



AEB PROCESS EVALUATION

FINAL REPORT

July 2020

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WECD

Warwick Economics & Development

Two Snow Hill

Birmingham

B4 6GA

T: 0121 2313425

www.w-ecd.com



Warwick Economics & Development Ltd. is registered in England and Wales no. 7531279
VAT Registration No: 116732721

GLOSSARY

AEB	Adult Education Budget
AELP	Association of Employment and Learning Providers
AoC	Association of Colleges
ASCAL 2009	Apprenticeships Skills, Children and Learning Act 2009
CCS	Crown Commercial Service
DAM	Devolved Area Monitoring
DDG	Devolution Data Group
DfE	Department for Education
ESF	European Social Fund
ESFA	Education and Skills Funding Agency
ESOL	English for Speakers of Other Languages
FE	Further Education
GLA	Greater London Authority
GMCA	Greater Manchester Combined Authority
ILR	Individualised Learner Records
ITT	Invitation to Tender
LCRCA	Liverpool City Region Combined Authority
LGAFs	Local Growth Assurance Frameworks
MCA	Mayoral Combined Authority
MCAs	Mayoral Combined Authorities
MHCLG	Ministry of Housing, Communities and Local Government
MOU	Memorandum of Understanding
NEET	Not in Education, Employment, or Training
NLGAF	National Local Growth Assurance Framework
Ofsted	Office for Standards in Education, Children's Services and Skills
OPS	Open Project System
SSQ	Standard Selection Questionnaire
TfL	Transport for London
WECA	West of England Combined Authority

Executive Summary

Since 1 August 2019, the Mayor of London has held responsibility for the delivery of the Adult Education Budget (AEB) in London.

This evaluation focused on the three distinct phases of the AEB delegation process:

- i) London making the case for the devolution of the AEB;
- ii) securing delegation of AEB functions; and
- iii) implementation and delivery of the AEB.

The approach adopted to address the evaluation requirements involved desk-based reviews of relevant documents and consultations with GLA officers and stakeholders.

Making the case for the devolution of the AEB

Section 39A of the GLA Act represented the only available mechanism to enable the swift transfer of control of London's AEB allocation from the Secretary of State for Education. Without passing primary legislation and amending the GLA Act, the transfer of powers to the GLA could not have mirrored the AEB devolution process to Mayoral Combined Authorities (MCAs).

Use of the GLA Act required delegation of powers to the Mayor of London rather than devolution. In practice, this requirement led to additional complications. For example:

- **The Secretary of State for Education retained overall accountability for the AEB in London while the Mayor of London is the locally accountable officer for the AEB.** This contrasts with MCA areas in which local accountability for the AEB has been devolved to the respective Combined Authority.
- **The Mayor of London lacks fiscal autonomy over the AEB and may be mandated to return any unallocated AEB at the end of an academic year.** On the other hand, MCAs have the flexibility to increase or reduce the value of their AEB along with other funding streams within their 'single-pot'.
- **Delegation of the AEB has increased administrative requirements on the GLA.** While MCAs were able to incorporate AEB governance requirements into their pre-existing overview and scrutiny processes, the GLA Act required entirely new governance structures to be established for London, with all decisions referred to the Mayor.
- **Central Government was clear about the broad approach to transferring AEB powers to devolved authorities, but not all operational details had been considered beforehand.** A range of other issues impacted on central government resources at the time, complicating the environment within which AEB delegation was negotiated.

Recommendation

Devolution of Powers. The use of the GLA Act to transfer powers to London needs to be reviewed as a priority, with emphasis on enabling full devolution of powers to London similar to the MCAs.

Securing delegation of the AEB

The AEB implementation funding provided by the Department for Education (DfE) for the GLA was insufficient to cover the AEB implementation plans in London. As a result, a portion of the AEB allocation was used to fund management and administration.

The additional resources put in place by the GLA to administer the AEB were well justified. These were required to ensure that delegation deadlines were met, and to effectively administer the AEB within a wider local skills and employment strategy. Readiness conditions were key to ensuring devolved authorities were prepared for the successful administration of the AEB.

Support provided by Transport for London (TfL) Legal and Eversheds Sutherland was essential to meet the delegation deadlines, with the latter providing specialist knowledge to address the complexity of the legal and administrative issues involved.

Various joint activities put in place by DfE to support the devolved authorities in their preparation for AEB implementation and developing technical expertise were helpful and constructive. These included joint workshops and knowledge exchange sessions, as well as establishing expert groups, such as the Devolution Data Group (DDG).

The Education and Skills Funding Agency (ESFA) service offer on data and systems did introduce some flexibility during the implementation phase – but **the limited nature of the flexibilities impacted the extent to which local AEB requirements could be implemented,** restricting the capacity to reflect a visionary policy and become a genuine driver of change.

Recommendation

Improved collaboration and coordination between the GLA and DfE / ESFA. Central government should take a more collaborative approach to working with the GLA and ensure the accessibility, coordination and effective management of AEB devolved learner data.

Implementation of the AEB

The Further Education sector was well consulted throughout the implementation phase. In addition, colleges have started focusing on high priority sectors and issues to be addressed in London as set out in the Mayor's Skills for Londoners Strategy.

The GLA ensured 'stability in the sector' through its AEB grant funding methodology. The methodology ensured that grant allocations at least equalled provider delivery to London residents in 2017/18, or 95% of their equivalent London allocation for 2018/19.

The GLA used the AEB as match-funding to secure an additional £71 million of European Social Fund (ESF), used to fund a separate set of ESF skills and employment programmes. This was achieved by ensuring that AEB procurement exercise was fully ESF compliant.

The GLA's AEB procurement was successfully completed and all AEB contracts were signed on time. The process itself, however, posed a number of challenges. In particular:

- The procurement of an education programme of this size and complexity was a new experience for both TfL and GLA officers;
- It was a resource-intensive process delivered by a small team;
- TfL's e-tendering portal, ProContract, was unable to operate at scale to handle the volume of bids received resulting in the evaluation being managed offline; and
- Bidder compliance issues were more pronounced than expected and led to delays in informing bidders of the final tender outcome.

The provider onboarding process was a success. All AEB grant and procured providers were inducted onto the newly-developed grant agreement and contract management platform, the GLA Open Project System (OPS), prior to the commencement of delivery.

While the development of OPS to administer skills contracts and grant agreements was ultimately successful, **some operational OPS complications arose during the process**, which could have threatened timely delivery, and which will need to be considered in future planning.

Recommendations

Alternative procurement e-tendering system. The preferred AEB e-tendering system should have capacity to accommodate and allow the assessment of a large volume of tenders submitted by education and training providers.

Further investment in the development of GLA OPS. A flexible and fit for purpose grant agreement and contract management system will allow grant and contract payments made to a single organisation and facilitate performance management of all providers.

1. Introduction

Devolution of the Adult Education Budget

- 1.1. The AEB provides funding support for adult further education (with the exception of apprenticeships), community learning, and discretionary learner support. The AEB is intended to fund provision that supports local labour markets and economic development. In particular, it focuses on ensuring that adults have the core skills that they need for work, including guaranteeing a number of statutory entitlements relating to English, mathematics, and (from the 2020/21 academic year onwards) digital skills, as well as first Level 2 and 3 qualifications).
- 1.2. The AEB has been held constant in cash terms at £1.5 billion between 2016/17 and 2019/20. Until 1 August 2019, the ESFA, an executive agency of the DfE, administered the AEB across England and provided funding to local training providers or colleges for eligible AEB provision.
- 1.3. From 1 August 2019 (i.e. from the academic year 2019/20)¹, the AEB has been apportioned between the ESFA, six mayoral combined authorities MCAs² and the GLA. Certain adult education functions of the Secretary of State for Education in the Apprenticeships Skills, Children and Learning Act 2009³, which are funded by the AEB, have been transferred to these six MCAs in relation to their respective areas by legislative orders made under the Local Democracy, Economic Development and Construction Act 2009⁴. The legislative context is different in London, where these same functions have been delegated to the Mayor of London under section 39A of the GLA Act 1999⁵.
- 1.4. Not all types of AEB-funded provision have been transferred. Statutory entitlements, skills provision for the unemployed and community learning for those far from work have been transferred. Therefore, the ESFA is no longer responsible for delivering devolved AEB provision to learners who are resident within the jurisdiction of any of the devolved authorities, though it continues to provide full funding of AEB entitlements to English learners outside devolved areas and retains responsibility for the delivery of 19-24 traineeships nationally.
- 1.5. For the Secretary of State to devolve/delegate the functions and funding for the AEB, the MCAs and the Mayor of London were required to meet a number of readiness conditions, and agree to a number of key documents (such as delegation letters from the Secretary of State formalising the delegation of statutory functions and Memoranda of Understanding (MoU) setting out the principles underpinning the

¹ A year later than originally planned.

