

Report to Cabinet

Meeting to be held on Thursday, 12 May 2016

Report of the Director of Development and Corporate Services

Electoral Divisions affected: All

Lancashire Adult Learning College

(Appendix 'A' refers)

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Executive Summary

The report sets out a proposal for Nelson and Colne College to assume responsibility for Lancashire Adult Learning College in place of the County Council on the terms set out in this report.

Recommendation

Cabinet is asked to agree to Nelson and Colne College with effect from 1st August 2016, assuming responsibility for Lancashire Adult Learning College in place of the County Council on the terms set out in this report.

Background and Advice

1. Introduction

Ofsted's full re-inspection of Lancashire Adult Learning College took place between the 2nd and 5th February 2016. A copy of the Ofsted Report is attached at Appendix 'A'. Ofsted's key conclusions are as follows:

<ul style="list-style-type: none"> • Leaders and managers took swift and successful action to improve the quality of provision and outcomes for learners following the previous inspection. • A strong and effective board of governors now drives forward a good pace of improvement through robust and determined support and challenge. • The strategy to engage and recruit the very large majority of learners from the most disadvantaged areas and groups is highly effective. • The proportion of learners who successfully achieve their qualifications has rapidly improved since the previous inspection and is now high. 	<ul style="list-style-type: none"> • Passionate tutors set high aspirations and expectations, using a wide range of activities to enable most learners to reach their potential. • Tutors use the results of initial assessment of learners' individual needs well to plan and provide effective learning and additional support to help learners overcome problems which might otherwise prevent success. • Many learners from marginalised communities develop the skills, confidence and self-esteem to make better life choices. • Learners' development of functional skills in English and mathematics, and English for speakers of other languages (ESOL), are good.
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The following table summarises the overall Ofsted assessment:

Overall effectiveness	Good
Effectiveness of leadership and management	Good
Quality of teaching, learning and assessment	Good
Personal development, behaviour and welfare	Good
Outcomes for learners	Good
Adult learning programmes	Good
Overall effectiveness at previous inspection	Inadequate

Ofsted highlighted three areas for improvement:

- Rapidly implement the plans to establish permanent senior leadership arrangements for the service.
- Share best practice internally to ensure that individual targets for all learners are of a consistently high quality. Ensure that tutors use targets well to plan individual learning and to measure learners' progress on their course.
- Implement the systematic analysis of non-accredited learning to identify any differences in achievement between groups of learners. Ensure that managers and staff take effective actions to identify, tackle and reduce any identified differences.

2. Lifting of a Notice of Concern by the SFA

On 15th December 2014, the Skills Funding Agency (SFA) issued a Notice of Concern (the Notice) to the County Council. This was because the County Council had received an inadequate Ofsted inspection rating.

The SFA has confirmed that it is satisfied that the County Council has complied sufficiently with the conditions set out in the Notice. This is because Ofsted's re-inspection judged the County Council to have improved to Good.

3. Assessment by the FE Commissioner

Following the December 2014 assessment, the Minister for Skills and Enterprise determined that the FE Commissioner should assess the position of LAL in line with the government's intervention policy set out in *Rigour and Responsiveness in Skills*.

The FE Commissioner conducted his assessment in January 2015 and considered; the capacity and capability of the service's leadership and governance to deliver quality improvement within an agreed timeframe.

The FE Commissioner made seven recommendations:

- LAL should restrict its activities to Adult and Community Learning.
- The SFA should consider more appropriate ways of delivering the skills programmes currently being offered through the Lancashire Adult Learning Service by using colleges and providers with greater experience and success in the delivery of the provision.
- Governance arrangements for LAL should be introduced that involve both council and non-council representatives to determine the strategy for the service going forward and to provide suitable monitoring and challenge of the executive.
- The Council should ensure that there is sufficient management time and an appropriate structure to deliver a high quality Adult and Community Service.
- New arrangements for quality assurance should be introduced as a matter of urgency that prioritise the improvement of teaching and learning and the production of an appropriate self-assessment report and quality improvement plan.
- The post Inspection Action Plan should be revised by aligning it more closely with the weaknesses identified by Ofsted and with clear responsibilities, actions, milestones and monitoring arrangements.
- The FE Commissioner should undertake a monitoring visit at the end of the summer term to review progress.

A monitoring visit was carried out by a Further Education Adviser on behalf of the FE Commissioner in June 2015 to consider the progress that had been made in line with these recommendations.

At that time, the FE Commissioner concluded that LAL was being transformed, and the practical partnership between the local authority and the Board of Nelson and Colne College in introducing interim arrangements was to be applauded. He recognised clear evidence of a changing culture and that a strong Governing Body with appropriate experience and autonomy had been complemented by an equally

strong Senior Leadership Team. The report further concluded that it was hoped that the arrangements could translate into a permanent arrangement.

4. Proposed Permanent Arrangements

Moving forward and building on Ofsted's and the FE Commissioner's conclusions, LAL's Governing Body has reviewed permanent future leadership arrangements, particularly in light of the forthcoming Further Education sector Area Reviews.

The arrangements to date with Nelson and Colne College have been successful and reaffirmed to the LAL Governing Body that the:

- Improvements recognised by Ofsted in the February 2016 re-inspection need to be maintained and enhanced;
- Best outcomes for Lancashire learners from the use of the Skills Funding Agency Community Learning budget need to be secured;

In both cases by the County Council putting in place a permanent link for LAL with an existing skills provider.

For these reasons, the LAL Governing Body has concluded that their preferred option for the long term leadership of LAL is a permanent link with Nelson & Colne College, reflecting the present arrangement under which the service is supported by the Principal and senior leadership team of Nelson and Colne College. The implementation of this preferred arrangement will require the transfer of the County Council's Skills Funding Agency (SFA) Community Learning Grant to Nelson and Colne College.

5. Alternative Delivery Options

Prior to focusing on what a permanent solution with Nelson and Colne College would look like, it is worthwhile reflecting on what other potential delivery options exist.

1. *Integrated Service within Lancashire County Council*

Under this option, the County Council would retain complete responsibility for LAL and its staff as effectively one of the County Council's in-house services, appointing new leadership from within the County Council or externally. The County Council would retain the adult and community learning grant and provide the necessary services required to enable LAL to continue to operate, including finance ICT, HR, marketing. The County Council would ask the existing Governing Board to undertake a scrutiny role of the College's operation.

The significant improvements over the previous 15 months have come from the County Council working in partnership with Nelson and Colne College. This option would result in the County Council reverting to the pre Ofsted report of December 2014 delivery model. There are significant risks with this approach: both Ofsted and the FE Commissioner would consider this as a retrograde step, the day to day responsibility for the leadership and management would be retained by the County Council and we would need to be able to recruit a College principal and supporting management team to replace the resources provided by Nelson and Colne College.

2. Tender for delivery of the service by other College or provider

Under this option, the County Council would carry out an open tender process for a provider to enter into a service contract with the County Council for the delivery of the College. Providers both within and external to Lancashire would be entitled to participate. The current support from Nelson & Colne College would cease at an agreed date and Nelson and Colne College would be able to participate in the tender process. The tender documents would need to set out the County Council's terms for the delivery of LAL, including staff employment arrangements and financial arrangements. The SFA would need to agree the arrangement. In doing so the SFA would question the purpose and value of the County Council retaining an involvement under this arrangement and may wish to directly contract with the successful organisation.

Under this option, the longer term steps to move the LAL forward would only happen after the outcome of the tender exercise was known, including IT, data, marketing, financial systems. Realistically, it would be unlikely that this option would be able to be fully implemented prior to the start of the academic year 2017/18 and therefore the County Council would need to extend the current arrangements with Nelson and Colne College for the academic year 2016/17.

3. Wind up LAL and allow SFA to redistribute grant

Under this option, the County Council would cease to provide LAL. A recommendation would be made to SFA for the redistribution of the adult and community grant across the County directly to adult and community learning providers. If the County Council were to decide to stop delivery of its Community Learning contract, then as the SFA is the funder all decisions on the future of the contract are made by the SFA;

There is no guarantee that this outcome can be achieved with the SFA, with the risk that some of the current grant funding could be redistributed beyond Lancashire.

4. Wait for the outcome of the Area Review process to identify the most suitable outcome

The Area Review process is explained below.

The County Council in its capacity as LAL would not conclude a permanent solution with Nelson and Colne College, instead it would retain responsibility for the LAL and participate in the Area Review Process and see what comes out of that.

In this scenario, the County Council would need to consider whether to adopt the Area Review recommendations and align LAL in all likelihood, to the emerging institutions. However, whilst on the face of it, this option may seem attractive, the County Council would run the risk of not being able to align ourselves in the way the County Council would like, i.e. with the best quality/cultural fit for LAL's learners/provision. It is important to note that the rest of the Lancashire provider base is already taking steps to identify options to present when the Area Review process commences.

The County Council has consulted with the Lancashire FE colleges, Training 2000, North Lancs Training Group, Blackburn with Darwen Council and Blackpool Council on the option for a permanent relationship with Nelson and Colne College. No alternative proposals were received.

The County Council would need to extend the current working relationship with Nelson and Colne College for a two year period to enable sufficient security of leadership to maintain progress and satisfy Ofsted. LAL's location would need to be addressed together with the extent to which we would co-locate back office functions with Nelson and Colne College.

This is not LAL's Governing Body preferred option. Furthermore, there is a risk that Ofsted would not be satisfied that we have a clear plan for the longer term.

6. Skills Funding Agency's View

In order to effect a permanent solution with Nelson and Colne College, the SFA need to approve the transfer of the County Council's £5.8m Community Learning allocation to Nelson & Colne College, which it is proposed should take effect from 1st August 2016.

The SFA has agreed to the transfer of LAL's allocation to Nelson & Colne College. Subject to this sign off and the recommendations set out in this report being agreed, then from 1st August 2016 Nelson and Colne College will be fully responsible for complying with the SFA's Grant funding agreement.

The SFA are unable to add any additional clauses in their Grant Agreement as they follow a national format. Therefore, the County Council and Nelson and Colne College will enter into an agreement, the purpose of which is to capture a number of agreed key principles which will ensure that the SFA grant will continue to be utilised on adult and community learning.

The Adult and Community Learning budget will become part of the single Adult Education Budget from 2017/18. This will mean that funding currently allocated as non-apprenticeship adult skills budget (ASB), community learning and discretionary learner support (DLS) moves into a single budget. (There will be a separate 19+ budget for apprenticeships). This funding will be a block grant for colleges and other grant funded providers, with all other providers continuing to be funded under a contract for services. This will allow providers to have significantly increased flexibility to address the needs of local learners and to ensure that local priorities are met.

7. The Proposed Nelson and Colne College Arrangements

Nelson and Colne College is a tertiary college for 14-19 year olds and adults of all ages, located in Nelson within the Borough of Pendle. Students at the College are drawn principally from the Pendle district and Burnley. The percentage of 16-18 year olds attending the College from Pendle is 75% whilst 20% are from Burnley. The remaining 5% of 16-18 year olds are drawn from outside of the area.

Nelson and Colne College delivers a range of SFA and Education Funding Agency provision and is experienced in managing sub-contracted activity. The College has

been assessed by Ofsted as an Outstanding provider. Learner success rates for all provision, with the exception of Workplace Learning, are above national averages for the period 2011/12 to 2013/14. The College's underlying financial health is Outstanding and the current 2015/16 academic year financial health is Good.

Under these proposals, with effect from 1st August 2016, Nelson and Colne College will be fully responsible for complying with the SFA's Grant funding agreement for 2016/17 onwards. Nelson and Colne College and not Lancashire County Council, will be the counterparty to the Grant funding agreement with the SFA

Nelson and Colne College has agreed that the Community Learning grant, allocation will be fully utilised for the benefit of adult and community learning in Lancashire and will not be used to offset any reductions in Nelson and Colne budgets. The SFA has confirmed that the grant for 2016/17 will be equivalent to the 2015/16 allocation of £5,780,340. Equally, Nelson and Colne College cannot be expected to subsidise community learning from its other funding sources in the event that the grant is reduced in subsequent years and therefore would have to implement delivery changes in light of changes to funding in the allocation in 2017/18 or subsequent academic years. This would be no different to the County Council.

Nelson and Colne College will operate LAL and deliver community learning activity in accordance with LAL's Strategic Framework and Priorities outlined in LAL's Strategic Vision and Plan which has been agreed by the governing body of LAL. Overall the intention is that delivery of community learning by Nelson and Colne College supports the County Council's core purpose set out in the draft Corporate Strategy and the County Council will need to work with Nelson and Colne College to achieve this outcome.

Community Learning delivers a range of community-based and outreach learning opportunities . These services are designed to help people of different ages and backgrounds to:

- Get a new skill
- Reconnect with learning
- Follow an interest
- Prepare to progress to formal course
- Learn how to support their children better

It also supports wider policies on localism, social justice, stronger families, digital inclusion and social mobility.

Funding is provided through the Skills Funding Agency and the provision is seen as a key part of the learning continuum re-engaging adults with the system to develop their skills and enhance their lives.

LAL's key priorities are to provide:

- A high quality offer, which LAL can be proud of, and which is recognised as 'good' or 'outstanding' by Ofsted
- An offer which supports the most disadvantaged adults in Lancashire
- An offer which provides development and progression for learners at whatever stage they engage

- An offer which is directly linked to the County's strategies to support adults and
- An additional offer of high quality leisure courses to enable learning for pleasure and interest, which generates income to supplement the main grant

LAL's Strategic Vision and Plan will be reviewed by the governing body before July 2016 and will be effective for 2 full academic years commencing 2016/17; following which Nelson and Colne College commits to ensuring that there is an annual view of LAL's strategic direction and that there are specific and clear community learning clear strategic plans, priorities, delivery objectives and measurable outcomes.

Nelson and Colne College will also ensure:

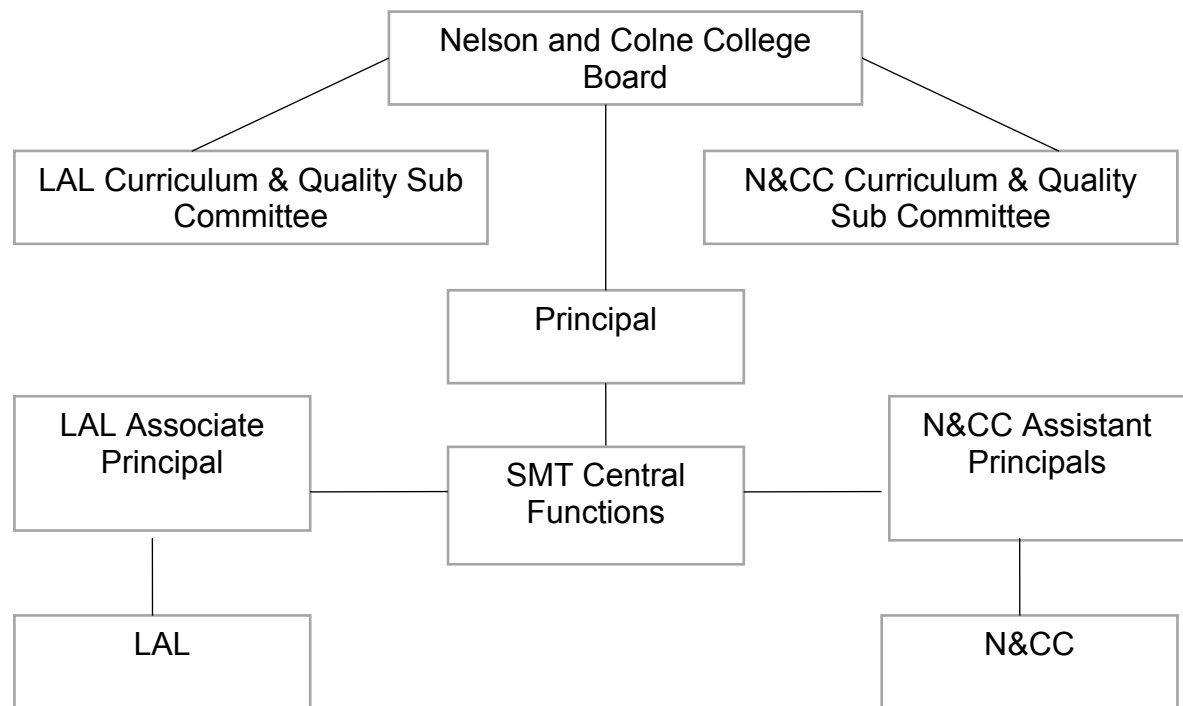
- that LAL continues to deliver a truly locally determined adult and community learning offer which is underpinned by strong local partnerships and engagement with communities.
- that LAL continues to operate as a discrete brand that recognises its origins and peripatetic delivery model.
- that there is an annual view of LAL's strategic direction and that there are clear strategic plans, priorities, delivery objectives and measurable outcomes.

The County Council will maintain an interest, oversight and scrutiny of LAL through the appointment of up to two nominees of the current LAL Governing Body to the Nelson and Colne College Corporation Board

Due to the specific nature and size of the LAL provision, Nelson and Colne College will establish separate Curriculum and Quality Sub-Committees for LAL and Nelson and Colne College's 14-19 provision. Two County Council nominees will be appointed to the LAL Curriculum and Quality Sub-Committee.

The Principal and Chief Executive of Nelson and Colne College will ensure the overall proper and effective operation of the financial, planning and management controls for both Nelson and Colne College and LAL.

The diagram below outlines the governance structure which will be implemented.



The Principal and Chief Executive of Nelson and Colne College will be supported by an Associate Principal for LAL and Curriculum Assistant Principals for Nelson and Colne College.

LAL will need to continue to access management information and data systems once transferred to Nelson & Colne College, therefore IT equipment, management information or data systems currently utilised by LAL will transfer to Nelson & Colne College on 1st August 2016.

LAL will have a discrete delivery team, working peripatetically across the county but with a base with teaching rooms and community learning facilities in East Lancashire.

The County Council's LAL staff will TUPE transfer into Nelson and Colne College on 1st August 2016.

The above principles have been detailed in a legal agreement between the County Council and Nelson and Colne College.

8. Area Review

In July 2015 the Government issued its productivity plan '*Fixing the Foundations – creating a more prosperous nation*'. The plan defines improving productivity as a key national challenge and that along with expansion of the Apprenticeship Programme, two major reforms of the skills system are critical:

- Clear, high quality professional and technical routes to employment, alongside robust academic routes, which allow individuals to progress to high level skills valued by employers; and
- Better responsiveness to local employer needs and economic priorities, for instance through local commissioning of adult provision, which will help give the sector the agility to meet changing skills requirements in the years ahead.

In response to this a national programme of area-based reviews facilitated by the Departments for Education and Business, Innovation and Skills will review 16+ provision in every area. These reviews will provide an opportunity for institutions and localities to restructure their provision to ensure it is tailored to the changing context and designed to achieve maximum impact.

Each area review should establish the appropriate set of institutions to offer high quality provision based on the current and future needs of learners and employers within the local area. Reviews should deliver:

- Institutions which are financially viable, sustainable, resilient and efficient, and deliver maximum value for public investment.
- An offer that meets each area's educational and economic needs.
- Providers with strong reputations and greater specialisation.
- Sufficient access to high quality and relevant education and training for all,
- Provision which reflects changes in government funding priorities and future demand.

The reviews will identify scope to make efficiencies in a range of ways, including:

- Removing duplication in curriculum.
- Reducing management and administration costs.
- Making more efficient use of the land and buildings controlled by the sector.
- Enabling more efficient and effective use of technology both in terms of teaching, support and assessment and back office systems.

Reviews are likely to result in rationalised curriculum; fewer, larger and more financially resilient organisations; and, where practicable, shared back office functions and curriculum delivery systems.

Within Lancashire there will be two area-based reviews covering Pennine Lancashire and Coastal Lancashire, these reviews will run concurrently and indicative timescales indicate that Lancashire's reviews will commence in September 2016. The Area Review process will reshape the adult learning landscape in Lancashire.

Under the above proposals, in the forthcoming Area Review, LAL would be aligned with Nelson and Colne College. This approach is supported by LAL Governing Body.

9. Location

LAL's premises for teachers and teaching support staff is currently located at Lancashire College, Chorley.

The proposal is for LAL to operate from a separate discrete location in East Lancashire.

Brierfield Mill is a redundant factory complex located in close proximity to Junction 12 of the M65, a key section of the Burnley-Pendle Growth Corridor, a strategic investment priority of both the Lancashire Enterprise Partnership (LEP) and County Council, and within one of the most deprived communities in the country. Previously,

and for over a century, it was a major employer in the area and the former mill remains a dominating physical presence locally.

There are now plans in place to redevelop Brierfield Mill as Northlight, a new leisure, residential and educational destination which will provide a significant contribution to the regeneration of Pendle, whilst maximising the economic potential of an important east Lancashire heritage asset.

At her meeting on the 17th May 2016, the Leader of the Council will consider a report on the County Council's capital contribution to Northlight.

The key elements of the Northlight project are outlined below:

- Residential development to comprise 60 one and two bedroom apartments to be developed in partnership with Together Housing;
- A 120 bedroom 'boutique' hotel funded by a syndicate of private investors and operated as a Hilton 'Doubletree' franchise;
- A community leisure facility to be operated by Burnley Football Club Football in the Community, incorporating a range of indoor and outdoor football pitches and other sports and community facilities;
- A private training centre focussing on Cyber Security training operated by Training 2000;
- Lancashire Adult Learning operated by Lancashire County Council;
- Establishment of a small number of managed workspace business units;
- A new marina on the Leeds-Liverpool Canal adjacent to Northlight;
- Provision of small local community arts space;
- A microbrewery; and
- Infrastructure and public realm around the site.

The new facility at Northlight would support and deliver adult community learning across Lancashire by providing an administrative and delivery base for LAL in one of the most deprived areas in the country and a Lancashire centre with the greatest demand for community learning (East Lancashire). LAL's experience of maintaining key centres elsewhere in the County has demonstrated that location impacts on learner numbers and LAL's proposed move to Northlight supports its intention to increase participation by learners from deprived communities

It would also support the aspiration of LAL's Strategic Framework, which is focussed on providing an offer to support the most disadvantaged adults in Lancashire. The proposed move to Northlight anticipates generating up to 10% or 350 additional learners but as Northlight is located in east Lancashire focused on disadvantaged learners with low or no skills.

Working through a wide range of locally based voluntary organisations and community locations, LAL aims to support individuals in the places, and with the people, where they feel most comfortable. Therefore, LAL's aspiration is for its base to be located in the heart of the community which it serves. As a result of being located in Northlight, it is expected that learners will benefit from greater accessibility to the main administrative and delivery centre of LAL.

Northlight will bring together a cluster of learning and community activities, including Burnley Football Club Football in the Community, Training 2000 and In-Situ community arts space.

Consultations

The proposal to the Skills Funding Agency requires consultation with Lancashire based FE colleges and providers, along with the unitary authorities. This consultation has now completed; only one response has been received which was from Preston College. The response was supportive of maintaining the leadership of LAL through Nelson and Colne College and of the general principles of the strategic direction of LAL.

Nelson and Colne College's Corporation Board has separately considered and agreed to these proposals.

Implications:

This item has the following implications, as indicated:

Personnel

Consultations on TUPE Transfer

One of the key elements of the proposed TUPE transfer to Nelson and Colne College is the transfer of the County Council employees who work in the Lancashire Adult Learning service. The employees have been advised of the potential for a TUPE transfer to Nelson & Colne College at some initial staff briefings, however the formal consultations have not yet taken place. If approval to transfer the service is agreed via this Cabinet report, a consultation process in line with the current TUPE regulations will take place, involving all relevant parties such as senior management from both employers, HR representatives from both employers, Trade Unions and employees. This process will involve; meeting the relevant Trade Unions, employee briefings before and after consultation, a minimum 4 week consultation period and confirmation from Nelson and Colne College regarding measures they intend to take or may propose to take in respect of the transferring group of employees. In line with the current TUPE regulations, County Council terms and conditions will be protected at the point of transfer in line with TUPE legislation.

The employees within Lancashire Adult Learning are covered by two sets of terms and conditions and pension schemes. The non-teaching employees are covered by the standard NJC/County Council (green book) terms and conditions and are eligible to join the Local Government Pension Scheme (LGPS). The teaching employees are covered by Lancashire Adult Learning (red book) terms and conditions and are eligible to join the Teachers Pension Scheme (TPS). In terms of a comparison, employees at Nelson and Colne College are covered by similar sets of terms and conditions and the same eligibility to the two aforementioned pension schemes. The Local Pension Partnership (formerly the County Council – Your Pension Service) administers the LGPS membership for Nelson and Colne College, with regards to the TPS this is administered centrally by the TPS in Darlington. It is anticipated that with regards to Pension, the TUPE transfer will be straight forward and that the transferring employees will be able to remain in their respective pension schemes.

Currently, the employee numbers within Lancashire Adult Learning that would be in scope to transfer is as follows:

- 32 LCC Green Book employees
- 62 LAL Red Book employees
- LAL's portfolio of casual tutors

Formal consultation procedures and timescales will be followed and the transfer of any employees from the employment of the County Council to Nelson and Colne College will be undertaken in accordance with the principles and processes of the Transfer of Employment (Protection of Employment) ('TUPE') Regulations 2006, as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014.

It is not anticipated that there will be any Lancashire Adult Learning employees who are not to be transferred, however if there are they will be subject to the normal County Council workforce agreements.

Financial

If the recommendations set out in this report are agreed then the County Council will cease to have any financial responsibility for LAL for the academic year 2016/17 and beyond. Nelson and Colne College will be the counterparty to the SFA Grant Funding Agreement

Risk management

There is a need to positively respond to the Ofsted inadequate assessment of Lancashire Adult Learning (LAL) in November 2014. The County Council has already put in place a series of measures, including improved Governance arrangements to, ensure that the LAL is able to satisfy the planned Ofsted re – inspection in 2016. This report deals with further improvements to the governance arrangements and the Ofsted recognised need to implement permanent leadership arrangements for LAL.

List of Background Papers

Paper	Date	Contact/Tel
N/A		