Introduction

1. The Learning and Skills Council (LSC) has been given some additional statutory functions in relation to transport for post-16 learners.

Purpose

2. The purpose of this paper is to ask the Council to formally delegate the additional functions in relation to transport for post-16 learners to the Chief Executive.

Recommendation

3. The Council agrees to delegate the following functions to the Chief Executive:
   - The power under s509AB(5) of the Education Act 1996 as amended by s83 of the Education and Inspections Act 2006 to give guidance to local authorities on their Transport Policy Statements.
   - The power under s509AB(6)(d) of the Education Act 1996 as amended by s83 of the Education and Inspections Act 2006 to specify other persons with whom the local authority must consult in preparing their Transport Policy Statement
   - The powers and duties conferred on the Council under the Learning and Skills Council for England (Supplementary Functions) Order 2007 in connection with the Secretary of States functions under sections 509AA(9), and 496 to 497B of the Education Act 1996 as regards a local authorities functions in relation to transport for persons over compulsory school age. These powers and duties are as follows-
a. investigating a responding to complaints and queries from individuals and members of Parliament;

b. investigating legal claims against local education authorities which relate to the exercise of their functions under sections 509AA or 509AB of the 1996 Act;

c. mediating between interested parties where it appears to the Council that there is a reasonable case to answer;

d. resolving such complaints, claims and queries as appropriate; and

e. in the event that any complaint of claim cannot be resolved, preparing cases for consideration by the Secretary of State as to whether he should exercise any of his functions under section 509AA(9) or sections 496 to 497B of the 1996 Act.

Background Information

4. As part of the transfer of learner support functions from the DfES in April 2005, the Secretary of State’s administrative functions in relation to transport for post-16 learners were transferred to the LSC. However in order for the LSC to carry out all the administrative functions which the DfES wanted to transfer some amendments to the statutory provisions were required to confer additional powers and duties on the LSC.

5. Section 509 of the Education Act 1996 imposes duties on local authorities in relation to the provision of transport. In relation to transport for persons over compulsory school age 509AA of the 1996 Act imposes a duty on local authorities to prepare a transport policy statement specifying the arrangements for the provision of transport for persons of sixth form age, which complies with certain requirements.

6. The statutory provisions give the Secretary of State certain functions in relation to the local authorities’ duties in relation to the provision of transport for persons over compulsory school age. In particular the Secretary of State had the power to issue guidance to which local authorities must have regard in preparing their statements and the Secretary of State could specify person with whom the local authority had to consult. These powers have been transferred to the LSC with effect from 1 April 2007 by virtue of s83 of the Education and Inspections Act 2006.

7. Under section 509AA(9) of the 1996 the Secretary of State has the power to direct a local authority to make arrangements or provide financial assistance for the provision of transport for persons of sixth form age to facilitate their attendance at establishments to undertake education or training. The Secretary of State also has powers under sections 496 to 497B of the 1996 Act to prevent the unreasonable exercise of functions by local authorities and to secure the proper performance of local authorities’ statutory duties. The Learning and Skills Council for England (Supplementary Functions) Order
2007 confers on the LSC functions set out in paragraph 3 in connection with these powers. This comes into force on 14 May 2007.

8. All statutory functions are vested in the Council and therefore need to be formally delegated to the Chief Executive so that he can then delegate them to the appropriate National or Regional Director. The overall policy function sits within the Learner Support Directorate.

**Clearance**

9. The Director of Strategy and Communications has cleared this paper.

**Legal implications**

10. The legal implications are set out above.

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