² These include: Cambridgeshire and Peterborough, Greater Manchester, Liverpool City Region, Tees Valley, West Midlands and the West of England.

³ <http://www.legislation.gov.uk/ukpga/2009/22/contents>

⁴ <http://www.legislation.gov.uk/ukpga/2009/20/contents>

⁵ <http://www.legislation.gov.uk/ukpga/1999/29/section/39A>

delegation). Additionally, in exercising their devolved adult education functions, the MCAs and GLA must have regard to statutory guidance issued by the Secretary of State.⁶ Therefore, devolved authorities have not been granted absolute autonomy over delivery of their AEB allocation – the Secretary of State retains the power to stipulate statutory entitlements applicable to all adults nationwide, which AEB funding must support. Devolved authorities must prioritise the delivery of these statutory entitlements (with subsequent local diversification contingent upon any underspend).

- 1.6. The 2019/20 AEB funding allocations for each devolved authority were published on 27th March 2019; as is standard practice for Further Education (FE) funding calculations, these allocations were based on providers' delivery over the last full academic year completed prior to the calculation date, and were therefore based on FE provision to learners resident in the devolved areas during the 2017/18 academic year. In total, £632million of AEB funding was allocated to the devolved authorities in 2019-20, representing 49% of the AEB participation budget; the population of the seven areas where AEB has been devolved is 18.3 million, accounting for approximately 33% of the population of England (£54.3 million).
- 1.7. The Government has argued that devolution of the AEB will ensure that devolved authorities are able to shape adult education provision in their area in a way that best suits the needs of their residents and the local economy. Devolution of the AEB also aims to create a simpler, joined up skills system in local areas by fostering more effective relationships with providers and local policymakers and stakeholders – which will ultimately improve outcomes through an enhanced ability to deliver flexible training and education, couple with more effective targeting of skills gaps. At this stage, as a result of this approach, it is clear that:
 - A substantial part of the devolved funding will have to be used to fund the statutory entitlements, potentially limiting the scope that local areas have to shape the allocation of funding.
 - The AEB is delivered nationally on the basis of a 'hybrid' model, i.e. citizens resident within devolved authorities are subject to incremental local diversification of provision, while entitlements for those living outside of these areas are directed by national government.

Overview of the AEB in London

- 1.8. In January 2019, the DfE confirmed London's AEB allocation for the academic year 2019/20 of circa £306 million (£306,444, 875 for 1 August 2019 to 31 July 2020).
- 1.9. AEB funded provision is delivered by a broad range of providers in London, including FE & Sixth Form Colleges, Local Authorities, Independent Training Providers, Institutes for Adult Learning and Higher Education Providers. One of the core aims of GLA policymakers upon receiving delegated control of the budget was to ensure

⁶ <https://www.gov.uk/government/publications/exercising-devolved-adult-education-functions>

'stability in the sector' throughout the initial transition and implementation period, in accordance with Government instructions.

- 1.10. In London, devolution of the AEB is in keeping with the Mayor's Skills for Londoners Strategy, which aims to build a 'city for all Londoners'.⁷ A key priority for GLA is to maximise the potential of the AEB to promote diversity, social mobility, and inclusion across the capital and create a more locally responsive approach to skills and education in London. In the Skills for Londoners Strategy, the Mayor committed to shifting the deployment of AEB-funded provision away from simply delivering additional qualifications for learners and the labour market, with a view to developing a more 'outcomes-focused' system, which accounts for the broader impact that participation in adult education has on learners. In the first instance, the GLA is currently exploring the feasibility of introducing a new London Learner Survey, to improve the data collected on the impact of AEB; this would give London's providers a greater insight into the broader social impact that delivery is having on their learners, thus informing both areas of success and areas requiring improvement.
- 1.11. To oversee the management and governance of the AEB, the GLA has established the Adult Education Budget Mayoral Board, including the Mayor of London (Chair). Also, in place is the Skills for Londoners Board that provides advice on the devolution of the AEB and the skills needs of Londoners and employers, though these boards may be changed pending a review of GLA subordinate bodies scheduled for after the 2020 elections. To support this process – as well as a range of other manifesto commitments, calls for further devolution and broader skills and employment policy and strategy – the Mayor established the Skills and Employment Unit, which includes dedicated relationship officers to work directly with AEB providers. Funding for the initial implementation of the AEB has come from the Mayor's budget, with some additional funding from the DfE.

Scope of the Evaluation and Key Methods

- 1.12. The GLA Skills and Employment Unit commissioned Warwick Economics & Development (WECD) to undertake a process evaluation of the delegation of control of the AEB from the DfE and the ESFA to the Mayor of London.
- 1.13. The aim of the evaluation was to provide an independent assessment of the London's AEB delegation process, with the ultimate purpose being to identify lessons learned throughout this process that could inform both the future management of the AEB, and the GLA's prospective approach to securing devolved powers in additional policy areas. The evaluation objectives were defined as follows:
 - Assess the extent to which the GLA was able to realise its original planned implementation timeline, and the reasons for any diversion from it;

⁷ https://www.london.gov.uk/sites/default/files/sfl_strategy_final_june_20186.pdf

- Assess the preparedness of both the GLA and central Government to undertake the transfer of powers and funding arrangements;
 - Identify the successes and challenges of the delegation process; and
 - Identify lessons learned and make recommendations on future management of the AEB, and any future devolution negotiations undertaken by the GLA.
- 1.14. To meet the evaluation requirements, the evaluation focused on the three distinct phases of the AEB delegation process, as follows:
- a. Making the case for devolution of the AEB;
 - b. Securing delegation of the AEB; and
 - c. Implementation and delivery of the AEB.
- 1.15. These three distinct phases reflect the London AEB delegation process timeline as presented in Figure 1.1.
- 1.16. Within this context, the assessment of the first phase focused on an analysis of the appropriateness of pursuing devolution through the GLA Act, as well as the effectiveness of the relationship between the key parties (GLA, DfE and ESFA) and what their respective roles were in this process. Evaluation of the second phase reviewed the suitability of the stipulated timetable, adequacy of external assistance, effectiveness of governance arrangements and implications for the future pursuit of further devolution of powers. Assessment of phase three involved all aspects of the subsequent implementation and delivery, including the successes and/or challenges surrounding the GLA's relationships with key local and sector stakeholders, communications, commissioning and contract management arrangements, procurement approach, provider onboarding, and systems development.

Figure 1.1: London AEB Process Timeline

Feb-Sep 2017	Phase 1	Evaluation of the deal	Determining whether the offer from Government is acceptable in principle: - Readiness condition - Funding Settlement
Apr-Nov 2017	Phase 2	Programme clarification	Determining the operational structures and systems in place
Acceptance of devolution deal in principle			
Nov 2017– Aug 2019	Phase 3	Transition plan implementation	Putting the requisite structures and system in place
1 st Aug 2019	Phase 4	Moving into delivery	Assuming responsibility for devolved AEB

- 1.17. Key tasks undertaken to inform the evaluation included:

- Desk-based review of background documentation relating to each phase of the AEB delegation process; and
 - Consultations with 29 GLA and senior external stakeholder staff from organisations involved in each phase of the AEB delegation process, including:
 - Association of Employment and Learning Providers (AELP)
 - Association of Colleges (AoC)
 - The City and Literary Institute
 - Department for Education
 - Education and Skills Funding Agency
 - HOLEX
 - London Councils
 - Transport for London
 - Greater Manchester Combined Authority (GMCA)
 - Liverpool City Region Combined Authority (LCRCA)
 - West of England Combined Authority (WECA)
- 1.18. Consultations with GLA involved discussions with senior management team members in the Skills and Employment Unit, and officers in policy, onboarding, sector relationships, and procurement teams.
- 1.19. The list of consultees to inform the evaluation process was jointly agreed by GLA and WECD. It is important to note that all consultees were assured that their responses would be confidential; therefore, comments included in the report are not attributed to individual consultees. Multiple scripts were also developed to reflect the roles of consultees in the delegation process.

