**LIVERPOOL CITY REGION COMBINED AUTHORITY**

**ACTION TAKEN UNDER DELEGATED AUTHORITY**

**ACTION TAKEN BY THE LEAD OFFICER: EDUCATION, EMPLOYMENT, APPRENTICESHIPS AND SKILLS IN CONSULTATION WITH THE METRO MAYOR AND PORTFOLIO LEAD: EDUCATION, EMPLOYMENT AND SKILLS**

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**Report Title:** Consent to the Liverpool City Region Combined Authority (Adult Education Functions) Order 2018

**Officers consulted on, and contributing to, the report (including name and title):**
Sue Jarvis, Assistant Executive Director; Jill Coyle, CA Monitoring Officer; Louise Outram, Head of Legal, Merseytravel; Mike Dearing, Head of Legal, Knowsley Council

**DECISION:**
The Lead Officer: Education, Employment, Apprenticeships and Skills in consultation with the Metro Mayor and Portfolio Lead: Education, Employment, Apprenticeships and Skills agrees to provide consent to the Liverpool City Region Combined Authority (Adult Education Functions) Order 2018.

**PURPOSE OF THE REPORT/REASONS FOR DECISION:**
This Order will transfer the adult education functions to Liverpool City Region Combined Authority, allowing them to administer the Adult Education Budget from academic year 2019/20. The details were outlined in the report presented to the Liverpool City Region Combined Authority on 20 April 2018 regarding the devolution of the Adult Education Budget. The report updates on the position of each constituent Local Authority agreement to the consent of Parliamentary Orders to enable devolution and seeks final consent from those delegated to provide this for the Combined Authority.

**ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:**
Consent to the Order is required by the week commencing 9 July 2018 in order to ensure the Order can be laid down in Parliament before the summer recess. Not agreeing the Order would either delay or remove the option for the laying of Parliamentary Orders to facilitate the devolution of the Adult Education Budget to Liverpool City Region in 2019/20.

**ANY CONFLICT OF INTEREST DECLARED BY THE CABINET MEMBER/CHAIRMAN CONSULTED ON THE REPORT:** None

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Lead Officer: Education, Employment, Apprenticeships and Skills

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Metro Mayor

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Portfolio Lead: Education, Employment, Apprenticeships and Skills
Background

1. To enable Government to devolve c.£50m per annum Adult Education Budget to the Liverpool City Region Combined Authority, it is necessary to provide consent to the Liverpool City Region Combined Authority (Adult Education Functions) Order 2018. This Order will be made under s105B of the Local Democracy, Economic Development and Construction Act 2009, and pursuant to that section therefore requires the consent of the Liverpool City Region Combined Authority and each of its constituent Councils.

2. The Order will transfer the adult education functions to Liverpool City Region Combined Authority, allowing the Combined Authority to administer the adult education budget (AEB) from academic year 2019/20. The transferred functions are necessary in order for Liverpool City Region Combined Authority to undertake their duties for the provision and management of the devolved Adult Education Budget. The functions to be transferred are from the Apprenticeship, Skills, Children and Learning Act 2009 and are set out through the explanatory note of the Order attached in Appendix One.

3. At its meeting on 20 April 2018 the Liverpool City Region Combined Authority delegated the decision making on the final Order to the Lead Officer: Education, Employment and Skills in consultation with the Metro Mayor and Portfolio Lead: Education, Employment and Skills.

4. In preparation for devolution, the Combined Authority has provided evidence and met a series of readiness conditions including completion of the Area Based Review, production of a Skills Strategy, and completion of a self-assessment.

5. The Combined Authority and each of the constituent Council is required to provide consent to the DfE by the week commencing 9 July 2018 in order to ensure the Order can be laid down in Parliament before the summer recess. Confirmation has been received from each of the six Councils that this has been provided. This now means that the Combined Authority is able to provide consent and submit this to Department for Education.
Recommendation

6. The Lead Officer: Education, Employment, Apprenticeships and Skills in consultation with the Metro Mayor and Portfolio Lead: Education, Employment and Skills agrees to provide consent to the Liverpool City Region Combined Authority (Adult Education Functions) Order 2018.

