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## **JOINT REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES AND THE CHIEF EXECUTIVE OF EDUCATION LEEDS**

**EXECUTIVE BOARD: 9 December 2009**

**SUBJECT: Transfer of responsibilities from the LSC to the local authority**

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### **Executive Summary**

#### **1.0 PURPOSE OF THE REPORT**

- 1.1 To inform Executive Board of progress around the transfer of responsibilities from the Learning and Skills Council to the Local Authority and seek approval for future arrangements for the planning and funding of 14-19(25) provision at a local authority and sub-regional level.

#### **2.0 BACKGROUND**

- 2.1 From April 2010 when the Learning and Skills Council (LSC) is dissolved local authorities will be responsible for commissioning enough suitable education and training provision for all young people up to the age of 19, and up to the age of 25 for learners with learning difficulties. The funding to support the delivery of all such provision will flow through the local authority with the exception of that to support apprenticeships. This transfer of responsibilities from the LSC is accompanied by a transfer of staff.

#### **3.0 MAIN ISSUES**

- 3.1 Leeds local authority will have a lead commissioner role and be responsible for making payments to all the School Sixth Forms, Sixth Form Colleges, the General FE Colleges and a small number of other LSC approved providers of 16-19 learning within the city. In the case of Academies the local authority will have a role in agreeing the provision to be delivered, but they will receive their funding directly from central Government. In the case of 16-19 Apprenticeships the LA will play a role in determining what provision is required, but the funding to providers will be made through the National Apprenticeship Service.
- 3.2 To support this process the local authority is required to produce a 14-19(25) Plan and a Local Area Statement of Need (LASN) that provides a summary statement of commissioning priorities within Leeds. The key purpose of the LASN is to indicate the priorities for any growth in 16-19 provision in schools and FE colleges. The process of producing the LASN this year is described along with the proposed future arrangements

for its approval.

- 3.3 Local authorities are required to work collaboratively with one another to ensure they are collectively meeting the needs of all learners at both a sub-regional and regional level. A Memorandum of Understanding that includes policies, procedures and governance arrangements, to underpin sub-regional/regional working is presented for the approval of the Board.
- 3.4 To help support these new arrangements for the transfer of responsibilities to the local authority 12 staff will transfer from the LSC to Leeds under TUPE arrangements. The report outlines progress on this staff transfer.

#### 4.0 **RECOMMENDATIONS**

4.1 The Executive Board is asked to:

- i) Note the progress and approve the approach to the preparation for the transfer of responsibilities from the LSC to the local authority
- ii) Confirm their support for elected member representation on the reconstituted 14-19 Strategic Partnership as indicated in 3.1.3
- iii) Approve the Memorandum of Understanding included as appendix 3.

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### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

### Specific Implications For:

Equality & Diversity



Community Cohesion



Narrowing the Gap



Eligible for Call-in

Not Eligible for Call-in

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## 1.0 PURPOSE OF THE REPORT

- 1.1 To inform Executive Board of progress around the transfer of responsibilities from the Learning and Skills Council to the Local Authority and seek approval for future arrangements for the planning and funding of 14-19(25) provision at a local authority and sub-regional level.

## 2.0 BACKGROUND

- 2.1 From April 2010 when the Learning and Skills Council (LSC) is dissolved local authorities will be responsible for commissioning enough suitable education and training provision for all young people up to the age of 19 and up to the age of 25 for learners with learning difficulties. The funding to support the delivery of all such provision will go through the local authority with the exception of that to support apprenticeships. This transfer of responsibilities from the LSC is accompanied by a transfer of staff.
- 2.2 Local authorities are required to work collaboratively with one another to ensure they are collectively meeting the needs of all learners at both a sub-regional and regional level. Proposals outlining how we and our partner local authorities in the West Yorkshire sub-region intend to work together and interface with the three other sub-regions in Yorkshire and Humber were submitted to and agreed by Government Office in March 2009.

