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STATUTORY INSTRUMENTS

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**2021 No. 112**

**The West Yorkshire Combined Authority  
(Election of Mayor and Functions) Order 2021**

**PART 3**

**Education, skills and training functions**

**Concurrent exercise of local authority functions**

**5.—(1)** The functions of the constituent councils described in the provisions set out in paragraph (2), are exercisable by the Combined Authority in relation to the Area.

(2) The provisions referred to in paragraph (1) are—

- (a) section 51A of the Further and Higher Education Act 1992 (duty to provide for named individuals)(1);
- (b) section 13A of the Education Act 1996 (duty to promote high standards and fulfilment of potential)(2);
- (c) section 560A of the Education Act 1996 (work experience for persons over compulsory school age)(3);
- (d) section 10 of the Education and Skills Act 2008 (local authority to promote fulfilment of duty imposed by section 2)(4);
- (e) section 12 of the Education and Skills Act 2008 (duty to make arrangements to identify persons not fulfilling duty imposed by section 2)(5);
- (f) section 68 of the Education and Skills Act 2008 (support services: provision by local authorities)(6);
- (g) section 70 of the Education and Skills Act 2008 (local authorities: supplementary powers)(7);
- (h) section 71 of the Education and Skills Act 2008 (provision of support on conditional basis: learning and support agreements)(8); and
- (i) section 85 of the Education and Skills Act 2008 (co-operation as regards provision of 14–19 education and training)(9).

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(1) Section 51A was inserted by section 44 of the Apprenticeships, Skills, Children and Learning Act 2009 and was amended by [S.I. 2010/1158](#).

(2) [1996 c. 56](#). Section 13A was inserted by section 59 of, and paragraph 3 of Schedule 2 to, the Apprenticeships, Skills, Children and Learning Act 2009 ([c. 22](#)) and amended by section 82 of, and paragraph 4 of Schedule 3 to, the Children and Families Act 2014 ([c. 6](#)) and by [S.I. 2010/1158](#).

(3) Section 560A was inserted by section 47 of the Apprenticeships, Skills, Children and Learning Act 2009.

(4) Section 10 was amended by [S.I. 2010/1158](#).

(5) Section 12 was amended by [S.I. 2010/1158](#).

(6) Section 68 was amended by section 28 of the Education Act 2011 ([c. 21](#)) and by [S.I. 2010/1158](#)

(7) Section 70 was amended by section 28 of the Education Act 2011 and by [S.I. 2010/1158](#).

(8) Section 71 was amended by section 28 of the Education Act 2011.

(9) Section 85 was amended by [S.I. 2010/1158](#).

(3) The functions are exercisable concurrently with the constituent councils.

(4) Any requirement in any enactment for a constituent council to exercise any of the functions referred to in paragraph (1) may be fulfilled by the exercise of that function by the Combined Authority.

(5) The provisions referred to in paragraph (1) apply to the Combined Authority as they apply to a constituent council.

(6) Section 10 of the Children Act 2004<sup>(10)</sup> (co-operation to improve well-being) applies to the Combined Authority as it applies to a constituent council for the purposes of the provision of 14-19 education or training in the Area within the meaning of section 85(5) of the Education and Skills Act 2008.

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

6.—(1) Subject to paragraph (2), the functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009<sup>(11)</sup> 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)<sup>(12)</sup>;
- (b) section 87 (learning aims for persons aged 19 or over: provision of facilities)<sup>(13)</sup>; and
- (c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)<sup>(14)</sup>.

(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**

7.—(1) Subject to paragraph (2), the functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009 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); and

<sup>(10)</sup> 2004 c. 31. Section 10 was amended by section 39 of and paragraph 4 of Schedule 3 to the Offender Management Act 2007 (c. 21), section 169 of and paragraphs 82 and 83 of Part 2 of Schedule 1 to the Education and Skills Act 2008, section 193 and 266 of and Part 5 of Schedule 16 to the Apprenticeships, Skills, Children and Learning Act 2009, section 99 of and paragraphs 330 and 331 of Part 3 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13), section 67 of and paragraph 23 of Schedule 16 to the Education Act 2011 (c. 21), section 55 of and paragraphs 127 and 128 of Schedule 5 to the Health and Social Care Act 2012 (c. 7), section 82 of and paragraph 80 of Part 2 of Schedule 3 to the Children and Families Act 2014 (c. 6), and by S.I. 2010/1158.

<sup>(11)</sup> 2009 c. 22.

<sup>(12)</sup> 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).

<sup>(13)</sup> Section 87 was amended by paragraphs 1 and 10 of Part 1 of Schedule 14 to the Deregulation Act 2015; and by paragraph 91 of Part 2 of Schedule 3 to the Children and Families Act 2014.

<sup>(14)</sup> 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 and by section 73 of the Education Act 2011.

- (b) section 100(1) (provision of financial resources)(15).
- (2) The functions mentioned in paragraph (1) do not include—
  - (a) any function relating to apprenticeship 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 6 and 7**

8.—(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 Apprenticeships, Skills, Children and Learning Act 2009 in accordance with any direction given by the Secretary of State.

(2) In exercising the functions mentioned in articles 6 and 7, 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)(16).

(3) In paragraph (1), “award” has the same meaning as in regulation 2 of the Education (Fees and Awards) (England) Regulations 2007(17).

#### **Modification of provisions in the Apprenticeships, Skills, Children and Learning Act 2009**

9. For the purpose of the exercise by the Combined Authority of the functions mentioned in articles 6 and 7, sections 86 to 88, 90, 100, 101, 103, 115 and 121 of the Apprenticeships, Skills, Children and Learning Act 2009 apply in relation to the Combined Authority with the modifications set out in Schedule 1.

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(15) Section 100 was amended by section 27 of the Enterprise Act 2016 (c. 12); by Schedules 1 and 14 to the Deregulation Act 2015; and by paragraphs 1 and 9 of Schedule 18 to the Education Act 2011.

(16) The Secretary of State’s guidance was published on 23rd July 2018 and is available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/730012/The\\_exercise\\_of\\_devolved\\_adult\\_education\\_functions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730012/The_exercise_of_devolved_adult_education_functions.pdf). Copies are available on request from the Department for Education, 20 Great Smith Street, London SW1P 3BT.

(17) S.I. 2007/779, as amended by S.I. 2007/2263, S.I. 2010/1172, S.I. 2010/1941, S.I. 2011/87, S.I. 2011/1043, S.I. 2011/1987, S.I. 2012/765, S.I. 2012/956, S.I. 2012/1653, S.I. 2015/971, S.I. 2016/584, S.I. 2017/114, and S.I. 2018/137.