

*Draft Order laid before Parliament under section 117(2) of the Local Democracy, Economic Development and Construction Act 2009, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2018 No. 0000**

**LOCAL GOVERNMENT, ENGLAND**

**EDUCATION, ENGLAND**

**The Cambridgeshire and Peterborough Combined Authority  
(Adult Education Functions) Order 2018**

*Made*       -       -       -       -

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*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 105A, 114 and 117 of the Local Democracy, Economic Development and Construction Act 2009<sup>(a)</sup> (“the Local Democracy Act”).

In accordance with section 105B(1) of the Local Democracy Act<sup>(b)</sup>, the Cambridgeshire and Peterborough Combined Authority and each of the constituent councils 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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(a) 2009 c. 20. Section 105A was inserted by section 7 of the Cities and Local Government Devolution Act 2016 (c.1). Section 114 was amended by Schedule 5 to the Cities and Local Government Devolution Act 2016. Section 117 was amended by section 13 of the Localism Act 2011 (c. 20) and by section 23 of, and paragraph 29 of Schedule 5 to, the Cities and Local Government Devolution Act 2016.

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

## PART 1

### *General*

#### 1. Citation and commencement

- (1) This Order may be cited as the Cambridgeshire and Peterborough Combined Authority (Adult Education Functions) Order 2018 and comes into force the day after the day it is made.
- (2) Part 2 of this Order does not apply in relation to an academic year before the year beginning on 1 August 2019.
- (3) “Academic year” means a period beginning with 1 August and ending with the next 31 July.

#### 2. Interpretation

In this Order—

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

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

“**apprenticeships training**” has the meaning given by section 83 of the 2009 Act;

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

“**Combined Authority**” means the Cambridgeshire and Peterborough Combined Authority, a body corporate established under the Cambridgeshire and Peterborough Combined Authority Order 2017 No. 251; and

“**constituent councils**” means Cambridge City Council, Cambridgeshire County Council, East Cambridgeshire District Council, Fenland District Council, Huntingdonshire District Council, Peterborough City Council, South Cambridgeshire District Council and Greater Cambridge Greater Peterborough Local Enterprise Partnership

## PART 2

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

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

- (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;
  - (b) section 87 (learning aims for persons aged 19 or over: provision of facilities); and
  - (c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)(b).

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(a) 2009, c. 22

(b) As amended by section 114 of the Digital Economy Act 2017 c.30. The amendment will come into force on a date to be appointed.

(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.

#### **4. Functions of the Secretary of State to be exercisable concurrently with the Combined Authority in relation to the Area**

(1) Subject to paragraph (2), the functions of the Secretary of State set out in section 90 of the 2009 Act (encouragement of education and training for persons aged 19 or over) are exercisable by the Combined Authority in relation to the Area.

(2) The functions mentioned in paragraph (1) do not include:

- (a) any function relating to apprenticeships training; or
- (b) any functions relating to persons subject to adult detention; or

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

#### **5. Conditions on the exercise of functions mentioned in Articles 3 and 4**

(1) The Combined Authority must adopt rules of eligibility for awards by an institution to which it secures the provision of financial resources under section 100 of the 2009 Act in accordance with any direction which may be 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).

#### **6. Application of the provisions of the 2009 Act**

(1) This article has effect in consequence of articles 3 and 4.

(2) For the purpose of the exercise by the Combined Authority of the functions mentioned in articles 3 and 4, section 86 to 88, 90, 100, 101, 115 and 121 of the 2009 Act apply to the Combined Authority with the modifications set out in the Schedule.

### **PART 3**

#### ***Miscellaneous***

#### **7. Amendment to the 2009 Act**

(1) Section 100 of the 2009 Act is amended as follows.

After subsection (5) insert:

“(6) The Secretary of State may secure the provision of financial resources to any of the persons mentioned in subsection (1) in respect of functions within the Secretary of State’s remit under this Part which have been transferred to a combined authority.

(7) In subsection (6) “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

(2) Section 122 of the 2009 Act is amended as follows.

(a) In subsection (3), after sub-paragraph (g) insert:

“(h) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.

(i) a person providing services to the Combined Authority.”

(b) In subsection (5):

(i) in subparagraph (ba) omit “or”;

(ii) in subparagraph (c) after “in England,” insert “or”;

(iii) after subsection (c) insert:

“(d) any function of the combined authority under Part 4 that is exercisable by it by virtue of an order under section 105A of the Local Democracy, Economic Development and Construction Act 2009.”

## **8. Amendment to the Education and Inspection Act 2006**

The Education and Inspections Act 2006 is amended as follows.

In section 123:

(a) after subparagraph (e), insert:

“(ea) further education for persons aged 19 or over which is wholly or partly funded by a combined authority in England;”;

(b) after paragraph (4), insert:

“(5) In this section “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.”