Work has been undertaken on the development of the Memorandum of Understanding that includes policies, procedures and governance arrangements, to underpin sub-regional working.

- 2.3 There are two new national agencies with whom we will be working closely; the Skills Funding Agency (SFA) responsible for funding adult learners and Apprenticeships, and the Young People's Learning Agency (YPLA) responsible for supporting local authorities in the planning and funding of provision for 16-19(25) year olds. Responsibility for Apprenticeship funding for those under the age of 19 will lie with the National Apprenticeship Service (NAS) which is part of the SFA. However, the LA will have a key role to play in determining the need in the city.
- 2.4 The Leeds 14-19(25) Plan will be at the heart of the planning and funding process in future; to help ensure more learners achieve better outcomes and the more efficient and effective use of available resources.
- 2.5 We are seeking to develop a more responsive, locally based collaborative approach to the planning and delivery of learning provision and services in Leeds. It is envisaged that through this approach we can start to see further collaborative working between schools, colleges, and other providers that will lead to improved quality of provision and ensure the long-term viability and sustainability of provision.
- 2.6 A number of reports have previously been submitted to Executive Board associated with the transfer of responsibilities from the LSC to the local authority through the Machinery of Government changes.

### 3.0 **MAIN ISSUES**

#### 3.1 **The local planning of provision**

- 3.1.1 All local authorities are required to produce a 14-19 (25) Plan to support the planning and development of 14-19(25) provision within schools, Academies, Sixth Form Colleges, General FE Colleges and independent and third sector providers. In Leeds we have extended the scope of our Plan to that of a 13-19(25) Learning and Support Plan. This is to ensure we capture and analyse in one document all key areas of activity that impact on the outcomes of our 14-19(25) year olds. Our 2009/10 version of the Plan draws on information from a wide range of sources and was developed over the summer in collaboration and consultation with providers and other agencies from across the city.
- 3.1.2 From the Plan we are currently required by the LSC to produce a Local Area Statement of Need (LASN) to state our commissioning priorities for 14-19 in Leeds. This year the format of the LASN was provided by the LSC to LAs at the beginning of October; with a requirement that we consult our 14-19 partners and return the completed document back to the LSC by 23 October 2009. Despite this tight timescale we have managed to undertake a comprehensive consultation on the content of the document. Schools, FE colleges, other providers and key agencies were provided with an initial draft version for response by e-mail and we also consulted on the draft LASN at the five local partnership planning meetings that took place during October. The final version of the document was agreed at a specially convened meeting involving LA/LSC Officers and FE college principals and secondary head representatives (Appendix 1).
- 3.1.3 Subsequently, local priorities will be agreed by the 14-19 Strategic Partnership. The membership and terms of reference of the 14-19 Strategic Partnership are currently subject to review and it is proposed that amongst other changes the group will in future

include elected member representation. It is anticipated that the Leeds Statement of 14-19(25) Priorities will be considered annually by the Executive Board.

