draft instrument, which is later made when it has been approved by both Houses.



The instrument cannot be made unless the draft Order is approved by Parliament.



The instrument is made when a motion approving it has been passed by both Houses and it is the responsibility of the minister, having laid the instrument, to move the motion for approval.



The instrument is laid after making and will come into effect immediately but cannot remain in force unless approved within a statutory period (usually 28 or 40 days).