

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2649

Title: Adult Education Budget (AEB) Assurance 2020-21

Executive Summary:

Since August 2019, the Mayor has been responsible for the commissioning, delivery and management of London's Adult Education Budget (AEB) allocation. In order to provide assurance to HM Government, stakeholders and the public that the GLA has in place the necessary processes to manage the AEB programme effectively, an AEB Assurance Framework was drafted and published in August 2019. The Assurance Framework has been updated to reflect the 2020/21 Academic Year as required. Most changes are administrative with the exception of changes to the schedule of officer responsibilities and matters reserved for the Mayor which now defines operational changes to grants or contracts that officers are permitted to make, and those which must be made by the Mayor.

Decision:

That the Mayor:

- approves the revised Adult Education Budget Assurance Framework (the "Framework") (see Appendix A) for publication; and
- notes that the Framework will be updated by officers as and when required (including in advance of the next annual review of the Framework) to align the Framework with national policy or decisions taken by the Mayor, and further notes that any such updates will be factual or administrative in nature and will be reported to the AEB Mayoral Board.

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:

28/7/20

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

Decision required – supporting report

1. Introduction and background

- 1.1 [MD2255 - Devolution of the Adult Education Budget \(AEB\) to the Mayor](#) provides further information on the Mayor's decision to accept the AEB functions.
- 1.2 In preparation for delegation of the AEB functions, the GLA was required to meet six readiness conditions to demonstrate to the Secretary of State for Education that the GLA was prepared to carry out these functions effectively. As a part of submission to the Department for Education (DfE) setting out how the readiness conditions would be met, a commitment was made to publish an Assurance Framework that sets out the processes and procedures the GLA has put in place to manage the AEB effectively. The GLA volunteered to write this document as part of its commitment to openness and transparency.
- 1.3 In August 2019, the GLA published the first Framework for the 2019/20 Academic Year to coincide with the first year of delegated AEB functions (the Framework took into consideration The Mayor's Office for Policing and Crime (MOPAC) internal audit requirements and further Guidance for the Mayor of London and Greater London Authority (the "London Guidance") issued by DfE). This guidance ensures that funding and provider management arrangements are agreed by the Mayor with providers in a way that minimises costs and maximises consistency and transparency.
- 1.4 From time to time, administrative changes need to be made to the Framework throughout the year to ensure that it aligns with national changes made by the Education and Skills Funding Agency (ESFA), and decisions of the Mayor. Officers will be responsible for making such changes and updating the Framework, as and when required. Such updates will be factual or administrative in nature and will be reported to the AEB Mayoral Board. Any changes not permitted within the terms of the Framework will be made at the next annual review. We expect to publish a version for the 2021/22 Academic Year in July 2021.
- 1.5 MOPAC have recently awarded the GLA the highest Audit Assurance rating of 'substantial' in its review of the delegation of AEB functions from HM Government and, in terms of actions for management, there were "none identified". The Assurance Framework formed a significant part of the audit.

2 Objectives and expected outcomes

- 2.1 The revised Framework is an updated version of what was published for the 2019/20 Academic Year and has been based on the requirements of the readiness conditions set by DfE and contains the following chapters:
 1. governance and decision making;
 2. financial assurance and auditing;
 3. data management;
 4. AEB policy: funding rules and learner eligibility;
 5. commissioning and managing procured provision; and
 6. grant funded provision.
- 2.2 The Framework will continue to be reviewed and updated annually, or sooner if required. However, updates that are factual and in line with national policy or decisions already considered by the Mayor

will be made by the Board Secretary on an ongoing basis to ensure it remains up to date. These changes will be recorded by the Skills & Employment Unit and consolidated into the next annual update.

- 2.3 The changes reflected in the proposed revised AEB Assurance Framework are largely of an operational and administrative nature and include ensuring the 2020/21 Academic Year is referenced rather than the previous Academic Year.
- 2.4 Some changes, however verify that matters a) to c) below will continue to be reserved to the Mayor:
- a) the making of changes to AEB Grant and Contract templates to reflect changes to incorporate Mayoral Policy or improve Contract Management approach;
 - b) variations to values of contracts of services or grants (which are considered to be 'Significant' – see para. 2.5) outside of the annual Growth Request and Reductions process; and
 - c) 'Significant' Growth Requests and reductions.
- 2.5 It is also proposed that certain changes are made to the schedule of officer responsibilities for AEB Grant and Contracts where they are not reserved to the Mayor under Section 39A of the Greater London Authority Act 1999¹ nor "Significant" (see below), novel, contentious or repercussive. These changes if approved are intended to enable officers to give effect to changes within certain parameters approved by the Mayor hereunder to: enhance the efficiency with which the programme can be delivered and contracts for services and grants managed; and reduce the current burden on the AEB Mayoral Board and the Mayor in this regard.
- 2.5.1 As noted above Mayoral approval must continue to be sought in respect of "Significant" changes. If the Mayor approves the revised AEB Assurance Framework however, changes which may be considered not to be "Significant" and effected by officers, are those which fall within the value bands set out in table 1 at para. 2.5.2 below and do not:
- a) render a contract for services/grant materially different in character from that initially concluded;
 - b) introduce conditions which, had they been part of the initial procurement/grant application procedure, would have:
 - (i) allowed for the admission of other candidates than those initially selected;
 - (ii) allowed for the acceptance of a tender/application other than that originally accepted;
 - (iii) attracted additional participants in the procurement/application procedure;
 - (iv) change the economic balance of the contract/grant in favour of a contractor/recipient in a manner which was not provided for in the initial contract agreement or which falls outside the value bands set out at table at para.2.5.2; or
 - (v) extended the scope of the contract/grant considerably.
- 2.5.2 The procurement and application processes conducted, and awards of contracts were approved by the Mayor under cover of MD2371 and MD2462 and terms of Services/Grants at the AEB Mayoral Board held on 10 April 2019 and updated and approved by the Mayor under cover of MD2581. The GLA's exercise of its rights under such contracts for Services/Grants where they do not give rise to "Significant" changes may therefore, be taken to have been approved by the Mayor (by virtue of his earlier approvals).