### **3.2 The funding of 16-19(25) provision**

- 3.2.1 As lead commissioner the Council will be responsible for making payments to all the School Sixth Forms, Sixth Form Colleges, the General FE Colleges and the small number of other LSC approved providers of 16-19 learning. In the case of Academies the local authority will have a role in agreeing the provision to be delivered, but they will receive their funding direct from the YPLA. Funding to providers will be made direct through the NAS for apprenticeships.
- 3.2.2 Funding rates for each programme are set nationally and all local authorities will have to operate within a National Commissioning Framework issued by the YPLA as statutory guidance until at least 2013. The business cycle and associated processes and timescales will in general be tightly prescribed.
- 3.2.3 Funding allocations to schools, FE colleges and the small number of other LSC approved 16-19 providers, for programmes to be delivered in 2010/11, were set nationally in four stages:
- Calculation of the baseline for each provider using their actual/forecast 2009/10 enrolments
  - Adjustment of the baseline of each provider to reflect LA level cohort changes
  - Adjustment for any major structural changes such as major new builds or mergers
  - Agreement of any growth as part of a negotiated process
- 3.2.4 The overall growth available to Leeds will be calculated nationally and take into account the gap to achieving full participation in the city as required by the Raising of the Participation Age. The funding process will enable some growth of high quality provision that meets agreed priorities and the withdrawal of funding for poor quality or unviable provision.
- 3.2.5 Schools, FE Colleges and other providers will join the local authority/LSC to share their delivery plans and present any case for growth as part of an open and transparent process. To support this process providers have been supplied with the agreed commissioning priorities through the LASN and detailed data relating to enrolments and success rates for all 16-19 programmes delivered in Leeds. A representative group of providers will be brought together to scrutinise the allocations and ensure we have adhered to the agreed priorities and quality standards set down in the LASN.
- 3.2.6 A summary of the business cycles for this year and next year are shown in appendix 2. The role of the Sub-regional Group and Regional Planning Group around moderation and endorsement of the commissioning plans of individual local authorities should be noted. Confirmation of the funding allocations to local authorities will be made through the Young People's Learning Agency after assessment of the affordability of the plans.
- 3.2.7 The majority of funding to support learners with learning difficulties or disabilities (LLDD) will be agreed as part of the main formula allocation process. However, the LA will be responsible for drawing up proposals for young people with learning difficulties or disabilities up to the age of 25 requiring access to residential provision outside of the authority. Details of how the commissioning process for these young people will operate are still under consideration by the DCSF and YPLA. There currently exists an issue of a very significant overspend for LLDD provision against the LSC budget both nationally and in Leeds that needs to be resolved.

3.2.8 Responsibility for securing education and training in public sector Young Offender Institutions (YOIs) will pass from the LSC to the YPLA in April 2010, and then pass to local authorities in September 2010. Under these arrangements Leeds LA will have responsibility for the learning contract for the 400 or so learners at Wetherby YOI. This contract is currently held by Manchester College who secured a three year contract with the option of two one year extensions, with effect from 1 August 2009, through a LSC tendering process conducted early this year.

3.2.9 The following data on the main elements of 2009/10 funding allocations to Leeds Institutions gives an indication of the scale of funding responsibility transferring from the LSC to the local authority.

- School Sixth Forms - £31,794,628 to support 6,443 learners
- Colleges - £45,763,608 to support 12,197 learners
- Specialist College LLDD residential placements -£1,994,269 to support 34 learners
- Entry to Employment provision - £3,467,860 to support 1,741 learners

### 3.3 **Sub-regional/regional collaboration**

3.3.1 Leeds is part of the West Yorkshire sub-region with Bradford, Calderdale, Kirklees and Wakefield. This is based on the 16-18 travel to learn patterns between these Local Authorities. It is also recognised that there will need to be linkage to other regional structures – notably the City Region developments. Due to the high volume of learner movement across the Leeds border a close working relationship with the other three sub-regions in Yorkshire and Humber will also be essential.

3.3.2 Work around the transfer of responsibilities is being led by a West Yorkshire sub-regional groups that includes the Director of Children’s Services and the lead 14-19 officers from the local authorities. The work is coordinated through a detailed action plan and supported by a series of task and finish groups involving a wide range of specialist staff from across the five LAs.

3.3.3 There will be a Regional Planning Group in the new arrangements. Its role will be to advise on the final alignment of resources to support commissioning plans and any measures needed to align available resources and the level of commitments requested in these plans. It will also assess alignment with regional skills and economic needs. The YPLA will support the Regional Planning Group (RPG).

### 3.4 **Memorandum of Understanding**

3.4.1 The sub-regional and regional groups have a key role in ensuring that the combined plans of individual local authorities together meet the needs of all learners taking into account travel to learn patterns and the regional learning and skills agenda. The Sub-regional and regional planning groups will have a moderating role around the LA commissioning plans.