Contact Officer:
Alison Gallagher, Principal Employment and Skills Officer (0151 330 1015)
APPENDIX ONE


STATUTORY INSTRUMENTS

2018 No. 000

LOCAL GOVERNMENT, ENGLAND

EDUCATION, ENGLAND

The Liverpool City Region Combined Authority (Adult Education Functions) Order 2018

Made

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Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by sections 105A, 114 and 117 of the Local Democracy, Economic Development and Construction Act 2009(1) ("the Local Democracy Act"), makes the following Order:

In accordance with section 105B(1) of the Local Democracy Act(2), the Liverpool City Region Combined Authority and each of the constituent councils(3) whose areas are within the area of the Combined Authority has consented to the making of this Order.

The Secretary of State considers that the making of this Order is likely to improve the exercise of statutory functions in the areas to which the Order relates.

In accordance with section 105B(9) of the Local Democracy Act, the Secretary of State has laid before Parliament a report explaining the effect of this Order and explaining why the Secretary of State considers it appropriate to make this Order.

A draft of this statutory instrument has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 117 of the Local Democracy Act.

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(1) 2009 c. 20. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c. 1) ("the 2016 Act"). Section 114 was amended by Schedule 5 to the 2016 Act. Section 117 was amended by section 13 of the Localism Act 2011 (c. 20) and by section 23 of, and paragraphs 17 and 29(1) and (2) of Schedule 5 to the 2016 Act.

(2) Section 105B was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c. 1).

(3) The constituent councils of the Liverpool City Region Combined Authority are the district councils for the local government areas of Halton, Knowsley, Sefton, St Helens and Wirral.
PART 1
General

Citation, commencement and application

1.—(1) This Order may be cited as the Liverpool City Region Combined Authority (Adult Education Functions) Order 2018 and comes into force on the day after the day on which it is made.

(2) Part 2 of this Order does not apply in relation to any academic year before the year beginning with 1st August 2019.

(3) In paragraph (2), "academic year" means a period beginning with 1st August and ending with the next 31st July.

Interpretation

2. In this Order—

“the 2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009(4);

“adult detention” has the meaning given by section 121(4)(5) of the 2009 Act;

“apprenticeships training” has the meaning given by section 83(5)(6) of the 2009 Act;

“the Area” means the area of the Combined Authority; and

“the Combined Authority” means the Liverpool City Region Combined Authority, a body corporate established under the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority Order 2011(7).

PART 2
Adult education functions of the Secretary of State transferred to the Combined Authority or to be exercisable concurrently with the Combined Authority

Transfer of functions from the Secretary of State to the Combined Authority in relation to the Area

3.—(1) Subject to paragraph (2), the functions of the Secretary of State set out in the following provisions of the 2009 Act are exercisable by the Combined Authority in relation to the Area—

(a) section 86 (education and training for persons aged 19 or over and others subject to adult detention)(8);

(b) section 87 (learning aims for persons aged 19 or over: provision of facilities)(9); and

(c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)(10).

