EXPLANATORY MEMORANDUM TO

THE CHIEF EXECUTIVE OF SKILLS FUNDING (STRATEGY FOR BIRMINGHAM CITY REGION) ORDER 2010

2010 No. 1023

1. This explanatory memorandum has been prepared by The Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order specifies the area of Birmingham City Region as an area for which the body known as the Birmingham City Region Employment and Skills Board ("the Board") is specified as a body to formulate and keep under review a strategy. It specifies the relevant functions of the Chief Executive of Skills Funding ("the Chief Executive") that shall be the subject of that strategy.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 112(1) of the Apprenticeships, Skills, Children and Learning Act 2009 ("the 2009 Act") provides that the Secretary of State may by Order specify a body to formulate and keep under review a strategy in relation to specified functions of the Chief Executive for a specified geographical area within England. Under section 114 of the 2009 Act, the Chief Executive is under a duty to carry out any function or functions to which a strategy relates in accordance with that strategy.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The policy intention is to ensure that business and local employers have influence over the application of the Chief Executive's funding of adult skills within their area. It is designed to ensure that public investment in skills

development meets the needs of a particular economic area, by specifying a body comprising local businesses and other key stakeholders as the body which may set a skills strategy for the area and keep it under review; and by requiring the Chief Executive to take account of that strategy when carrying out certain of his functions which are specified in the Order.

7.2 The partner organisations in the Birmingham City Region (comprising the metropolitan county of West Midlands and the borough of Telford and Wrekin) have worked together for some time in order to achieve better skills outcomes. However, their multi-area agreement, signed by Ministers in July 2009 first announced their intention to put these relationships on a statutory footing, which they believe would help them to achieve greater co-ordination of effort among the various agencies engaged in supporting employment and skills.

7.3 The Secretary of State's decision to specify the Board in relation to the Birmingham City Region was announced in the Budget Report in March 2010. The Board is business-led, chaired by a prominent business leader in Birmingham, and draws its membership from local businesses, local authorities and other organisations and agencies in the area, that are engaged in the delivery of employment opportunities or skills delivery. The decision is unlikely to generate much interest among the general public, but it has been welcomed by those engaged in developing the local economy and particularly those bodies and agencies working on improving employment opportunities and skills levels in the Birmingham City Region.

8. Consultation Outcome

8.1 Consultations have taken place across the full range of local partners. The proposed application for the Board to be specified as a strategy-setting body has been subject to consultation with the local authorities of Birmingham, Coventry, Dudley, Sandwell, Solihull, Telford and Wrekin, Walsall and Wolverhampton, Business Voice West Midlands, the West Midlands Regional Assembly, Advantage West Midlands, the West Midlands Learning and Skills Council, JobCentre Plus, and the local universities.

8.2 The City Region Forum which is comprised of a wide range of stakeholders from outside the Multi-Area Agreement partnership and fulfils a "critical friend" role has also been regularly consulted on the Multi-Area Agreement and the application to be specified as a strategy-setting body, as has the Government Office of the West Midlands.

8.3 An extensive consultation exercise with the business community was conducted during December 2009 and January 2010 as part of the preparation of a City Region Adult Employment and Skills Strategy and Commissioning Plan which included proposals as to how the Board would carry out this new role.

8.4 All organisations consulted have been supportive of the application to be specified as a strategy-setting body.

9 Guidance

9.1 It is not envisaged that any publicity will be required, beyond any arranged by the Board locally, nor any written guidance issued. The Department and its agencies will continue to work closely with the Board to ensure that its effectiveness can be maximised.

10 Impact

10.1 The impact on business, charities or voluntary bodies is expected to be a firmer focus on ensuring that publicly funded skills provision meets their needs as employers.

10.2 The impact on the public sector is the development of a coherent and cohesive skills strategy for the area. Those public sector bodies and agencies engaged in delivering education, skills and employment opportunities will have a clear agreed set of priorities to work towards. The Chief Executive will be under a legal obligation to deliver against the agreed strategy.

10.3 An Impact Assessment is attached to this memorandum.

11 Regulating small business

11.1 The legislation does not apply to small business.

11.2 To ensure that the Board's strategy takes full account of the needs of small firms employing up to 20 people, the approach taken by the Department is to ensure that the Board contains appropriate small business representation.