Report Structure

- 1.20. The remainder of the report is structured as follows:
- [Section 2: Making the Case for Devolution of the AEB](#), presents feedback and key findings from the evaluation research for phase 1 of the delegation process.
 - [Section 3: Securing Delegation of the AEB](#), presents feedback and key findings from the evaluation research for phase 2 of the delegation process.
 - [Section 4: Implementation of the AEB in London](#), presents key findings from the evaluation research for phase 3 of the delegation process.
 - [Section 5: Conclusions and Recommendations](#), draws conclusions and identifies implications for future policy.

2. Making the Case for Devolution of the AEB

- 2.1. This section presents an overview of the processes and relationships involved in the early stages of the delegation of the AEB in London. This includes an assessment of the mechanism through which control of the AEB was transferred from the DfE, the reasoning behind the decision to delegate rather than devolve these powers, and the broader implications that this decision has had for managing and implementing the AEB in London. The roles played by the three main governing bodies responsible for securing the successful transfer of control of the AEB (i.e. the DfE, ESFA, and the GLA itself), are also discussed, with a specific focus on what these organisations understood about the respective roles they were to play in the process, and how relationships between each agency developed both during this period and afterwards.
- 2.2. Key findings from the evaluation of this phase of the AEB delegation are summarised below. The evidence supporting these findings is elaborated upon in the remainder of this section.

Making the Case for Delegation of the AEB – Key Evaluation Findings

- Two factors informed the central Government’s decision to delegate, rather than devolve control of the AEB to the GLA: firstly, **delivering the same devolution arrangement to GLA as the MCAs would have involved amending primary legislation** (and hence further delays in the devolution of the AEB); and secondly, **there already existed legislation in place enabling the decentralisation of functions** from Government to London under section 39A of the GLA Act.
- **Section 39A of the GLA Act represented the only available mechanism that allowed for the swift transfer of London AEB powers of the Secretary of State for Education.** Compared to devolution, delegation has increased the administrative requirements on the GLA, particularly those relating to AEB governance structures. While MCAs could incorporate AEB governance into their pre-existing overview and scrutiny processes, the GLA had to establish entirely new structures, with all decisions referred to the Mayor for sanctioning.
- **Accountability lines for AEB administration in London are different to those in MCAs due to delegation.** Functions have been transferred to the Mayor of London, and not the authority (i.e. the GLA), and these functions are not capable of further delegation. The resulting governance of the AEB-funding provision in London demands significant commitment of administrative and management resources (for both the Mayor and the GLA) than would otherwise be the case.
- While MCAs have the capacity to choose to either incorporate their AEB allocation into other funding streams as part of their ‘single-pot’, or treat it as an entirely separate administrative budget that may occasionally supplement/be supplemented by other funding pots, **the Mayor lacks such autonomy, and may be mandated to return any unallocated AEB at the end of a given academic year.**

- **Further decentralisation of powers over additional policy areas in this manner (delegation) would require the allocation of significant administrative resources and allowance for lengthier processes** – which suggests that such an approach could potentially lead to a less efficient and effective implementation of public policies.
- Furthermore, the evaluation has shown that section 39A of the GLA Act offered, at the time, a convenient route to the swift transfer of AEB functions, but **delegation has resulted in significant (and not justifiable) differences between the implementation of devolution of the AEB in London and the MCAs.**
- **All core partners, i.e. the DfE, ESFA and GLA, were clear about their broad respective roles in the delegation process.** However, not all aspects of individual roles were well understood from the very beginning of the AEB devolution/delegation process. Many operational details had to be discussed and jointly assessed and addressed (by the Government and GLA officers) as they arose.

Background

- 2.3. As discussed in paragraph 1.3, the six MCAs that have thus far received **devolved** control of their AEB allocation have had these powers transferred through the use of affirmative orders under the Local Democracy, Economic Development and Construction Act 2009. The conditions for transfer laid out in this Act are not applicable to the GLA, as it is not a combined authority, and, as such, it has an entirely different legislative settlement with central Government. To transfer AEB powers to the GLA in a way which would have entirely mirrored that of the MCAs would have necessitated an amendment to primary legislation.
- 2.4. In the absence of such primary legislation, or any other mechanism through which these functions could be transferred, to avoid delays in the implementation of the devolution of the London AEB, the GLA, the Mayor of London and DfE agreed that the powers necessary for the GLA to administer its AEB allocation would be **delegated** to the Mayor of London through section 39A of the Greater London Authority Act 1999. This mechanism allows for a Minister of the Crown to delegate any of their eligible functions to the Mayor of London, provided that the London borough councils, the City of London Common Council and the London Assembly are consulted, and an agreement is reached. The implications of this approach fundamentally alter the capacity and autonomy that the authority has to administer, implement and deliver its adult-funded training provision.
- 2.5. Prior to the agreement of the delegation of the London AEB powers, the GLA officers requested that Orders are laid in Parliament to formally devolve powers relating to the AEB, as has been done for the Mayoral Combined Authorities (MCAs). The Mayoral Decision MD2410⁸ issued on 22 January 2019 recognises these issues and states that:

⁸ <https://www.london.gov.uk/decisions/md2410-delegation-aeb-functions>

...there are legal differences between delegation of AEB to the Mayor of London using Section 39A of the Greater London Authority Act 1999 (GLA Act) and the full statutory devolution transferring functions to the CAs. Officers have scoped key issues and risks, which are deemed minimal. However, the GLA has requested that Orders are laid in Parliament to formally devolve powers relating to the AEB, as has been done for the CAs. This would avoid any potential disparities between how the GLA and CAs receive these functions. It would also ensure that the Mayor had full accountability for the funding he awards for AEB...Laying Orders in Parliament will however require prior amendments to the GLA Act, which will need to be put forward by the Ministry of Housing, Communities and Local Government (MHCLG). The GLA is working with colleagues in MHCLG to agree a commitment to work towards this at the first practical opportunity.

Issues Explored by the Evaluation

- 2.6. Within the above context, the key issues that have been explored by the evaluation in relation to this phase of the delegation are:

- a. Examine the implications of pursuing delegation of the AEB through the GLA Act, including where this has necessitated compromise, and assess the risks of using the GLA Act for any future devolution of functions across the GLA;
- b. Assess the respective roles of the GLA, the DfE and ESFA and how well these roles were understood; and
- c. Assess how constructive the relationships between the GLA, the DfE and ESFA were during negotiations.

- 2.7. Feedback gathered on these issues during the evaluation research is discussed below. This draws upon a combination of research methods, including:

- Comprehensive desk-based review of relevant documents; and
- Consultations with internal and external stakeholders.

a) The implications of pursuing devolution of the AEB through the GLA Act

- 2.8. Consultations with representatives from the DfE indicated that there were two key factors which drove central Government's decision to **delegate** control of the AEB to the Mayor of London, rather than **devolve** to the GLA:

- A devolution arrangement with the GLA similar to the agreements with the MCAs would have involved the potentially lengthy process of amending primary legislation; and
- There existed legislation (i.e. section 39A of the GLA Act) which could enable transfer of powers from central Government directly to the Mayor of London.

- 2.9. Section 39A of the GLA Act, therefore, offered the only available mechanism through which AEB powers could be transferred from central government to London within the required timeframe.

- 2.10. Transferring control of the AEB in this way ensured that, at a broad policy level, the Mayor of London gained control of the powers necessary to administer and direct AEB funding in a manner which should – in theory – operate no differently to the formal devolution that occurred in MCAs. However, in practice, this decision has placed a significant administrative burden on the GLA as the authority has been required to develop additional governance arrangements for the effective delivery of its AEB allocation, whereas MCAs have been able to incorporate administration of the new powers into pre-existing governance structures.
- 2.11. Decentralising AEB functions to the GLA through delegation allows for a simpler sanctioning process than is required for the comparative devolution for MCAs. In London - provided constituent authorities are first consulted - the terms of delegation are agreed directly between the Mayor and whichever department of Government is relevant to the policy area in which powers are to be delegated. The comparative process for MCAs securing devolved powers requires that consent of constituent authorities is secured, or else an MCA risks rejection of the agreed settlement. Furthermore, delegation to the Mayor means that there is a single point of accountability at local level, held by an elected public servant (though, as outlined below, this accountability is not total).
- 2.12. One of the key aspects of the decentralisation of functions through section 39A of the GLA Act is that, under its use, AEB control in London has been delegated to the Mayor, rather than devolved to the GLA – i.e. to an elected official/their office, rather than the authority itself. This is different to the devolved settlement which MCAs have reached, where powers have been transferred to the authority, of which their respective Mayors are members. The MoU signed between the Mayor of London and the Secretary of State for Education states that:

The Secretary of State has delegated certain functions set out in the Apprenticeships, Skills, Children and Learning Act 2009 ('ASCL 2009') to the Mayor via section 39A of the GLA Act. The effect of subsection 39A(6) of the GLA Act is that those functions are exercisable by the Mayor only and are not capable of further delegation. The Mayor will carry out the delegated functions in a manner, which is consistent with section 39A(6), and where appropriate with the support of GLA staff.
- 2.13. This distinction between delegation to the Mayor and devolution to the authority has meant that the governance of AEB funding in London demands more significant commitment of administrative and management resources, for both the Mayor and the GLA, than would otherwise be the case. For example, in order to adhere to the DfE-mandated governance requirements, the GLA had to ensure that entirely new, bespoke arrangements were established solely for AEB funding, something not required of MCAs, where the National Local Growth Assurance Framework (NLGAF)⁹ provides guidance to MCAs to support the development of their own assurance

⁹ National Local Growth Assurance Framework for Mayoral Combined Authorities (MCAs) with a Single Pot Funding Arrangement and Local Enterprise Partnerships, at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/768356/National_Local_Growth_Assurance_Framework.pdf

frameworks, governing the appropriate use of public money, including their devolved AEB.

- 2.14. The delegated nature of these powers also demands that the Mayor of London personally sanctions policy initiatives at three separate stages of the policymaking process, as well as requiring their personal approval of all amendments, adjustments and standard operation aspects of AEB administration. This process necessitates a far higher level of engagement from the Mayor than would be expected for other, similar, delegated policy areas.
- 2.15. This is in contrast to the less restrictive governance approaches that MCAs with devolved powers have been able to take. For example, the LCRCA was able to action an assurance and governance framework which delegated certain decision-making functions of the MCA board to a newly establish Skills Project Board. The LCRCA decided to administer its AEB powers in this way as these new arrangements were less resource intensive, and kept key directors involved in the decision-making process. It also allowed for policy decisions to be agreed and actioned much more swiftly. The LCRCA Board receive AEB updates and retain powers over the City Region's larger policy direction and skills agenda, but more routine administrative decisions, as well as funding allocations of under £500,000, can be sanctioned by the Authority's Skills Project Board. In comparison, as noted in paragraph 2.12, the delegated functions under section 39A of the GLA Act are categorised as a matter reserved by law 'for the personal exercise of the Mayor only'.
- 2.16. A further implication of the decision to delegate powers is that delegated functions are 'not capable of further delegation', thus preventing any form of 'double-devolution' of delegated functions to other forms of London governance, even where their involvement may be desirable.
- 2.17. Despite the legal restrictions preventing any formal transfer of powers to other forms of London governance, the GLA sought to involve other local administrative bodies in informing administration and management of its AEB administration, establishing spaces (e.g. the Skills for Londoners Board) where the views of these bodies could be heard and incorporated into policymaking. The consultations undertaken as part of this evaluation indicated that discussions with these authorities (including the London Councils) were productive at all times, with all major stakeholders on board and committed to securing the devolution of the AEB in London.
- 2.18. Delegation of AEB funding in London also differs from the MCAs, as it places tight restrictions on the budget's utilisation. Whereas AEB funding delivered to MCAs through devolution deals forms part of their 'single pot'¹⁰, the Mayor's delegated funding budget is entirely ring-fenced for the delivery of adult education services. In addition to this, central Government retains the capacity to reclaim any unspent AEB

¹⁰ As the apportioned devolved AEB has been transferred by the DfE to the MCAs under a Section 31 non ring-fenced transfer in Local Government Act 2003.

funding in London at the end of each academic year, unless otherwise allocated. As stated in a briefing paper from the House of Commons Library:

...in contrast to the MCAs' ability to treat this grant as part of their 'single pot', the grant letter to the Mayor of London includes a provision ring-fencing the AEB grant to the purposes of the grant or related purposes, and a provision permitting unspent funds to be reclaimed by the Government unless they are earmarked for future years' AEB spending. A Memorandum of Understanding between the Government and the six MCAs was published in January 2019. In contrast to the Mayor of London, this MoU states that "the Department will aim to transfer the relevant budget, as a Section 31 ... grant, via the 'Single Pot' or any subsequent, replacement arrangement, to the CA in April each year".¹¹

- 2.19. This key distinction means that, while MCAs have the capacity to choose to either incorporate their AEB allocation into other funding streams as part of their 'single-pot', or treat it as an entirely separate administrative budget that may occasionally supplement/be supplemented by other funding pots, the Mayor/GLA lacks such autonomy. Any annual AEB underspend in areas under the jurisdiction of MCAs with devolved budgets controlled may either be retained to fund further provision in the next academic year, or redistributed to some other priority area of the MCA. The GLA may be mandated to return any such underspend to the Government 'unless... earmarked for future year's AEB spending'. This condition has placed an added impetus upon the GLA to ensure that it maximises the allocation of its annual AEB budget, something the authority has been doing through directing excess budget to innovative funding pots such as the 2019/20 Skills for Londoners Innovation Fund.
- 2.20. As with the MCAs, the GLA is responsible for commissioning AEB-funded provision in Greater London and has the freedom – under direction of the Mayor – to set locally-targeted priorities and funding rates, while covering the statutory entitlements stipulated by the Secretary of State. This allows the GLA – in accordance with the Mayor's broader agenda – to focus on meeting local area need, delivering local economic objectives, and developing a sustainable local provider base. However, as noted in paragraph 1.7, in light of the hybrid model of AEB delivery nationally, the Secretary of State for Education ultimately retains a degree of accountability (de jure and de facto) for all education provision, regardless of the decentralisation of its delivery, as well as continued responsibility for setting the minimum literacy and numeracy level required to operate in everyday life for all citizens in the UK. Therefore, ultimately, the Secretary of State can stipulate a set of core qualifications for which funding is to be available for all adults nationally, regardless of whatever locally-targeted direction devolved authorities choose to take.
- 2.21. As such, the Secretary of State continues to be responsible for the determination of the qualifications that are covered by the entitlements set out in section 88 of ASCAL 2009. These entitlements are covered by the AEB nationally, and devolved authorities are required to fund eligible resident learners through their respective AEB allocations.

¹¹ Devolution to local government in England, Mark Sandford, House of Commons Library, Briefing Paper, Number 07029, 15 May 2019.

The issue presented by this arrangement is that, in the absence of additional adult skills funding for devolved authorities, the GLA and the MCAs are constrained in their capacity to tailor adult skills policy to fit the needs of their local economic context, as the majority of AEB funding is reserved for the Secretary of State's core, generic (and vital) statutory qualification entitlements.

- 2.22. Overall, the information provided to WECD during the consultations for this evaluation indicated that the delegated model through which AEB control was transferred to the GLA has, thus far, been successful. However, the issues discussed in this section suggest that while the section 39A of the GLA Act may have offered a convenient route for the swift transfer of powers, it has resulted in significant (and unjustifiable) differences between the implementation of devolution of the AEB in London and the MCAs.

b) The respective roles of the GLA, the DfE and the ESFA and how well these roles were understood

- 2.23. From the onset of discussions, the respective roles of the GLA, DfE and ESFA were clearly defined at a high level. The MoU, published in January 2019, stated that:

Each Party is committed to agreeing an approach and future relationship that will ensure national and local priorities for residents funded by the AEB are delivered in the most effective way possible and that the wider context of post-16 learning and skills provision funded by the Parties is considered.

- 2.24. The document also outlines a series of 'ways of working', detailing the requirements of each party, the commitments each must make to ensure the successful delegation AEB powers, and which party bore responsibility for each action. All of these requirements were clearly understood, and latterly actioned, by each of the relevant parties.
- 2.25. Representatives from the DfE saw their role as delivering, in tandem with colleagues from the MHCLG, three core services:
- Provision of advice and guidance to Ministers and the Permanent Secretary/Accounting Officer;
 - Production of the necessary delegation agreement to enable AEB powers to be delegated the Secretary of State to the Mayor of London; and
 - Collaborative working with GLA personnel on administrative issues, where required.
- 2.26. The ESFA, as an executive agency within the DfE, understood their role to involve: spreading awareness of the potential impacts of delegation to FE providers and their representative bodies; working collaboratively with the GLA to ensure the efficient and sustainable transfer of power; and supporting the authority to build a greater understanding of the types of operational processes required to deliver the AEB

effectively. The Mayor (acting, where appropriate, through the GLA) worked with both parties in order to establish what would be required in order to secure delegated AEB powers, as well as develop sufficient, demonstrable, internal capacity to allow for these functions to be successfully administered once delegation had been sanctioned.

2.27. Ultimately, each party understood its role, as outlined through the 'ways of working' specified in the MoU, at a sufficient enough level to allow for the successful transfer of AEB functions to the Mayor of London. However, at the same time, there were a number of issues that were highlighted during the consultations undertaken by WECD as part of this evaluation, as follows:

- Despite the ESFA being an executive agency of DfE, the two parties (ESFA and DfE) often operated/acted independently in transactions with the GLA.
- There was general consensus during the consultations (internal and external) that central Government was clear about the broad approach to transferring AEB powers to devolved authorities, but had not considered all individual operational details beforehand.
- In addition, the change in Secretary of State during this period presented challenges, as it instigated a shift in policy priorities for some senior civil servants, and meant that delays in correspondence with devolved authorities would consequentially arise. This turbulence, allied to time constraints and impending deadlines for securing AEB transfer, made it more prudent for policymakers to follow existing processes and systems rather than develop new ones (that would be more appropriate for the AEB).

c) How constructive relationships were between the GLA, the DfE and the ESFA during negotiations

2.28. At present, representatives from the GLA have very strong working relationships with their DfE and ESFA colleagues, forged through the cooperation and collaboration between the three bodies that was necessary to ensure that the AEB delegation was successful. As the delegation discussions developed, so too did the relationships between representatives from each of these organisations. Ultimately, the process was constructive and successful, as an agreement was reached between the three parties and the MoU was signed.

2.29. Consultations with representatives from MCAs indicated that the ESFA and DfE were helpful and engaging throughout the devolution process, and that the support offered by both agencies 'empowered' MCAs to deliver their AEB provision. Consultations with the MCAs indicated that while there was some pre-existing knowledge of, and capacity to deliver skills initiatives within MCAs, new capabilities had to be developed in order to ensure the successful administration and delivery of the devolved AEB provision. Consultations with the MCAs also indicated that the training provided by ESFA to develop this knowledge among MCA staff was very well received (see also next section).

- 2.30. It was also noted that the assistance provided to the MCAs and GLA by the DfE and ESFA as the authorities prepared to meet the readiness conditions was 'extremely helpful' (see also section 3).
- 2.31. Other issues that were identified by both internal and external stakeholders regarding this element of the process included the following:
- Decision taking was sometimes delayed by the need for DfE to seek approval at senior levels.
 - At times, there were challenges in managing the expectations of key stakeholders on all sides, in terms of what was practical and deliverable. Throughout this entire period, the collaboration between Government (DfE and ESFA) and the GLA team could have been better managed and with more flexibility from all parties, including the GLA.

3. Securing Delegation of the AEB

- 3.1. This section explores the series of actions taken by the GLA to ensure that the requirements set by the DfE to secure the delegation of the AEB, i.e. the readiness conditions, were met. Assessment of the processes during this phase of the delegation includes: review of the adequacy of the support offered both internally, through TfL Legal, and externally, by both the ESFA and Eversheds Sutherland law practice; and an assessment of the governance structures which were established to meet the readiness conditions, as well as the feasibility of both the allotted timescale for meeting these conditions and the implementation budget allocated for doing so.
- 3.2. Key findings from this assessment are summarised below and elaborated upon in the remainder of this section.

Securing Delegation of the AEB – Key Evaluation Findings

- **AEB implementation funding provided by the DfE for the GLA was insufficient to cover the GLA plans for implementing the AEB,** and as such was complemented by additional funding allocated from the Mayor's budget.
- **Joint activities put in place by DfE to support the devolved authorities in their preparations and in building their own technical expertise were helpful and constructive.** These included joint workshops and knowledge exchange sessions, as well as establishing expert groups, such as the Devolution Data Group.
- **Enhancement of GLA capacity to deliver AEB funding was well justified, allowing strengthened policy design and ensuring deadlines were met.** These new internal organisational structures enabled the GLA to capably administer AEB

funding while also embedding it coherently within a wider local skills and employment strategy.

- **The readiness conditions required the GLA to establish a solid organisational infrastructure through which the AEB funding could be successfully delivered to meet immediate deadlines, and into the future.**
- Internal consultations suggest that **the high degree of interest and support from the Mayor's office throughout the pursuit of delegated AEB functions was immensely helpful in assisting the GLA to meet the necessary readiness conditions**, as it provided a stimulus and focus for GLA officers involved in the process.
- **The service offer provided by the ESFA did not always match the prior expectations of the GLA.** Consultations also highlighted that the ESFA often adopted a one-size fits all approach which did not always support local responsiveness.
- The ESFA service offer on data and systems did introduce some flexibility during the implementation phase, that enabled the GLA to implement limited planned policy changes – but **the limited nature of the flexibilities impacted the extent to which local AEB requirements could be implemented**, restricting the capacity to reflect a visionary policy and become a genuine driver of change.
- Individualised Learner Records (ILR) specification changes are presently decided en bloc, in collaboration with MCAs – this may become more problematic as provision in devolved authorities diversifies.
- **Support provided by TfL Legal and Eversheds Sutherland was deemed essential due to a combination of factors**, including: the lack of GLA resources to develop the required level of expertise delegation deadlines, the complexity of the legal and administrative issues involved in this task which required additional specialist knowledge, and the need to supplement the capacity of TfL Legal with the specific expertise of Eversheds Sutherland on matters relating to skills provision.

Background

- 3.3. Between the financial years 2017/18 to 2019/20, the DfE provided circa £2.155m funding towards implementing the AEB in London, and a further circa £3.272m was contributed directly from the Mayor's budget. Overall, the GLA contributed circa £1.117m more than the DfE during the implementation period; this additional funding requirement was largely brought about due to direct staff costs, which totalled circa £2.790m in 2018/19 and circa £970,000 in 2019/20.
- 3.4. During the implementation period, £373,861 was spent on building Data and Delivery Management Systems. A business case for further implementation funding of £325,000 was submitted to the DfE alongside the implementation funding claim in

April 2019 to fund systems development but this was unsuccessful. These additional costs were met using the GLA's financial reserves.

- 3.5. The Secretary of State and the Mayor of London signed a delegation letter¹² and an MOU¹³ to transfer certain AEB funding and powers to the Mayor of London. In preparation for the transfer of powers from Government, and to satisfy the Secretary of State for Education that the functions will be delivered effectively, a supplementary guidance was issued by the Secretary of State for the Mayor of London and the GLA, setting out the GLA and DfE expectations for how the relationship would work through the delegation process.
- 3.6. The GLA was also required to put in place robust governance arrangements to satisfy Government requirements, as well as meeting the needs of the GLA and its stakeholders. As noted in paragraph 1.11, the Adult Education Budget Mayoral Board and Programme Board were established, as well as a number of other advisory groups, to support the decision-making process and to enable engagement with stakeholders.
- 3.7. Separately, the GLA worked closely with the DfE and ESFA to establish performance management and intervention arrangements and agree a service offer for audit arrangements, data sharing (e.g. ILR and Earnings Adjustment Statements), and what flexibilities could be introduced into national data collection systems to accommodate changes the GLA might wish to introduce, both in the short and longer term.

Issues Explored by the Evaluation

- 3.8. The key issues that have been explored by the evaluation in relation to this phase of the delegation are:
 - a. The adequacy of the service offer provided by the ESFA and feasibility of timeframes and implementation budgets;
 - b. The effectiveness of the consultancy support from TfL and Eversheds Sutherland legal services; and
 - c. The effectiveness of governance arrangements both in terms of decision-making and meeting the needs of stakeholders.
- 3.9. Feedback gathered on these issues during the evaluation research is discussed below. This draws upon a combination of research methods, including:
 - Comprehensive desk-based review of relevant documents; and
 - Consultations with internal and external stakeholders.

