

Select Committee Report – 12 November 2009

Report of the Director of Children's Services

Machinery of Government Changes

16-19 funding transfer – overview and structures

Purpose of Report

1. To provide information about the changes taking place in Education and Training for young people. The report details the arrangements to manage 16-19 commissioning following the transfer of responsibility for 16-18 funding from the LSC to Local Authorities and reflects the guidance provided by the DCSF.

Background

2. There are many big changes taking place in education and training for young people. Under the 2008 Education and Skills Act, the age of participation in education or training will increase to 17 by 2013, and to 18 by 2015. Councils, working with colleges, Connexions and other providers are helping to roll out new qualifications including Diplomas. Councils are increasing the numbers of apprenticeships they provide to respond to increased unemployment
3. On 1 April 2010, unitary and county councils will take over responsibility for commissioning education and training for 16-19 year olds. This responsibility is transferring from the Learning and Skills Council (LSC) which is being wound up.
4. This will be a major change. It will affect services for children and young people but also have a major impact on other parts of the council. For Local Government as a whole, this is a major transfer of functions representing £7bn of public spending.
5. This briefing will be of use to Councillors in who will be taking on the new responsibilities and for those who have an interest in the regeneration of the area, in outcomes for young people and in delivering targets set in the local area agreement (LAA).
6. The process of change will be complicated and technical, particularly over the next few months. But it is important not to see this as a purely managerial exercise to be handled by officers. It is a crucial opportunity for local

government to show how it can join up opportunities and support for young people; it needs your political leadership and oversight.

7. When Councils take over the lead on 16-19 they will be able to:
 - Bring together provision of all sorts for children and young people right up to the age of 19
 - Make sure that education and training for 16-19 year olds meets the needs of all - including the most vulnerable and those who are at risk of becoming NEET (Not in Employment Education or Training)
 - Provide a smoother transition at 16 and at 19 for students with special educational needs
 - Plan education and training that balances learners' choices, employers' needs, and response to economic trends
8. One of the basic building block for 16-19 planning and commissioning is the sub-regional group (SRG). These sub-regional groups have been formed by councils themselves. All the SRGs are now formed and are agreeing between themselves how they will carry out their business. The four Black Country Authorities are forming a sub regional group.
9. The LSC will cease to exist on 1 April 2010. Around 950 staff in total will transfer on this date to unitary and county councils to provide additional capacity to carry out 16-19 work.

Three new organisations are being set up:

The Young People's Learning Agency (YPLA) which will:

Set a national framework for 16- 19 commissioning
Control the overall national budget for 16-19 and ensure that sub- regional plans work together
Provide strategic data analysis to support commissioning
Allocate funds to councils to meet their plans for education and training

The Skills Funding Agency (SFA) which will:

Fund colleges and other providers for learners aged 19 and over
Performance manage further education colleges

The National Apprenticeship Services NAS (part of the SFA) which will:

Procure the right number and type of apprenticeship places to meet the needs of each sub region

Governance of the Black Country sub regional group.

10. All four Black Country Authorities are committed to a model that recognises the sub-regional travel to learn patterns of its 16-18 learners but which also ensures each local authority retains its statutory responsibilities. This translates into a model where commissioning is essentially managed on a local basis with each Local Authority having a commissioning function and responsibility and then bringing these together in through the Sub Regional

Commissioning Group to ensure a coordinated sub-regional commissioning plan designed to ensure the highest possible quality of provision.