12 Monitoring and review

12.1 The impact and effectiveness of the Board will be monitored and reviewed though the Multi-Area Agreement with Government. Its success will be measured against the achievement of its objectives as set out in the agreement.

13. Contact

Phil Samuels at the Department for Business, Innovation and Skills, Tel: 0114 259 4098 or email: phil.samuels@bis.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Department for Business, Innovation and Skills	**Impact Assessment of the Chief Executive of Skills Funding (Strategy for Birmingham City Region) Order 2010**	
Stage:	**Version:** 1	**Date:**
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Phil Samuels **Telephone:** 0114 259 4098

What is the problem under consideration? Why is government intervention necessary?

To ensure that skills provision in the Birmingham City Region is planned and delivered in a way which meets its economic needs and those of its citizens. This has been organised in a voluntary way through a partnership of local authorities, businesses and other key stakeholders in the past, but the partnership has sought to put this on a statutory footing following the publication of its Multi-Area Agreement.

What are the policy objectives and the intended effects?

The objective is to ensure that the business-led Birmingham City Region Employment and Skills Board has the legal power to develop an adult skills strategy for the Birmingham City Region, which will drive the operations of the Chief Executive of Skills Funding and the wider learning and skills sector in the area, and which will address the views of key Birmingham stakeholders. It will ensure that the Chief Executive of Skills Funding's spending in the city region, while still continuing to address national targets for skills, will reflect the views of the Board and key stakeholders.

What policy options have been considered? Please justify any preferred option.

Two options were considered: requiring the partnership to continue to operate on a voluntary basis and relying on its input to the regional skills strategy to influence the Chief Executive's provision; or giving the partnership legal power to set its own strategy, but requiring it to align that with regional and national priorities. Birmingham's significant economic contribution to the nation's wealth-creating capacity make it essential that we afford it the legal power to deliver its economic priorities.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The policy will be reviewed as part of the Government's continuing evaluation of multi-area agreements and city region policies.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Kevin Brennan

..... Date: 25th March 2010

Summary: Analysis & Evidence

Policy Option:	Description:

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off	**Yr**	
£		See narrative comments.
Average Annual Cost (excluding one-off)		
£		**Total Cost** (PV) **£**

Other **key non-monetised costs** by 'main affected groups'
See narrative comments.

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups'
One-off	**Yr**	
£		See narrative comments.
Average Annual Benefit (excluding one-off)		
£		**Total Benefit** (PV) **£**

Other **key non-monetised benefits** by 'main affected groups'
See narrative comments.

Key Assumptions/Sensitivities/Risks

See narrative comments.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?	W Midlands &
On what date will the policy be implemented?	April 2010
Which organisation(s) will enforce the policy?	SFA & BIS
What is the total annual cost of enforcement for these	£ N/A
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	N/A
What is the value of the proposed offsetting measure per	£ N/A

What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **N/A**	Small **N/A**	Medium **N/A**	Large **N/A**
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)					(Increase -
Increase	£ N/A	Decreas	£ N/A	**Net**	**£** N/A

Key: **Annual costs and benefits: Constant Prices**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

PROBLEM UNDER CONSIDERATION

To ensure that skills in the Birmingham City Region are delivered in a way that meets its economic and social needs.

GOVERNMENT INTERVENTION

Consultation

Consultation, as part of the development and agreement of the Multi-Area Agreement has included the local authorities of Birmingham, Coventry, Dudley, Sandwell, Solihull, Telford and Wrekin, Walsall and Wolverhampton, Business Voice West Midlands, the West Midlands Regional Assembly, Advantage West Midlands, the West Midlands Learning and Skills Council, JobCentre Plus, and the City Region's Universities. Warwickshire County Council has also worked on a collaborative basis with the City Region on the development of the Agreement which includes the application for these powers.

The City Region Forum which is comprised of a wide range of stakeholders from outside the partnership and fulfils a critical friend role has also been regularly consulted on the Multi-Area Agreement and the application for the powers, as has Government Office of the West Midlands.

An extensive consultation exercise with the business community in the Birmingham City Region was conducted during December 2009 and January 2010 as part of the preparation of a City Region Adult Employment and Skills Strategy and Commissioning Plan which includes how the powers will be applied.