¹² https://www.london.gov.uk/sites/default/files/for_publishing_-_delegation_letter_-_delegation_of_adult_education_functions_to_the_mayor_of_london.pdf

¹³ https://www.london.gov.uk/sites/default/files/for_publishing_-_memorandum_of_understanding_-_delegation_of_adult_education_functions_to_the_mayor_of_london.pdf

a) The adequacy of the service offer provided by the ESFA and feasibility of timeframes and implementation budgets

- 3.10. In summary, the ESFA's service offer was to: support devolved authorities in understanding the types of operational processes required to deliver the role; work collaboratively with those authorities to secure an efficient and sustainable FE sector in England; and ensure that providers and their representative bodies were aware of the policy's potential impacts, thus enabling them to better plan for the 2019/20 academic year. In addition to this, the ESFA also provided support for devolved authorities to establish data governance and systems development practices.
- 3.11. Consultations with both internal and external stakeholders indicated that:
- Securing delegation of the AEB was sometimes limited by the national approaches that are adopted by the ESFA. In general, the GLA stakeholders (and also external stakeholders) felt that transactions between the ESFA and the GLA (and also the other devolved authorities) were sometimes driven by contractual processes and a national approach, rather than a collaborative approach to achieve the best outcome for local areas.
 - Pre-established data-sharing regulations made it difficult for the devolved authorities (including the GLA) to access some vital learner data, due to the fact that a devolved authority is technically a third party to the ESFA.
- 3.12. ESFA support for data delegation allowed the GLA to develop some changes to data ILR specifications during the AEB implementation phase. This support enabled the authority to enact a series of moderate adjustments in skills policy, though the process of ILR specification and data system development has since proven restricted by limits placed by the ESFA on changes to national data validation rules, which may complicate further diversification of the skills policy in London in the future.
- 3.13. At present, devolved authorities submit collective requests for new ILR specification and data system changes to the ESFA through the Devolution Data Group (DDG). This has proven a workable arrangement for all parties (including the ESFA) thus far, though may become unsustainable in the future, as the diversification of locally-tailored skills policy becomes more pronounced; bespoke funding eligibility requirements will necessitate a more responsive process to enable development of an expanded data collection and selective application of data validation rules, based on the policy of each devolved authority.
- 3.14. Several consultees have intimated to WECD that it may eventually make functional sense for devolved authorities to move away from using national ILR data collection methods, for two primary reasons:
- Firstly, even when working in collaboration with other members of the DDG, it can take up to 18 months for the ESFA to agree and implement new ILR specifications, depending on the scope of the change, which is cumbersome for policy development and implementation; and

- Secondly, rather than implementing funding adjustments through ILR data nationally through Devolved Area Monitoring codes and selective changes to data validation rules by, the ESFA has placed the responsibility for doing so on each devolved authority, which is cumbersome and resource-draining for these authorities, and providers.
- 3.15. The need for a locally responsive provision meant that the different approaches between the nationally-led ESFA and GLA were at times challenging, and the feedback from the consultations with GLA policymakers indicated that a more collaborative approach to information sharing would have been useful, as a solid depth of data and information relating to adult education provision/capacity in London was required to ensure that the authority could develop and implement appropriately informed policy changes. It is important to note, though, that a 'better relationship' exists now, and a greater understanding has been fostered between the two bodies.
- 3.16. As with the authorities that received devolved control of their AEB allocation, the DfE allotted an AEB implementation budget for the GLA. Consultations with the GLA teams have highlighted that this funding was insufficient for the requirements of the GLA as it did not appropriately reflect the additional size of the adult skilling funding pot in London. As such implementation funding needed to be supplemented with additional money from the Mayor's budget. Further to this, in order to administer the delivery of AEB funding in the future, the GLA has set aside 1% of its annual total; this will help fund the organisation infrastructure needed not only to deliver, but also ensure embedding the AEB within the wider Mayor's Skills for Londoners Strategy.
- 3.17. No additional capacity funding was delegated to the GLA in order to administer the AEB. Based on the feedback provided by the DfE, this decision was taken in order to avoid the instruction, on the part of the DfE onto the delegated authority, of a specific manner in which the allocated budget is to be administered. However, the conditions of a specific, comprehensive and resource-intensive governance structure for the AEB funding in London exceeded the initially estimated levels of support.
- 3.18. Furthermore, internal consultations have highlighted that during these early stages of the AEB delegation, the GLA had to rely upon existing in-house capabilities and capacity. Although existing staff had other priorities to deliver within similar timescales, they rose to the challenge (acknowledged by providers and other external stakeholders).
- 3.19. Subsequently, administration of the AEB has been housed within an enhanced organisational structure at the GLA. This evaluation's review of the resourcing approach adopted by the GLA to meet the requirements of the AEB shows that a new, enhanced organisational structure and capacity within GLA to deliver the programme was well justified, and strengthened its design and delivery to date. It also safeguards the alignment of the AEB with other local employment and skills provision issues in the future. This is because internal organisational structures for the AEB need to ensure that all devolved authorities are not only capable of administering the AEB for a short

period of time, but also embedding it coherently within a wider local skills and employment strategy.

- 3.20. On the basis of the material reviewed and the feedback provided during the internal and external consultations, this evaluation can conclude that in general, the resources allocated by central Government to devolved authorities (and not just the GLA) for capacity building to serve the AEB reflect the delivery of a large one off programme, but appear insufficient for ambitious policy reform.

b) The effectiveness of the consultancy support from TfL and Eversheds Sutherland legal services

- 3.21. TfL Legal and Eversheds Sutherland (a global multinational law practice¹⁴) have provided the GLA with support for securing the delegation of the AEB by advising on legal matters relating to the AEB procurement.
- 3.22. Support on legal matters surrounding securing the delegation of AEB was initially solely provided by the TfL Legal team. TfL Legal provides legal support to the GLA under a shared service arrangement (SSA) pursuant to a delegation of the legal function that commenced on 14 December 2009. TfL Legal is therefore the equivalent of an in-house function of the GLA, in the same way as the GLA's other support functions.
- 3.23. After initial negotiations, it became apparent to GLA staff that additional support would be needed in order to be successful in their pursuit to secure the delegation of the AEB. This was due to a combination of factors including the lack of TfL Legal institutional knowledge of the skills sector, the complexity of the legal and administrative issues involved in this task, and a broader lack of resources to develop this expertise within the authority within the delegation deadlines.
- 3.24. Based on the SSA between the GLA and TfL, due to the scale and complexity of legal work across the GLA Group, external legal support can be used at times, for example where:
- (a) Specialist advice is required;
 - (b) The project is particularly complex or large-scale (e.g. large commercial developments); or,
 - (c) External provision is cheaper (such as high-volume routine work).
- 3.25. Within this context, Eversheds Sutherland was commissioned to provide additional external support. Internal consultations indicated that the external support provided was carefully used (due to budgetary constraints), but was adequate and complementary to the work of TfL Legal, assisting TfL and the GLA to meet all delegation deadlines.

¹⁴ <https://www.eversheds-sutherland.com/>

- 3.26. TfL procures the provision of services through a comprehensive and stringent framework that ensures fairness in the allocation of contracts. This requirement, accompanied by the weight of presence of TfL's substantial legal team played an important role throughout the AEB procurement process.
- 3.27. Eversheds Sutherland also became more heavily involved in the procurement process than had initially been expected. Their increased engagement was necessary, as the TfL staff's institutional familiarity with skills-sector policy was not as far-reaching and comprehensive at that time as it has since become.

c) The effectiveness of governance arrangements in terms of both decision making and meeting the needs of stakeholders

- 3.28. The GLA had to meet Government readiness conditions in order to secure delegated control of the AEB. Internal consultations have highlighted that the authority did, at times, find the process of meeting these conditions challenging. For example, internal consultations have highlighted that:
- Greater communication with the GLA in relation to the legal terms used in the readiness conditions, particularly in relation to the necessary governance arrangements, would have supported the preparation for delegation.
 - Provision of relevant 2017/18 AEB delivery data (or any other contextual information needed to aid the process of preparation of budgets) to the GLA by the ESFA could have been better planned and more responsive to support the delegated AEB programme for launch from August 2019.
 - The lack of accurate and timely information needed from the Government to inform budgetary decisions and engagement with local stakeholders could have potentially impacted upon the GLA's capacity to meet the readiness requirements.
 - The approach adopted by the GLA to acquire the information needed to make decisions and plan ahead could have been more flexible.
- 3.29. Nevertheless, it was acknowledged that both DfE and ESFA colleagues worked hard with GLA and the other MCAs' staff to overcome barriers and support the implementation of AEB devolution, and the delegation process in London.
- 3.30. Both internal and external consultations indicated that the GLA successfully embarked on an inclusive consultation process to inform the evidence base needed to meet the Government's readiness conditions. For example, the Skills for Londoners Strategy had to be completed as part of the readiness conditions. Preparation of the Strategy was informed by consultations, workshops and discussions with a wide range of key stakeholders and a strong evidence base.
- 3.31. External consultations raised no major concerns with the process adopted by the GLA in preparation of the Strategy. London Councils indicated that the organisation was prepared to share governance responsibilities for the AEB with the GLA – but it also

quickly understood that this was not possible within the Government readiness conditions, and ultimately the AEB governance arrangements that the GLA established met the standard required.

- 3.32. Internal consultations also indicated that, initially, the GLA did not have all the resources and expertise required in-house to meet the readiness conditions. The whole process, however, prompted the GLA to develop a solid organisational infrastructure through which AEB funding could be successfully delivered. Once the organisational structure had been sanctioned, the Skills and Employment Unit moved relatively swiftly to build the management, delivery and policy teams, and was successful in using this recruitment process to build up unique capacity and a greater skills-knowledge base within the GLA, including in relation to governance arrangements.
- 3.33. The view that the stipulated readiness conditions, and the actions required to meet them, were ultimately beneficial to authorities receiving control of the AEB was echoed in consultations, both internally within the GLA, and externally by MCAs' representatives – one of which went as far as describing the process 'essential'. In general, the readiness conditions ensured that each authority had the necessary institutional knowledge, skills and capacity to successfully deliver AEB-funded provision, with authorities building administrative teams based on its themes and conditions.
- 3.34. For example, the governance requirements of the AEB have led to the production of the AEB Assurance Framework by the GLA.¹⁵ This is aligned with the Government's/MHCLG's NLGAF, and is designed to provide the same level of assurance in London's management of the AEB as that demonstrated by the MCAs in their Local Growth Assurance Frameworks (LGAFs). In the MCAs, it is the LGAFs that provide assurances in the combined authorities' use and management of local growth public funding, including for the management of the AEB. No comparable documents, however, have existed for the GLA up to the production of the AEB Assurance Framework. The GLA's corporate governance, financial, legal and procurement frameworks and processes, and demonstration of compliance with the GLA Act are used to provide the overall necessary assurances in the Mayor's and the GLA's management of public funding.
- 3.35. Lessons learned from this stage of the process, and particularly the devolution or delegation of government functions to the Mayor of London and the GLA through the GLA Act are further discussed in section 5 of this report.

¹⁵ https://www.london.gov.uk/sites/default/files/aeb_assurance_framework_v1_-_1_august_2019.pdf

4. Implementation of the AEB in London

- 4.1. This section explores all aspects of the administration of the AEB, from the point at which the delegation of control of the AEB had been confirmed to the commencement of delivery on 1 August 2019. Three key aspects of this phase of the process of delegation have been considered by the evaluation:
- The development of relationships within the FE sector and adequacy of overall communication, including an assessment of the success that the GLA had in liaising with FE providers and representative organisations and the effectiveness of the authority's communications strategies and approach to consultations.
 - The method by which commissioning and contracting arrangements were organised, assessing the differing approaches taken to both grant-funded and contracted providers, including providing views on the effectiveness of these approaches, and allocation of sufficient resourcing, while also outlining an overview of the whole procurement process.
 - The process through which the GLA developed appropriate new systems for administering AEB-funded delivery, and the approach the authority took to ensuring that all selected providers were successfully onboarded prior to the distribution of initial AEB payments.
- 4.2. Key findings from this assessment are summarised below and elaborated upon in the remainder of this section.

Implementation of the AEB - Key Evaluation Findings

Developing and establishing sector relationships, and overall communication

- The consultations that the GLA undertook with FE sector partners and stakeholders in advance of AEB delivery were extensive, and provided a detailed evidence base on which to develop subsequent policy.
- Feedback WECD has received from providers' representative organisations indicates that generally, **providers felt that their sector had been adequately consulted throughout the implementation phase**, and that they had been presented with ample opportunities to express their views to the GLA.
- Partnerships between FE providers and the GLA have been continuously improving since the delegation of the AEB, and according to WECD consultations with both internal and external stakeholders, **there are signs that FE provision in London is becoming more 'plan-led', encouraging the uptake of qualifications in sectors reporting skills shortages**, as opposed to a less cohesive 'student-led' approach.

Commissioning and Contracting Arrangements

- The GLA ensured that, as requested by the DfE, **'stability in the sector' was assured for grant-funded providers**, all of whom received an allocation equal to their 2017/18 funding allocation or 95% of their equivalent London allocation for 2018/19. There were only a few changes in the make-up of the delivery of procured provision, as some training providers failed to secure new AEB contracts.
- The GLA **used the AEB as match-funding to secure an additional £71 million of ESF**, and fund a separate set of ESF skills and employment programmes. This was achieved by ensuring that AEB procurement exercise was fully ESF compliant.
- **The GLA's AEB procurement was successfully completed and all AEB contracts were signed on time. The process itself however posed a number of challenges.** In particular, the procurement of an education programme of this size and complexity was a new experience for both TfL and GLA officers. This was a resource-intensive process delivered by a small team; TfL's e-tendering portal, ProContract, was unable to operate at scale to handle the volume of bids received resulting in the evaluation being managed offline; and bidder compliance issues were more pronounced than expected and led to delays in informing bidders of the final tender outcome.
- **The evaluation review of the procurement process against the requirements of the Crown Commercial Service (CCS) procurement guidelines¹⁶ indicated that the process through which the GLA procured AEB provision was of a high standard.** Furthermore, the approach adopted for the procurement of the AEB allowed the GLA to establish some unique in-house capacity and a greater knowledge base in the design and delivery of procurement of large programmes, which complements pre-existing staff expertise on administering large programmes, such as the Learning and Skills Councils' delivery of regional contracts and ESF.

Systems development

- **Redevelopment of the GLA OPS for the purpose of the AEB delivery was successful**; providers have been receptive of the new system and payments have been delivered efficiently.
- **There were resourcing issues during the redevelopment of the OPS system, which related to both staffing limitations and a lack of pre-existing internal knowledge of skills policy and education datasets**, though these had little impact on overall timeframe. OPS grant agreement and contract management systems will need to be developed further in the future to allow for the allocation and administration of multiple contracts to a single provider, to ensure that separate targets for separate funding contracts can be effectively assessed.

Provider onboarding

¹⁶ <https://tinyurl.com/ydztyanz>

- **Overall, provider onboarding was completed satisfactorily**, with 106 grant providers and 29 procured providers successfully inducted onto the newly-developed contract management platform prior to the 1 August 2019 contract commencement date.
- The timeframe the GLA onboarding team had in which to engage with the providers that had successfully applied to deliver procured provision was significantly condensed due to a delay in the signing of procured delivery contracts. Despite this reduced time frame, all procured providers were successfully inducted onto the new platform within a 6-week period.

Background

- 4.3. The decentralisation of AEB functions from central government to devolved authorities represents a significant change to the delivery of further education and training. With this transfer of responsibilities comes the difficult balance of developing policy and implementing the Mayor's proposed changes, while still managing expectations within the further education sector. Some of the most important relationships are with the providers that deliver education and training services. Before delivery commenced on 1 August 2019, the GLA had to develop its relationships with the organisations that received grant funding, and following conclusion of the procurement process, with the AEB-procured providers. It has been essential for the GLA to have clear and effective communication channels in place, to ensure that the sector has clarity on the changes being implemented and the actions being taken by the GLA.

