

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2959

### Title: Adult Education Budget Funding Rules – March 2022

#### Executive Summary:

This Mayoral Decision (MD) form sets out the proposed changes to the GLA's Adult Education Budget (AEB) Funding and Performance Management Rules for Grant Funded Providers (the "GLA AEB Grant Rules") document for the 2021-22 and 2022-23 academic years. The proposed change reflects the introduction of an in-year, over-delivery payment of up to three per cent above the corresponding AEB allocations for all AEB grant providers. Thus, all AEB providers who over-deliver will be funded up to 103 per cent of their existing AEB allocation in recognition of their additional AEB provision.

The GLA AEB Grant Rules for the 2021-22 and 2022-23 academic years will be updated to reflect changes introduced by the Education and Skills Funding Agency (ESFA) on the National Skills Fund (NSF) Level 3 Adult Offer.

#### Decision:

That the Mayor approves:

the proposed changes to the GLA AEB Funding and Performance Management Rules for Grant Funded Providers for the 2021-22 and 2022-23 academic years as set out in Appendix A.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

16/3/22

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 In November 2021, under cover of [MD2890](#), the Mayor approved changes to the GLA AEB Grant Rules for the 2021-22 academic year to support key groups who had not previously been eligible for full AEB funding, including eligibility for full funding for asylum seekers and family members of European Union (EU) nationals.
- 1.2 The performance tolerance applied by the GLA during the reconciliation process has varied in recognition of the impact of Covid-19 restrictions in relation to AEB delivery. In the 2019-20 academic year, the GLA introduced a revised performance tolerance of 68 per cent. This was subsequently increased to 90 per cent in 2020-21 and back to the standard 97 per cent for the 2021-22 academic year, which is currently in line with the threshold applied by the Education and Skills Funding Agency (ESFA).
- 1.3 In the last two academic years of AEB delivery (2019-20 and 2020-21), the GLA has been able to award AEB over-performance for all AEB providers performing above their AEB allocation. However, all providers who delivered beyond their existing allocations had to take a risk with no guarantee of overperformance being funded by the GLA.
- 1.4 The ESFA currently funds over-delivery of up to 103 per cent of AEB allocations. To reward overperformance, up to three per cent of delivery above AEB allocations is granted in the reconciliation process at the end of the academic year.
- 1.5 From April 2022, the ESFA will widen the eligibility criteria for the National Skills Fund (NSF) Level 3 offer and expand the list of eligible Level 3 qualifications. Any adult earning under the National Living Wage (London Living wage for London) will be able to access Level 3 qualifications for free regardless of their prior qualification level.

#### **2. Objectives and expected outcomes**

##### Changes to GLA AEB Grant Rules for 2021-22 and 2022-23 academic years

- 2.1 It is proposed that changes are made to the GLA AEB Grant Rules for the 2021-22 and 2022-23 academic years to reflect the introduction of an in year, over delivery payment to all AEB grant providers who perform up to 103 per cent above their AEB allocations. This would be administered through year-end adjustments following the reconciliation process which takes place at the end of each academic year.
- 2.2 Awarding over-delivery recognises the additional effort by AEB providers and is fully in line with the ESFA's Funding Rules for AEB delivery in non-devolved areas. This will incentivise providers to increase their spend, expand their provision and help Londoners to progress into jobs or further education. Under the current GLA AEB Funding Rules, providers are paid their full allocation if they deliver between 97 per cent and 100 per cent of their AEB allocation. By rewarding over-delivery of up to 103 per cent, providers will be incentivised to deliver the existing three per cent tolerance and perform above 100 per cent of their allocation.
- 2.3 Officers have modelled the cost of funding at 103 per cent for over-performance. Based on the current 2021-22 academic year delivery, there would be an additional cost of £1.3m, where providers projected to deliver above 70 per cent of allocation went on to achieve 103 per cent. If all grant providers increased their delivery to 103 per cent, this would result in £6.6m of additional AEB provision. However, based on current Individualised Learner Record (ILR) data and past track record, it is highly unlikely that the majority of AEB providers will be able to perform above 100 per cent of their current AEB allocations.

- 2.4 Previous full year ILR data for the 2020-21 academic year shows that if all over-performing providers delivered at 103 per cent, £195,000 of additional funding would have been paid. For comparison, if the policy change was introduced in the 2019-20 academic year, when the number of over-performing providers was considerably higher, the GLA would have had to fund an additional £454,000.
- 2.5 Officers recognise the potential financial risk for the GLA, particularly if the majority, or all AEB providers were to over-deliver as incentivised by the increased tolerance. It is important to note that this financial risk can be fully mitigated by the existing GLA AEB budget provided by the DfE. The financial risk of over-delivery payments is mitigated by:
- AEB underspend in current year – where providers perform below 97 per cent of their allocation, funding would be available to fund overperformance
  - Unallocated AEB funding – if the number of providers over-delivering were to increase following the policy change, unallocated funds from previous academic years and available AEB funding in coming years, may be used if required.
- 2.6 The 103 per cent AEB over-delivery in-year payment will not apply to Adult Community Learning or AEB Procured allocations.
- 2.7 Following the ESFA's forthcoming changes to the NSF Level 3 offer around eligibility of learners and number of eligible qualifications, the GLA will revise the approach to courses available under the London Level 3 Flexibility to improve accessibility to the flexibility for Londoners. Firstly, it will no longer be a requirement for eligible courses to last 12 months or less. Secondly, the delivery of the London Level 3 flexibility will be expanded to delivery in the workplace. Learners will also not be restricted only to vocational courses under the London Level 3 flexibility, apart from Access to Higher Education (HE) Diplomas courses which will continue to be out of scope for the London Level 3 flexibility.
- 2.8 Further changes to the NSF Level 3 Offer introduced through the forthcoming ESFA Funding Rules will be mirrored by the GLA AEB Grant Rules and GLA AEB Procured Rules.
- 2.9 The proposed changes to the AEB Grant Rules for the 2021-22 and 2022-23 academic year are set out in Appendix A.

### **3. Equality comments**

- 3.1 Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities, of whom the Mayor is one, must have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.2 Relevant protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 3.3 The Mayor is required to comply with the duty set out above in making the decision set out in this report and any future decisions relating to the AEB made pursuant to those arrangements which will be subject to separate decision forms.

- 3.4 The aim of the AEB and European Social Fund (ESF) is to improve opportunities for people who are disadvantaged in the labour market. Many potential AEB participants have protected characteristics listed above. The GLA's AEB provision will support a range of groups, particularly the most disadvantaged people not currently receiving sufficient support into employment or education.
- 3.5 The proposed updates to the AEB Grant and Procured Rules set out arrangements for supporting disadvantaged Londoners affected by the Covid-19 crisis to move into employment or further learning.

#### **4. Other considerations**

##### Risks arising/mitigation

- 4.1 The key risks are:
- Risk to budgets: There is a risk that the proposed changes with respect to over-delivery payments could lead to overall GLA AEB budget being exceeded. The risk can be fully contained within the existing AEB funding budget. The past track record of AEB providers' performance and corresponding underspend combined with unallocated funding, provide further assurance that the over-delivery payments can be met.
  - No changes to the AEB Procured rules: Where possible, changes to GLA AEB Grant rules are incorporated into the GLA AEB Procured rules. In the case of the introduction of over-delivery in-year payment, the GLA AEB Procured Rules will not be amended since procured providers already have the opportunity to request growth of up to 10 per cent of their contractual value as part of the AEB contract agreements.
- 4.2 There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

#### **5. Financial comments**

- 5.1 There are no direct financial implications to the GLA arising from the considerations set out in this report.

#### **6. Legal comments**

- 6.1 Section 39A of the Greater London Authority Act 1999 permits the delegation of ministerial functions to the Mayor, subject to certain limitations and conditions. This forms the basis for the proposed delegation of AEB functions from the Secretary of State for Education to the Mayor. A particular limitation of a delegation under s39A is that the usual power of delegation by the Mayor is not available in respect of s39A delegated functions.
- 6.2 In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty - namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.3 Should the Mayor be minded making the decisions sought, officers must ensure that the changes are published and communicated clearly to providers and no reliance is placed upon nor commitments made until all necessary budgets are approved to enable such reliance and/or the making of such commitments.

## 7. Planned delivery approach and next steps

Activity	Timeline
Publication of the revised 2021-22 AEB Funding Rules	March 2022
Publication of the draft 2022-23 AEB Funding Rules	March 2022

### Appendices and supporting papers:

Appendix A – Changes to AEB Grant Funding Rules for 2021-22 and 2022-23 academic years



**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

**Part 1 – Deferral**

**Is the publication of Part 1 of this approval to be deferred? YES**

Until what date: 30 April 2022 - until after the draft Funding Rules have been published.

**Part 2 – Sensitive information**

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

Rukshan Rajamanthri has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Joanna Davidson have reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Jules Pipe has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 14 March 2022.

✓

**EXECUTIVE DIRECTOR, RESOURCES: Enver Enver on behalf of David Gallie**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

**Signature**

**Date**



14/3/22

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

**Signature**

**Date**



13/3/22