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(4) 2009 c. 22.
(5) Section 121 was amended by paragraph 30 of Schedule 1 to the Technical and Further Education Act 2017 (c. 19), paragraph 22 of Part 2 of Schedule 1, and paragraph 27 of Part 1 of Schedule 14, to the Deregulation Act 2015 (c. 20); and by paragraph 8 of Schedule 18 to the Education Act 2011 (c. 21).
(6) Section 83 was amended by paragraph 14 of Part 2 of Schedule 1, and paragraph 4 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20); by paragraph 89 of Part 2 of Schedule 3 to the Children and Families Act 2014 (c. 6); and by paragraph 5 of Schedule 18 to the Education Act 2011 (c. 21).
(7) S.I. 2014/865 as amended by S.I. 2017/430. Article 3(2) provides that “the combined authority is to be a body corporate and to be known as the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority”. However, section 10(4)(4) of the Local Democracy Act applies section 97 of the Local Transport Act 2008(c. 26) (change of name of LTA) to a combined authority as it applies to an Integrated Transport Authority and on 1 April 2014 the Combined Authority passed a resolution, in relation to which the requirements mentioned in section 97(2) were met, to change the name by which the Combined Authority is known from the Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority to the Liverpool City Region Combined Authority.
(8) Section 86 was amended by paragraphs 1, 2 and 9 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20); by paragraphs 88 and 90 of Part 2 of Schedule 3 to the Children and Families Act 2014 (c. 6); and by section 30 of and paragraphs 1 and 7 of Schedule 18 to the Education Act 2011 (c. 21).
(9) Section 87 was amended by paragraphs 1 and 10 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20); and by paragraph 91 of Part 2 of Schedule 3 to the Children and Families Act 2014 (c. 6).
(10) Subsection (1) is amended by section 114(2) of the Digital Economy Act 2017 (c. 30), on a date to be appointed. Section 88 was amended by paragraph 11 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20) and by section 73 of the Education Act 2011 (c. 21).
(2) The functions mentioned in paragraph (1) do not include—
(a) any functions relating to apprenticeship training;
(b) any functions relating to persons subject to adult detention; or
(c) any power to make regulations or orders.

(3) The functions mentioned in paragraph (1) are exercisable by the Combined Authority instead of by the Secretary of State.

Functions of the Secretary of State to be exercisable concurrently with the Combined Authority in relation to the Area

4.—(1) Subject to paragraph (2), the functions of the Secretary of State set out in the following provisions of the 2009 Act are exercisable by the Combined Authority in relation to the Area—
(a) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention)(11); and
(b) section 100(1)(provision of financial resources)(12).

(2) The functions mentioned in paragraph (1) do not include—
(a) any function relating to apprenticeships training; or
(b) any function relating to persons subject to adult detention.

(3) The functions mentioned in paragraph (1) are exercisable concurrently with the Secretary of State in relation to the Area.

Conditions on the exercise of functions mentioned in Articles 3 and 4

5.—(1) The Combined Authority must adopt rules of eligibility for awards by an institution to which it makes grants, loans or other payments under section 100 of the 2009 Act in accordance with any direction given by the Secretary of State.

(2) In exercising the functions mentioned in articles 3 and 4, the Combined Authority must have regard to guidance issued by the Secretary of State for the purpose of this article (as amended from time to time or as replaced by a subsequent document)(13).

Modification of provisions in the 2009 Act

6. For the purpose of the exercise by the Combined Authority of the functions mentioned in articles 3 and 4, sections 86 to 88, 90, 100, 101, 103, 115 and 121 of the 2009 Act in their application to the Combined Authority apply with the modifications set out in the Schedule.

Name
Minister of State
Department for Education

Date

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(11) Section 90 was amended by paragraphs 5 and 20 of Part 2 of Schedule 1, and paragraphs 1 and 12 of Part 1 of Schedule 14, to the Deregulation Act 2015 (c.20).
(12) Section 100 was amended by section 27 of the Enterprise Act 2016 (c.12); by Schedules 1 and 14 to the Deregulation Act 2015 (c.20); and by paragraphs 1 and 9 of Schedule 18 to the Education Act 2011 (c.21).
(13) The Secretary of State’s guidance was published on [XXX] and is available at [XXXX website]. Copies are available on request from the Department for Education, 20 Great Smith Street, London SW1P 3BT.
SCHEDULE

Modification of provisions of the 2009 Act in their application to the Combined Authority

1. Section 86 of the 2009 Act has effect as if—
   (a) in subsection (1), for each reference to “Secretary of State” there were substituted a reference to “Combined Authority”;
   (b) subsection (1)(b) were omitted but not “and” at the end;
   (c) in subsection (1)(c), for “paragraphs (a) and (b)”, there were substituted “paragraph (a)”;
   (d) in subsection (5), the words “(except so far as relating to facilities for persons subject to adult detention)” were omitted;
   (e) in subsection (6), paragraph (c) in the definition of “training” were omitted; and
   (f) in subsection (7), the words “or (b)” were omitted.

2. Section 87 has effect as if for each reference to “Secretary of State”, there were substituted a reference to “Combined Authority”.

3. Section 88 has effect as if in subsections (1), (2)(b), (2A), (3), (4)(b) and (6)(a) for each reference to “Secretary of State”, there were substituted a reference to “Combined Authority”.

4. Section 90 has effect as if—
   (a) in subsection (1), for the first reference to “Secretary of State”, there were substituted a reference to “Combined Authority”;
   (b) in subsection (1)(a), for “section 86(1)(a) and (b)”, there were substituted “section 86(1)(a)” and
   (c) in subsection (1)(a), (b) and (c) for each reference to “Secretary of State’s remit” there were substituted the words “Combined Authority’s remit”.

5. Section 100 has effect as if—
   (a) in subsection (1), for the reference to “Secretary of State” there were substituted “Combined Authority”;
   (b) in subsection (1)(a), for the reference to “Secretary of State’s remit” there were substituted “Combined Authority’s remit”;
   (c) in subsection (3), for each reference to “Secretary of State” there were substituted a reference to “Combined Authority”;
   (d) in subsection (4), for the reference to “Secretary of State” there were substituted a reference to “Combined Authority”.

6. Section 101(14) has effect as if for each reference to “Secretary of State” there were substituted a reference to “Combined Authority”.

7. Section 103(15) has effect as if—
   (a) for the reference to “Secretary of State” there were substituted a reference to “Combined Authority”; and
   (b) the words “or (1A)” were omitted.

8. Section 115(16) has effect as if—
   (a) for the reference to “Secretary of State”, there were substituted “Combined Authority”; and
   (b) in subsection (2)(a), the word “and” were omitted; and

(14) Section 101 was amended by paragraphs 3 and 14 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20).
(15) Section 103 was amended by paragraphs 4 and 16 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20).
(16) Section 115 was amended by paragraph 23 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c. 20); and by paragraphs 88 and 93 of Part 2 of Schedule 3 to the Children and Families Act 2014 (c. 6).
(c) in subsection (2), paragraph (b) were omitted.

9. Section 121(17) has effect as if—

(a) in subsection (2)—

(i) for the reference to “Secretary of State’s remit”, there were substituted the words “Combined Authority’s remit”; and

(ii) in paragraph (a), the words “or (b)” were omitted.

(b) in subsection (3)—

(i) for the reference to “Secretary of State’s remit”, there were substituted the words “Combined Authority’s remit”; and

(ii) paragraphs (a) and (aa) were omitted.

EXPLANATORY NOTE
(This note is not part of the Order)

This Order provides for the conferral of certain adult education functions of the Secretary of State under the Apprenticeships, Skills, Children and Learning Act 2009 (“the 2009 Act”) on the Liverpool City Region Combined Authority (“the 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).

Article 6 and the Schedule to the Order apply certain provisions of the 2009 Act with modifications to the Combined Authority for the purpose of the Combined Authority exercising the functions conferred on it by articles 3 and 4.

(17) Subsection (1) is amended by paragraphs 1 and 30 of Schedule 1 to the Technical and Further Education Act 2017 (c.19) on a date to be appointed. Section 121 was amended by paragraph 22 of Part 1 of Schedule 1 and paragraph 27 of Part 1 of Schedule 14 to the Deregulation Act 2015 (c.20); and by paragraphs 1 and 12 of Schedule 18 to the Education Act 2011 (c.21).