## **9. Amendment to the Education (Fees and Awards) Regulations 2007**

The Education (Fees and Awards) Regulations 2007(a) are amended as follows.

After regulation 9 insert:

### **“(9A) Payments by a Combined Authority**

(1) It shall be lawful for a combined authority to adopt rules of eligibility for awards by an institution to which the combined authority provides financial resources under section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 which confine eligibility to those persons who fall within Schedule 1.

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(a) SI 2007/779

(2) It shall be lawful for an institution to which a combined authority provides financial resources to adopt rules of eligibility for awards (however described) which confine eligibility to those persons who fall within Schedule 1.

(3) In this regulation, a “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 (“the Local Democracy Act”) exercising functions under Part 4 of the Apprenticeships, Skills, Children and Learning Act 2009 that are exercisable by it by virtue of an order under section 105A of the Local Democracy Act.”

Signatory text

Address

Date

*Name*

Parliamentary Under Secretary of State

Department

## SCHEDULE

Article 6(2)

### ***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 was substituted a reference to the “Combined Authority”;
  - (b) subsection (1)(b) was omitted;
  - (c) in subsection (1)(c), for “paragraphs (a) and (b)”, there were substituted the words “paragraph (a)”;
  - (d) in subsection (2), the words “83A or” were omitted;
  - (e) in subsection (5), the words “(except so far as relating to facilities for persons subject to adult detention)” were omitted;
  - (f) in subsection (6), paragraph (c) was omitted;
  - (g) in subsection (7), the words “or (b)” were omitted.
- (2) Section 87 has effect as if for every reference to “Secretary of State”, there was substituted a reference to the “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 was substituted a reference to the “Combined Authority”.
- (4) Section 90 has effect as if:
- (a) in subsection (1), for the first reference to “Secretary of State”, there was substituted a reference to “Combined Authority”;
  - (b) in subsection (1)(a), for “section 86(1)(a) and (b)”, there were substituted the words “section 86(1)(a)”.
  - (c) in subsections (1)(a), (b) and (c) for every reference to “within the Secretary of State’s remit” there was substituted a reference to “within the Combined Authority’s remit”.
- (5) Section 100 has effect as if:
- (a) in subsection (1) for the reference to “Secretary of State” there was substituted a reference to the “Combined Authority”;
  - (b) in subsection (1)(a) for the reference to “Secretary of State’s remit” there was substituted a reference to “Combined Authority’s remit”;
  - (c) subsection (1)(h) was omitted;
  - (d) in subsection (3),
    - (i) for each reference to “Secretary of State” there was substituted a reference to “Combined Authority”;
    - (ii) the words “(1A) or (1B)” were omitted;
  - (e) In subsection (4)

- (i) for the reference to “Secretary of State” there was substituted a reference to “Combined Authority”;
  - (ii) the words “ (1A) or (1B)” were omitted.
- (6) Section 101 has effect as if for every reference to “Secretary of State” there was substituted a reference to “Combined Authority”.
- (7) Section 115 has effect as if:
  - (a) for the reference to “Secretary of State”, there was substituted a reference to the “Combined Authority”;
  - (b) in subsection (2)(a), the word “ and” was omitted; and
  - (c) subsection (2)(b) was omitted.
- (8) Section 121 has effect as if:
  - (a) in subsection (2):
    - (i) for the reference to “Secretary of State’s remit”, there was substituted a reference to “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”, was substituted a reference to “Combined Authority’s remit”;
    - (ii) paragraphs (a) and (aa) were omitted; and
    - (iii) in each of paragraphs (b) and (c), after “86(1)(c)”, the following words were added “(except so far as relating to persons who are subject to adult detention)”.

#### 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 Cambridgeshire and Peterborough Combined Authority (**‘the Combined Authority’**).

Part 2 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.

Part 2 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, 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 contains 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 the Secretary of State's direction. 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).

Part 3 makes various amendments to primary legislation. Article 7 amends section 100 of the 2009 Act (provision of financial resources) so as provide that the Secretary of State may secure the provision of financial resources under that section notwithstanding a transfer of functions under to a combined authority. Article 8 amends section 122 of the 2009 Act (sharing of information for education or training purposes) so as to make provision for information sharing following a transfer of functions. Article 9 amends section 123 of the Education and Inspections Act 2006 so as to make provision for inspections in relation to further education for persons aged 19 or over which is wholly or partly funded by a combined authority. Article 10 amends the Education (Fees and Awards) Regulations 2007 so as to make provision with respect to rules of eligibility adopted by a combined authority for awards by an institution to which it provides financial resources under section 100 of the 2009 Act.