3.4.2 To support this work and ensure clarity around processes and responsibilities a draft Memorandum of Understanding has been developed in collaboration across the five local authorities in the West Yorkshire sub-region. This document outlines the various groups and the relationships that will exist at a sub-regional and regional level. It should be noted that the proposal includes an elected members group that will meet at appropriate points in the business cycle to be briefed around the commissioning process at a

regional and sub-regional level.

3.4.3 The proposed Memorandum of Understanding is included as appendix 3. Any proposed amendments would require the agreement of the other four authorities in the sub-region.

### **3.5 The transfer of staff from the LSC**

3.5.1 The DCSF have proposed that 12 staff will transfer from the LSC to Leeds under TUPE arrangements. The allocation of staff to Leeds is significantly more than other local authorities in the sub-region/region in recognition of the size and complexity of post 16 delivery in Leeds. Nine of the 12 staff have been confirmed and work is currently underway to recruit the remaining three staff.

3.5.2 The staff will not officially transfer to the local authority until April 2010. However initial induction and shadowing arrangements have already commenced. This will involve many of the staff spending an increasing part of their working week in Leeds leading up to their formal transfer on 1 April 2010. The staff will be based in Education Leeds, predominantly within the 14-19 Service, with exception of the most senior transferee who will undertake a key strategic commissioning role within the Director of Children's Services Unit.

3.5.3 The local authority will receive specific funding to cover the salaries and overheads for an initial three year period after which funding will be included in the Local Authority's Standard Spending Assessment.

## **4.0 IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE**

4.1 The transfer of responsibility for 16-19 provision to local authorities is an essential element in the Government's long term strategy to make the UK the best place in the world for children and young people to grow up. It will give the local authority the tools it needs to deliver the best outcomes for young people by placing all 0-19(25) commissioning under the leadership of the local authority enabling more effective local decision making. It enables the integration of the commissioning of learning and support services to facilitate access to the 14-19 entitlement and the delivery of full participation for all young people who are 17 by 2013 and 18 by 2015.

4.2 The transfer of responsibilities will significantly enhance the capacity in Leeds to "Narrow the Gap" and "Go up a league". It will also address the priorities in the Children and Young People's Plan by securing stronger local and regional governance of provision to deliver the learning and skills needs of Leeds and the region. The strategic commissioning will have an impact on our ability to deliver the Every Child Matters outcomes in particular, enjoy and achieve, making a positive contribution and securing economic wellbeing.

4.3 The relationship between the local authority and schools, colleges, academies and other providers will change significantly as a result of our new role. Significantly, Sixth Form Colleges are set up as a new sector within the provision of the Apprenticeships, Skills, Children and Learning Bill giving the local authority the responsibility for intervention around performance management.

## **5.0 LEGAL AND RESOURCE IMPLICATIONS**

5.1 All the proposed changes described in this report are subject to the successful

parliamentary passage of the provisions of the Apprenticeships, Skills, Children and Learning Bill.

- 5.2 Any risk to the local authority is being minimised by the establishment of robust financial assurance and control arrangements. Local authorities, the YPLA and the SFA will be charged with establishing a financial regulatory framework that will minimise the burden on providers whilst providing full assurance on the use of public funds.
- 5.3 There are specific resource issues we are still seeking further clarification on, in particular the allocation of funding for learners with learning difficulties and the long-term funding of staff transferring from the LSC.

## 6.0 **RECOMMENDATIONS**

6.1 The Executive Board is asked to:

- i) Note the progress and approve the approach to the preparation for the transfer of responsibilities from the LSC to the local authority
- ii) Confirm their support for elected member representation on the reconstituted 14-19 Strategic Partnership as indicated in 3.1.3
- iii) Approve the Memorandum of Understanding included as appendix 3.

## **BACKGROUND PAPERS**

- 14-19 Partnership and Planning – DCSF (January 2009)
- 16-19 Transfer – A framework for local authority functions – DCSF (April 2009)
- The React Bulletin – React (18 September 2009)
- Designation of Sixth Form Colleges – React communication to DCSs (2 November 2009)
- National Commissioning Framework – Consultation Draft - DCSF (16 November 2009)