¹ Under the legislative framework permitting the delegation of functions to the Mayor, he is excluded from delegating any decisions further and must take them personally.

- 2.5.3 The value changes to contracts for services or Grants set out in Table 1 below are not considered “Significant” as they represent a relatively small proportion of the overall AEB funding for which the GLA is responsible under the delegation.

Table 1

Commitment Value	Max Change in Value (%)	Maximum Change
<£300k	30	N/A
£300k to £1m	20	£100,000
£1m to £3m	15	£300,000
>£3m	10	£500,000

- 2.6 No “Significant” change can be made without Mayoral approval and in any event such changes will only be effected by officers where seeking Mayoral approval would cause undue delay to delivery of the programme; these will be reported to the following AEB Mayoral Board for information.
- 2.7 The changes in question, if approved by the Mayor, are intended merely to enable officers to give effect to (rather than determine in their own right) non-“Significant”:
- 2.7.1 changes to AEB Funding Rules imposed by the ESFA resulting in changes to live contracts for services and/or grants and necessitating the making of corresponding changes to the associated contract for services and Grant templates;
 - 2.7.2 variations of contracts for services and Grants to reflect changes to volumes of funded items, or services resulting in no increase to the current contract of services or Grant overall maximum values; and
 - 2.7.3 purely administrative changes to AEB Funding Rules and which do not necessitate changes to contracts for services, Grants or the templates therefore.

3 Equality comments

- 3.1 In carrying out any functions in respect of the AEB, the Mayor will comply with the public sector equality duty under section 149 of the Equality Act 2010.
- 3.2 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; and
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.3 Relevant protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Assurance Framework includes a Diversity and Inclusion section which references the Mayor’s Equality, Diversity and Inclusion Strategy and states how implementation of the AEB promotes equal opportunities.
- 3.4 Provision for equality has been addressed in previous AEB programme Mayoral Decisions, specifically in relation to the methodologies proposed to ensure inclusion in programmes and projects, which are

built into the procurement, selection and award stages, and further built into monitoring once agreements are entered into and delivery commences. The changes to the Framework noted in this Decision Form do not seek to amend any of the overall objectives of the AEB programme, including its focus on ensuring the three limbs of the equality duty are upheld.

4 Other considerations

- 4.1 Delivering the AEB will support the Mayor's vision to ensure that all Londoners and businesses gain the skills they need to succeed as set out in the Skills for Londoners' Strategy. It aims to meet the strategy's three aims:
- empower all Londoners to access the education and skills to participate in society and progress in education and work;
 - meet the needs of London's economy and employers, now and in the future; and
 - deliver a strategic city-wide technical skills and adult education offer.

Risks arising/mitigation

- 4.2 The Assurance Framework sets out robust governance arrangements for managing the AEB to minimise any programme risks. The GLA's publishing of an over-arching framework setting out the GLA's approach to decision-making, transparency, audit, value for money and engagement can give stakeholders confidence that any decisions are proper, evidence-based and capable of being independently scrutinised.
- 4.3 There are no conflicts of interest to note from those involved in the drafting or clearance of this decision form.

5 Financial comments

- 5.1 There are no direct financial implications to the GLA arising from this report, which is seeking approval for the publication of the revised Adult Education Budget Assurance Framework and further publication of administrative or ongoing updates.
- 5.2 The Assurance framework provides the basis for robust governance of the programme and the GLA's commitment to openness and transparency in policy and decision-making relating to the Adult Education Budget.

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 Officers have indicated in the main body of this report that the changes to the AEB Assurance Framework proposed, in particular those proposed to the schedule of officer responsibilities:
- 6.2.1 concern the enabling of officers to give effect to certain changes within the parameters set out in and for which Mayoral approval is sought under cover of this report; and
- 6.2.2 do not concern the Mayor's delegation of powers, those parameters being sufficiently narrow so as to enable officers' substantive exercise of discretion in respect of such changes.

6.3 Officers have also confirmed that:

6.3.1 the changes proposed are not substantial for the purposes of regulations 72(1)(e) and (8) and also (in the case of the value bands set out in table 1 at para. 2.5.2 regulation 72(1)(b)) of the Public Contracts Regulations 2015 (see para. 2.5.1); and

6.3.2 officers will nonetheless: (a) seek Mayoral approval for changes where: (i) to do so would not cause undue delay to delivery of the programme; or (ii) may be considered novel, contentious or repercussive; and (b) report changes effected by officers to the AEB Mayoral Board for information.

6.4 The Mayor may therefore, make the decisions sought if satisfied with the content of this report, in particular the concept of what is and is not considered “Significant”.

6.5 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 para. 3 (above) of this report.

6.6 Should the Mayor be minded to make the decisions sought, officers must ensure that the changes are published and communicated clearly to providers and seek the further advice of TfL commercial and legal to the extent that resulting changes to contracts for services/Grants are required.

7. Planned delivery approach and next steps

7.1. Next steps are set out in the tables below:

Activity	Timeline
Publish the Assurance Framework	July 2020
Assurance Framework annual review for 2021/22 Academic Year	July 2021

Appendices and supporting papers:

Appendix A – AEB Assurance Framework

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? NO

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Jamie Davies has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Sarah Mulley has 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 20 July 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

D. Gane

Date

28 July 2020

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

20 July 2020