All organisations consulted have been supportive of the application for the powers.

POLICY OBJECTIVES AND INTENDED EFFECTS

A full analysis of the objectives of this legislation appeared as part of the wider Regulatory Impact Assessment (RIA) published for the then Further Education and Training Bill. Section 114 of the Apprenticeships, Skills, Children and Learning Act 2009 enables the Chief Executive of Skills Funding to respond to the needs of particular areas or particular themes by placing him under a duty to act in accordance with the strategy of "strategy making bodies" where specified by the Secretary of State. The legislation requires the Secretary of State to make an Order specifying an area and a body, whose function is to formulate an adult skills strategy for its area and keep it under review.

The Adult Employment and Skills Multi Area Agreement (MAA) signed by the Birmingham City Region and the Government on 9th September 2009 contains skills "stretch" targets for the delivery of Level 2 and Level 3 NVQs. These targets are based upon those set by the Regional Minister for the West Midlands and the West Midlands Regional Skills Partnership.

The powers will assist delivery of these targets. This will be achieved by using the formal influence of the powers to progressively align the spending of key public agencies in support of delivery of the targets. Failure to secure the powers will undermine the ability of the City Region Employment and Skills Board

(CRESB), the City Region Board, and other partners to deliver the targets – and through this the MAA outcome of increased numbers of individuals in sustainable employment with training.

The powers will also encourage strong engagement from the private sector given its lead role in establishing the strategic skills priorities for the City Region area. This may also encourage the commitment of further private sector resources in support of delivery of the targets.

The powers will also assist the West Midlands Joint Investment and Strategy Board and the Regional Development Agency (Advantage West Midlands), working with the City Region, to deliver the skills targets and outcomes that will be included in the Single Integrated Regional Strategy.

Both the City Region Employment and Skills Board and the City Region Board have considered the case for the powers. Securing the powers has been seen by all partners as positive.

Costs

The additional costs are not significant and will be met within the existing budgets of the partner organisations. They would be similar, whether or not formal legal strategy-setting powers were awarded.

Benefits

By specifying by Order the Birmingham City Region Employment and Skills Board as the body responsible for formulating a strategy for the Birmingham City Region (as defined in the Order), the Secretary of State will help ensure that the particular skills needs of the area are addressed in a way which meets the needs of employers, individuals and key stakeholders.

Net Present Value

The Order is needed to support the provisions in 2009 Act which lead to the benefits set out above. It is not appropriate to apportion specific costs and benefits to the Order.

Enforcement, sanctions and monitoring

These will be managed through existing accountability mechanisms which have been agreed by Ministers – the adult skills strategy for the Birmingham City Region will need to be compatible with the national skills strategy and the single integrated strategy for the West Midlands.

Implementation and Delivery Plan

See above.

Post Implementation Review

See above.

SPECIFIC IMPACT TESTS

Competition Test

Small Firms Impact Test

The Board's strategy will take full account of the needs of small businesses and there are employers with knowledge of the small business sector on the Board.

Legal Aid

Not applicable

Sustainable Development

The specification of the area and the body helps bring the operation of the Skills Funding Agency closer to the individuals, employers and communities it serves.

Carbon Assessment

A major aspiration of the Board is to develop its low carbon industries and capacity. Its skills strategy will have a major focus on meeting the skills needs of these important developing industries.

Other Environment

See above.

Health Impact Assessment

Not applicable

Race

Any skills strategy for the Birmingham City Region will need to be consistent and fully aligned with the national skills strategy set out in the skills strategy white paper, Skills for Growth. The equality impact assessment for Skills for Growth can be found at http://www.bis.gov.uk/wp-content/uploads/publications/Skills-Strategy-Equality-Assessment.pdf.

Disability

See above.

Gender

See above

Equality and diversity

See above

Human Rights

The Apprenticeships, Skills, Children and Learning Act 2009 is compatible with the European Convention on Human Rights.

Rural Proofing

Not applicable.

SUMMARY

The Order gives effect to section 112 of the Apprenticeships, Skills, Children and Learning Act 2009 and provides for the specification of the Birmingham City Region (as defined in the Order) as the area for which the body specified in the Order (the Birmingham City Region Employment and Skills Board) is to formulate an adult skills strategy and keep it under review.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes