

**POLICE AND CRIME
COMMISSIONER FOR
THE WEST MIDLANDS**

NON-CONFIDENTIAL

NOTICE OF DECISION

[034/2020]

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Title: Partnership to use Deutsche Bank's Apprenticeship Levy to deliver PC Degree Apprenticeships.

EXECUTIVE SUMMARY

This is a decision to allow a partnership to be established with Deutsche Bank for their Apprenticeship levy to be transferred to West Midlands Police, to fund apprentice training.

Contextually, Deutsche Bank contacted West Midlands Police in order to explore the opportunity to fund WMP apprenticeships as part of their Corporate Social Responsibility agenda; to invest where possible in public bodies, organisations and communities within the vicinity of their Birmingham City Centre offices.

The funded apprenticeships would apply to 48 police officers over the course of a 3 year programme, The first cohort to be funded will join West Midlands Police in 15th October 2020.

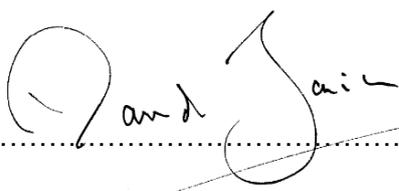
This opportunity would see Deutsche Bank transferring £1,152,000 of their levy over 3 years, saving the Force **£4,797** and saving HM Government **£91,148**.

DECISION

The Commissioner approves the decision to work in partnership with Deutsche Bank in order to use their Apprenticeship Levy to deliver PC Degree Apprenticeships.

Police and Crime Commissioner for the West Midlands

I confirm that I do not have any disclosable pecuniary interests in this decision and take the decision in compliance with the Code of Conduct for the Police and Crime Commissioner of the West Midlands. Any interests are indicated below.

Signature.....

Date: 02.09.2020

Executive Summary

This paper details the opportunity for external levy to be transferred from an outside organisation to West Midlands Police to fund apprentice training. An apprenticeship levy transfer is a way of making the most of levy funding - for both the transferring employer, and the employer receiving the benefits of the transferred funds, transferring organisations do so as part of their Corporate Social Responsibility agenda, and receiving organisations can use the funding for apprentice training where it is approved by the Education and Skills Funding Agency (ESFA).

Discussions with representatives from Deutsche Bank (DB) have confirmed an opportunity to fund apprenticeships for 48 police officers over the course of the 3 year programme. If the transfer is agreed by all parties – WMP, DB and the apprentice main provider Staffordshire University - in sufficient time, the first cohort to be funded may be as early as an October intake, with 24 in a second cohort funded later that month.

This opportunity would see Deutsche Bank transferring **£1,152,000** of their levy over 3 years, saving the force **£4,797**, and saving HM Government **£91,148**. These savings are enabled due to the delay of the depletion of the Levy and the associated start of co-funding.

To ensure the transfer is legal and compliant with ESFA requirements a number of legal and compliance checks have been undertaken. An MOU is being progressed through WMP legal and DB Legal, with no issues anticipated.

Decision Required

Due to the Force and HM Government cost savings this paper recommends that the transfer of levy funds for 48 PCDA students is agreed, with a view to funding for the next available PCDA cohort starting on **15th October 2020**.

Background

Apprenticeship levy funds not spent by an organisation after 24 months expire. In January 2019 it was reported that some large and predominantly private industry companies were still viewing the levy as a tax on business and were prepared to document expired funds as a loss in the accounts (CIPD, 2019), rather than invest in supporting the apprenticeship agenda within their own organisation.

However, levy payers can support apprenticeships in other organisations by transferring a percentage of their apprenticeship funds to other employers. The amount of available funds to transfer stands at 25% of the annual value entering a levy account. **These funds can be transferred to any employer**, to support new opportunities and widen participation in apprenticeships.

Once the force levy is depleted, any apprentice training costs are funding from both force and government contributions. Any apprentice costs incurred in month that exceed the monthly levy balance are funded by Force contribution of 5% of the costs and the HM Government contributes the remaining 95%.

Deutsche Bank contacted WMP informally to explore the opportunity to fund WMP apprenticeships as part of the Corporate Social Responsibility agenda; to invest where

possible in public bodies, organisations and communities within the vicinity of their Birmingham City Centre offices.

Information Security have advised that there is no data security risk to undertaking this process due to the limited information being shared as part of the agreement and the mechanisms used for sharing the data (government systems).

Additional information can be found in **Appendix A** and an update on progress to date, with WMP Legal and ESFA consultation is shown in **Appendix C**

Clarification is required on the relevance of State Aid Funding considerations for Forces. This will not impact the agreement with DB, but will need to be resolved before further Levy transfers are progressed due to the €200,000 cap on state aid funding.

Benefits of Levy Transfer

Due to the number of PCDA apprentices starting over the next 12-24 months the levy account is expected to be depleted in December 2021. Once the force levy is depleted, any apprentice training costs are funded from both force and government contributions, known as 'co-funding'. Any apprentice costs incurred in months that exceed the monthly levy balance are topped up by a Force contribution of 5% of the remaining costs, and a government contribution of the remaining 95%.

The impact of the levy transfer from Deutsche Bank to WMP means that the levy depletion is delayed by 1 month. In that month's cost savings are as follows:

- **£4,797** Force (cash) savings from delayed co-funding of PCDA Officer training
- **£91,14** 8HM Government savings from delayed co-funding
- £1,152,000 Investment from Deutsche Bank
- 1 months delay to levy depletion to £nil (from February 2022 to March 2022)
- **Note** that this does not take account of the ongoing levy that is expiring in West Midlands Police

Dis Benefit:

Due to the funding provided by Deutsche Bank levy held by WMP will be unused and will expire as per ESFA funding rules. As a result, in the period leading up to February 2022 an additional £2,477 will be lost from the WMP levy.

It should be noted that should DB be unable to fund the students then the funding would default to the co-funding model, whereby force would pay 5% of the training costs and government would pay the remaining 95%. This model is also applied where the WMP levy pot cannot fund apprentice training.

DB have confirmed that this is will not happen within the first 2 years of the student training and is unlikely to happen in the third year.

Next Steps and updates

- Confirm agreement for the levy transfer is given by PCC and Force Executive
 - To be progressed through circulation of this paper.
- Share the required course details with Deutsche Bank to start funding.
- Check any impact of 'State Aid' funding
 - Ongoing, with potential limits identified **IF** State Aid funding rules apply to WMP.
 - To include declaration and ongoing monitoring of State Aid funding if required (See **Appendix C**).

Appendix A – Additional Background

From April 2017, all employers in the UK with a wage bill of more than £3 million per year have been required to pay an Apprenticeship levy, which is calculated at 0.5% of the organisations' payroll, paid each month to the government.

Considerations

There is an opportunity for regional police forces to access unused funds via the transfer process. The organisations that are to be considered could be (but are not limited to) Football Clubs within geographical policing regions as well as other organisations that receive police support through Special Policing Services agreements e.g. Ironman.

There is no method of being able to identify organisations that are not using their Levy Account funds fully, nor a set process for approaching organisations that have funds available for transfer. Should the opportunity be considered as one to pursue, the method / process would need further consideration.

How it works: ESFA rules

Levy-paying employers who wish to transfer funds have to agree the individual apprenticeships that will be funded by a transfer with the employer receiving the funds. Employers receiving transferred funds are only able to use them to pay for the agreed training and assessment (apprenticeship standard).

By agreeing to fund an apprenticeship with a transfer, an organisation would be committed to fund the apprenticeship over its entire duration until completion, needing to ensure that there is enough transfer allowance to cover these costs over the relevant number of years.

The transfer amount must cover 100% of the eligible training and assessment costs, up to the funding band maximum, of the apprenticeship standard (but does not include English and maths training up to and including level 2).

Apprentice Incentive Funding

WMP have confirmed through ESFA that the Apprentice incentive scheme will not be impacted when transferred levy funds are used for WMP apprentices.

Early Adopters

The Metropolitan Police are looking into how the relationship with other large employers is established to engage in a Levy transfer, but have not to date, been in a position to do so.

There are several NHS organisations that have managed to receive transfers from Deutsche Bank, and attempts to make contact with these organisations have been made in order to learn any early lessons. Should there be agreement to embark on the Transfer of Levy from Deutsche Bank, it would appear that West Midlands will be the first Police Force to do it nationwide.

A useful link to summarise the levy transfer is below:

<https://www.youtube.com/watch?v=6sH0gDiU9NM>

Appendix B – Detailed background on progress to date

ESFA Rule Clarification and Staffordshire University Assurance Requirements

Julia Bakewell (ESFA Account Manager for the West Midlands Region) has provided clarification on one new rule, confirming that this has no impact on the transfers proposed in this paper as transfers as forces are employer and sub-contractors:

P258 If you are a main provider who is also a levy-paying employer (this includes any connected companies), you must not deliver training to apprentices you are funding through a transfer. This includes where you are acting as a main provider or a subcontractor.

Staffordshire University in their role of main provider have confirmed that they are accepting of the transfer in accordance with the ESFA rules. The MoU between DB and WMP will be shared with Staffordshire University for additional assurance.

Ensuring the Subcontract Aspect of the Regional Contract Does Not Contravene ESFA Rules:

As mentioned above, Julia Bakewell has provided confirmation via email with regard to the rules governing the use of levy transfers.

While this aspect is specifically identified in the briefing from Capsticks in section 18, some assumptions made by Capsticks were not correct:

P258 If you are a main provider who is also a levy-paying employer (this includes any connected companies), you must not deliver training to apprentices you are funding through a transfer. This includes where you are acting as a main provider or a subcontractor.

19. We do not consider that P258 is engaged in this case. The rule is aimed at preventing education providers from benefitting from other employers' levy funds. In this case, Staffordshire University is not funding the apprenticeships, and WMP is not delivering training in the capacity as the main provider or as a subcontractor of Staffordshire University so the Rule will not prevent WMP from using the transferred funds in the proposed manner.

These have now been confirmed by the ESFA via email.

Determination of Additional Documentation between WMP and DB:

Capsticks have advised that this is in the discretion of WMP and DB. DB have advised that no additional documentation has been used with other lenders that they are aware of, and this is borne out in the findings of research by the Staffs and WMP Apprentice Managers.

Options to resolve this are:

1. No additional contract used - relying solely on the documentation and agreements between WMP and ESFA, and DB and ESFA.
2. The drafting and agreement of an MOU between DB and WMP. Consideration would need to be given for who would draft, review, approve and sign this document. The document could include the compliance detail of the transfer that are already captured in the ESFA systems; number of student officers funded, the apprentice standard being applied to these students, the total cost per student, student start dates, duration of apprenticeship and monthly transfer values.
3. A formal contract between DB and WMP. Consideration would need to be given for who would draft, review, approve and sign this document.

Option 2 has been taken forward as the preferred option, based on the advice and current practice with West Midlands Combined Authority, who broker Levy agreements with large organisations and SMEs. An MOU has been drafted by Capsticks acting on behalf of WMP, and is under review by DB.

The Impact of State Aid funding on Levy Transfers.

Following the review of the State Aid position as it applies to Levy transfers to forces by Capsticks, it remains unclear if state aid funding rules applies to WMP, as State Aid rules can (among other things) apply to the following:

- grants
- loans
- tax breaks, including enhanced capital allowances
- the use or sale of a state asset for free or at less than market price
- The rules can apply to **funding given to charities, public authorities** and other non-profit making bodies **where they are involved in commercial activities.**
- Police Officer training is not a commercial activity on the part of the Office for Policing and Crime, and we are not giving out grants or loans, we are in receipt.
- WMP have made no recording or declarations of state aid in the 3 year period to 31st July 2020.

<https://www.gov.uk/guidance/state-aid#compliance-with-the-state-aid-rules>

Advice from WMP finance has been that WMP have received no state aid funding in the defined period. It should be noted that where a State Aid allocation of 5% is applied for Levy transfers, the number of students funded through this route would be limited to approximately 150. Clarification of the State Aid funding not being applicable to WMP would allow a further 510 students to be funded based on the current recruitment forecast, with associated cost savings for the force. In addition, the consequences of exceeding the state aid cap of €200,000 over a 3-year rolling period remain unclear.

Timescales Update and Next Opportunity:

While the opportunity has been progressed and clarified in recent weeks, it is now not possible to complete an agreement with DB and apply levy transfers to the next cohort of PCDA students starting on 23/07/2020 or 06/08/2020 due to the lead times required for registering and confirming students on the ESFA systems.

The next opportunities to apply funding from the DB Levy are:

Cohort (48): 20/08/2020 - deadline for submission is **15/10/2020**

Cohort (48): 03/09/2020 - deadline for submission is **11/01/2021**

Reputational Opportunity / Risks & Legal guidance

Legal guidance has been sought by Joint Legal Services and Staffordshire University Legal Teams. Tim Crane, WMP Solicitor has confirmed that that there is no reputational risk to the Force in embarking on the transfer agreement. Advice has been provided from the ESFA over the legalities of the required data sharing and whether the ESFA agreements, which must be signed in order for the transfer to be made, is sufficient or whether an additional contract between all parties (Deutsche Bank, West Midlands Police and Staffordshire University) is required. An MoU has now been drafted to clarify the responsibilities of all parties. This is being progressed.

In addition to the above, Information Security have advised that there is no data security risk to undertaking this process due to the limited information being shared as part of the agreement and the mechanisms used for sharing the data (Government systems).