11. Under this model each Local Authority would take principal responsibility for agreeing the 16-18 provision with the FE and other colleges and providers based in its area. This local commissioning function and responsibility would be complemented by a Sub Regional Commissioning Group drawn from LA leads. It would be expected that Local Authorities would liaise with and co-ordinate arrangements with neighbours beyond their boundaries with whom there might be significant travel to learn exchanges.
12. Framing, guiding and sanctioning the commissioning process would be a clear sub-regional governance structure established by a Memorandum of Understanding between the four Local Authorities endorsed by Elected Members in each of the Authorities through their individual political decision making process. The Terms of Agreement of the Memorandum of Understanding are currently being worked up.
13. The governance structure would recognise and reflect the role and statutory responsibilities of individual LAs and their commissioning processes. In keeping with the guidance from the DCSF on the function of the 14-19 Partnership in an LA, each individual LA would have its arrangements for agreeing the 16-18 commissioning plan to be for its area, reflecting its established governance structures for commissioning with in all likelihood, at least, Cabinet approval in each of the respective Local Authorities for its 16-18 plan.
14. Then, at sub-regional level, there would be two principal groups that would inform, manage, and sanction the Black Country SRG commissioning plan to be proposed to the West Midlands Regional Planning Group (RPG). There would be a Black Country Post 16 Commissioning Executive Group composed of the 4 Directors of Children's Services for the Black Country Local Authorities plus supporting officers. This would manage and inform the bringing together of the individual LA commissioning plans. This process would be supported by clear links to the Black Country Consortium through which it will be ensured commissioning intentions align appropriately with the wider regeneration agenda. The Executive Group would report to a Post 16 Commissioning Board, composed of the four Lead Members for Children's Services which would sanction the SRG plan. These two groups would meet as required during the period of the commissioning cycle.
15. The Black Country Post 16 Commissioning Executive and the Member Level Board would operate under clear and agreed Terms of Reference (to be signed off by Elected Members in each of the 4 LA's) and operate under clear delegated authority from each of the four Local Authorities. It is anticipated that papers would be in the public domain and subject to call in, scrutiny and challenge by the existing Scrutiny arrangements within each of the four Local Authorities. The work programme for the LA commissioning process would initially be based on the current LSC business cycle, and be supported by the 16-19 Operational Commissioning Group, with meetings arranged to ensure that timely decisions are made in order to ensure that colleges and other providers received budgets in good time.

16. Discussions are currently underway with colleges, schools, work based learning providers and other stakeholders including learners and employers about how they could be best engaged. It is not envisaged, however, that the provider network would be invited to join the SRG Commissioning Board as the SRG would want to maintain a clear separation between commissioners and providers. It is the case that the Black Country has engaged stakeholders in the 14-19 Implementation Plan agenda for a number of years, having held an annual conference since 2006. There are two provider representative groups, Black Country Partnership for Learning (BCPL), and Black Country Training Group (BCTG), that the SRG has also engaged in taking forward the dialogue around the needs of young people and how best the LAs and the SRG can meet them. It is anticipated that engagement of learners and employers will be conducted at both the local level – based on existing Local authority arrangements for example youth Cabinets and Parliaments – and at the sub regional level.

Decision Making Processes

17. Under the proposed model set out above, decision making processes would, in the first instance be essentially local with each Local Authority having a strategic dialogue with its FE College(s) and other providers. It would then go through an iterative process of co-ordination and moderation through the 16-19 Operational Commissioning Group. The intention is to create a structure which would allow both a local and a sub regional commissioning level. The decision making process at least initially would therefore be similar to that currently operated within the LSC going from strategic dialogue with colleges and other providers (often based on national and regional as well as local policy priorities) and then moving through sub regional, regional and national iterations as set out in DCSF guidance. The quality of provision would, of course, be a key factor in decisions about commissioning or decommissioning provision. Decisions would be made by the Executive Group and Board where appropriate under delegated authority and where necessary signed off by Elected Members in each of the 4 LA's either acting under individual executive powers or through Cabinet and, where necessary, endorsed by the full Council. The Executive Group will also have a key role in liaising with other Sub Regional partnerships and where appropriate co-ordinating commissioning arrangements in order to ensure that there is no unnecessary duplication of provision or that decisions are not made about provision within our Sub Region which would have an adverse impact on learners in neighbouring Sub Regions. The SRG's proposed commissioning plan would then go to the RPG for final sanction.

Dispute Resolution

18. We anticipate that with both a Member and an Officer group most potential disputes within the four Black Country Authorities could be resolved either by the Executive Group or by the Commissioning Board. To facilitate this both groups may need a constitution that gives the Chair a casting vote. Where this is not possible disputes will be referred to the Regional Planning Group (or its successors) or by working with and through the Young People's Learning Agency.

Staffing Needs

19. Staffing needs are at this stage difficult to estimate, but based on the early indications of the number of staff likely to transfer to Local Authorities we anticipate that each of the Local Authorities will have a commissioning team drawn from existing LSC staff through the under Tupe process. It is likely that one of these posts in each Local Authority will need to take responsibility for the functions relating to the placement of learners with learning difficulties and other issues around LLDD. These latter posts may be based in existing Inclusion teams to maximise the synergies with other SEN related work.
20. The local teams will be managed primarily within the individual Local Authority's Children and Young People's Services.
21. At both local and sub regional level close links will need to be established between the teams responsible for commissioning provision and those responsible for IAG. (Decisions are currently being made across the Black Country LA's about the future arrangements for the Connexions Service). This will enable the production of both an Area prospectus, covering the Black Country, as well as more local ones for each LA area or part thereof. Links with IAG services will also help develop a learner stakeholder group.

Reporting Responsibilities

22. Reporting lines will be essentially local i.e. from each of the Local Commissioning Teams up through appropriate management and political arrangements in each of the 4 Local Authorities and also sub regional i.e. to the Post-16 Commissioning Executive Group made up of the four DCS's and to the Sub Regional Commissioning Board of the four Lead Members for Children's Services in the Black Country Local Authorities. Where necessary these arrangements will allow reports to be made to other sub regional groupings such as the Association of Black Country Authorities, the Black Country Consortium and also allow reporting to regional bodies such as the Regional Planning Group. Reports could also, under this system, be readily produced for national or regional agencies such as the YPLA or the Government Office of the West Midlands.

Financial and Performance Accountabilities

23. There is insufficient information at this stage to say much concrete about this area. At this stage all that can be said is that we would expect the funding for FE colleges and other post 16 providers to flow through the Local Authorities but to be based as now on a national formula. The financial and performance accountability will therefore be both local and regional/national. We await further information on Government's expectation on how financial and performance accountabilities will be managed within the new Sub Regional frameworks.

Specific information for Cabinet and Council Members

24.1 Front line/ward councillors

- Be briefed on the 16-19 changes and what they mean for the young people in your ward;

- Be an advocate for the young people you represent, use your best efforts to understand their wishes and needs;
- Know the providers of education and training in your ward. These could be schools and colleges. They could also be voluntary organisations. Understand what they do;
- If you are a governor find out how the school or college fits into the wider provision for young people in the area and how it meets wider community and economic needs;
- Know your local employers and what their needs are for skilled staff;
- Understand how 16-19 education and training helps to meet the targets in the Local Area Agreement (LAA).

24.2 Councillors with responsibility for economic regeneration

- Understand how 16-19 education and training support regeneration and action on the recession;
- Understand how 16-19 education and training help to meet targets in the Local Area Agreement (LAA);
- Ensure the sub regional group (SRG) has a good understanding of the sub-regional and regional economy and how these are changing;
- Ensure the SRG has a good understanding of employers' views.

24.3 Scrutiny councillors

- Work with colleagues to understand how decisions on 16-19 commissioning are made and what evidence is used;
- Constructively challenge proposals for education and training provision;
- Assess whether the commissioning process is fair to different sorts of learning providers and check that the sub regional group (SRG) is not just commissioning "what it knows";
- Advocate on behalf of young people where there is evidence that they are not getting the support or entitlement they need;
- Think about the needs of learners coming in from other areas as well as learners who live in your local authority area. Do all learners get good information, advice and guidance (IAG)? Is the curriculum offer right to meet their needs?
- Challenge the council and the SRG to make effective links with employers and understand their views.

24.4 Lead Members for children

- Consider sharing the lead for this work with other colleagues, in the interests of spreading workload and raising awareness;
- Talk to your leader and tell other councillors about the changes – particularly those with an interest in skills, employment and economic regeneration;
- Understand how these changes can help you achieve the Local Area Agreement (LAA) targets;
- Consider how you and colleagues from neighbouring councils can work together to lead the sub regional group (SRG);

- Speak up for the needs of the most vulnerable young people: those with special educational needs, young offenders, those who need non-standard provision;
- Think about how to build provision and support for 16-19 year olds into the children's trust, the children and young people's plan, the 14-19 area partnership;
- Ensure sensible links pre and post 19 for young people and providers;
- Build relationships with employers which link to the contacts the council already has. Remember that employers will not care that there are different systems for pre and post 19;
- Build good relationships with all the providers in your area. Some of these may already be in place through your 14-19 partnership;
- Think about how you can involve both providers and employers in your SRG;
- Challenge the SRG to think big about the needs of your area and the sub-region, to commission fairly without favouring one sort of provider over another and to meet the needs of all learners even if this means they go outside your council's area to learn;
- Make sure learners get good quality, impartial advice about their options for education and training.

25. Information on 16-19 funding transfer – operational changes have already been shared with the Chief Executive and answers provided to the 10 most important questions currently being asked – see Appendix 1 for reference.

Finance

26. From 1st April 2010 the funding for the education and training of 16-19 year olds will transfer to the Local Authority who will be responsible for its distribution.

Legal

27. Under the Education and Skills Act 2008, the age of participation in education or training will increase to 17 years by 2013, and to 18 years by 2015. On 1 April 2010, unitary and county councils will take over responsibility for commissioning education and training for 16-19 year olds. This responsibility is transferring from the Learning and Skills Council (LSC).

Recommendation

28. Committee note the new duties that are being passed the Local Authority in April 2010. Further updates will be provided as appropriate.



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List of background papers

Annex 1 - Black Country SRG Governance Structure

Annex 1

Black Country SRG Governance Structure