Issues Explored by the Evaluation

- 4.4. Issues explored in relation to the activities undertaken during this phase of the delegation of the AEB and feedback gathered during the research evaluation are discussed below, under the following headings:
- a. Developing and establishing sector relationships, and overall communications;
 - b. Systems development and provider onboarding; and
 - c. Commissioning and contract management arrangements.
- 4.5. Research methods to inform the review and assessment of these issues have included:
- d. Comprehensive desk-based review of relevant documents; and
 - e. Consultations with internal and external stakeholders.

a) Developing and establishing sector relationships, and overall communications

- 4.6. Key issues explored in relation to developing and establishing sector relationships are summarised below:

- The success of the GLA in developing key relationships with AEB providers, provider representative organisations, and other stakeholders prior to commencement of delivery on 1 August 2019.
 - The effectiveness of the consultations that were held by the GLA on key documents including the Skills for Londoners Strategy and Skills for Londoners Framework in considering and representing key stakeholders and Londoners views.
 - The effectiveness of the GLA's communications channels and activities (including use of digital content and engagement with the media).
- 4.7. Internal and external consultations indicated that the process of consultations with the FE and wider skills sector stakeholders during the production of the Skills for Londoners Framework¹⁷ was comprehensive, clear and consistent. The process was transparent (with all of the minutes of board meetings and terms of reference available online) and the views of the sector have been well represented in subsequent policy decisions taken by the GLA. This extensive engagement has ensured that the views of all relevant stakeholders and providers were taken on board, and fed into well-researched, highly comprehensive skills strategies. This approach has ultimately helped to build amicable relations with providers, and to allay any fears that they may have had that GLA and local authorities were seeking to impose new rules, directions and frameworks on them that might impinge on their independence.
- 4.8. As part of the tender process, the GLA also delivered four separate market-warming events for organisations that had registered an interest in delivering the services. Events were held in East, West and South London, as well as one event at City Hall. The presentation covered the content of the specification, including the GLA's approach to procurement (as described below in paragraph 4.20), ESF requirements and the allocation process. It also included information on the sections of the Standard Selection Questionnaire (SSQ) and the invitation to tender (ITT) that had to be completed, and the financial due-diligence process that was in place for providers.
- 4.9. During consultations with WECD, provider representative organisations consulted praised the extensive range of topics and policy areas upon which the GLA have sought their views, though some did express a level of scepticism as to the degree to which the views shared by colleges and stakeholders ultimately have any capacity to influence the decisions taken by policymakers.
- 4.10. Both internal and external consultations have highlighted that partnerships between FE providers and the GLA have been improving following the devolution of the AEB, provider representative organisations have indicated to WECD that the FE sector in London is becoming more 'plan-led' as colleges begin to tailor their offer, as well as advice to students, to better reflect the socioeconomic priorities outlined in the Mayor's Plan.

¹⁷ https://www.london.gov.uk/sites/default/files/sfl_framework_final.pdf

b) Commissioning and contract management arrangements

4.11. Key issues explored in relation to activities related to commissioning and contract-management arrangements include:

- The effectiveness of the GLA's approach to allocating funding in achieving the Mayor's intended objectives (i.e. implementing the priorities set out in the Skills for Londoners Framework, while maintaining funding stability for providers, and allocating funding in a fair, efficient and transparent way).
- The GLA's working relationship with the ESFA and DfE and whether information shared by the DfE/ESFA with the GLA – prior to confirmation of the final budget – was sufficient to allow it to plan and model its approach.
- Whether the resources deployed by the GLA and TfL were sufficient for delivering the project within the specified timeframe, and the effectiveness of the procurement process led by TfL and systems used.
- The effectiveness of the project-planning process, resourcing by the GLA and TfL to manage the procurement, and the value and effectiveness of support received from TfL's in-house and contracted-out legal advisors.
- The quality and clarity of the published procurement documents, the effectiveness of the clarifications process, and the publication of the corrigendum.
- The effectiveness of the management of the procurement compliance checks, scoring and moderation process, including an assessment of the approach to clarifications issued during the evaluation phase.
- The approach taken to providing responses to queries and challenges received in relation to the procurement, and management of the audit trail.

AEB grant funding approach

4.12. An important aim for the first two academic years of AEB delivery for the GLA, as requested by the DfE, was to ensure 'stability in the sector' across London, and internal and external consultations indicated that the GLA delivered upon this, particularly for grant-funded providers.

4.13. Following confirmation of the GLA's final AEB allocation in January 2019, several approaches were modelled for how the authority could allocate grants to providers based on their 2017/18 delivery values published by the ESFA in December 2018. Critical to developing the GLA's grant allocation and management approach was access to key information/data from the ESFA. Ultimately the decision was taken to ensure that all providers that had delivered over £100,000 worth of AEB provision during the 2017/18 academic year would continue to receive grant funding during 2019/20.

- 4.14. The GLA developed a grant allocation methodology that maintained funding stability for providers in 2019/20. There were four key rules applied within this approach. These are detailed below.
- a. All London-based providers received no less than 95% of their equivalent London allocation for 2018/19. This approach set a reasonable funding floor to provide stability between academic years.
 - b. Any London-based provider whose delivery in London in 2017/18 was within three per cent of their equivalent London allocation for 2018/19 received 100% of their equivalent London allocation. This approach ensured fair treatment of providers delivering in line with the national tolerance arrangements set by the ESFA (i.e. those delivering at least 97% of their funding allocation were considered as having met their target).
 - c. Any London-based provider whose delivery was higher in 2017/18 than their equivalent London allocation for 2018/19 received their 2017/18 actual delivery value. This approach supported growth for those providers delivering more to London residents.
 - d. For non-London providers (i.e. those geographically located outside the capital), the GLA matched the cash value of their 2017/18 delivery in London.
- 4.15. Stability was also ensured through the GLA's decision to make only minor, incremental changes to funding policy in the first year of delivery. This included the extension of eligibility for full funding of some courses for some residents earning below the London Living Wage, and provision of full funding for British Sign Language courses where this is a first or preferred language, on top of existing statutory entitlements.
- 4.16. These policy decisions **ensured that London FE colleges were able to retain the vast majority of their AEB funding for pre-existing delivery through to 19/20, while allowing a further year's period of notice and adjustment pending any further policy developments.**
- 4.17. Indicative allocation letters were sent to providers on 12 February 2019. All providers were given until 28 February 2019 to make an exceptional case to the GLA for why their grant allocation should be adjusted, e.g. because of significant errors in their data or other extenuating circumstances. Additionally, grant-funded providers that delivered less than £100,000 of AEB provision to London learners in 2017/18 were given the opportunity to submit a business case for funding from the GLA, if they could demonstrate that their provision was niche, or targeted at disadvantaged groups. Following a review of business cases, the GLA confirmed final allocations in April 2019. According to internal consultations, the process of calculating funding allocations for GLA providers was delayed due to external factors – one being that the DfE did not promptly provide the data required to undertake this analysis. When this data was eventually provided, it proved imperfect for the task of plotting London's 19/20 adult learner cohort, as the data included only the total number of learners within London

during the 2017/18 academic year. GLA staff were unaware of what proportion of these would be continuing learners through to 2018/19, somewhat complicating planning and resource allocation.

AEB procurement process

- 4.18. While grant-funded provision remained stable during this period, the landscape of procured adult education provision in London shifted, as a number of new organisations are now delivering these services. The qualifications that are eligible to be funded through the programme remain unchanged, but the makeup of the organisations that deliver these is different in 2019/20 compared to 2018/19. As stated by one of the consultees, *'Stability has come in the form of the courses which have been funded, as opposed to the providers which are delivering them'*.
- 4.19. The competitive procurement of AEB-funded adult education services represents one of the largest that the GLA has ever undertaken, with a value of approximately £130 million over four years. Procurement followed ESF guidelines in order to enable the GLA to draw down £71 million of London's ESF allocation as match-funding, and followed the 'Light Touch Regime (LTR)' under the Public Contracts Regulations 2015.¹⁸ This involved a one-stage process for the selection of successful bidding providers that combined the SSQ and ITT stages. Maximum and minimum contract values were also set.
- 4.20. It is worth noting that, in order to secure the use of this additional £71 million in ESF match-funding, every aspect of the GLA's AEB procurement exercise was required to be fully ESF compliant. As part of this requirement, GLA officers were required to align the Lots being procured with the ESF Investment Priorities. The two Lots are as follows:
- Lot 1: for training out-of-work Londoners (representing 75% of the procured AEB allocation). This is aligned to ESF Investment Priority 1, i.e. supporting unemployed and economically inactive people to access employment, and young people who are Not in Education, Employment, or Training (NEET) to access learning.
 - Lot 2: for training Londoners who are in work, particularly those with low pay or a low level of skills (representing 25% of the procured AEB allocation). This Lot is aligned to ESF Investment Priority 2, i.e. supporting people in work, particularly in low pay or with low skills, to improve their skills for the local economy.
- 4.21. As this would represent the first instance in which many FE providers would have dealt with ESF funding criteria, the GLA arranged several additional engagement events and information sessions designed to support providers which had had no prior experience in the submission of ESF-compliant tender proposals.

¹⁸ <https://tinyurl.com/ydztyanz>

- 4.22. In order to account for minor differences between AEB and ESF eligibility definitions and evidence requirements, GLA officials elected to introduce a limited amount of flexibility in the eligibility criteria for each Lot. This 'Flexible Allocation' allowed AEB procured providers to use up to 15% of their AEB contract funding allocation to deliver provision to learners which meet some, but not all, of the ESF eligibility criteria for the contracted Lot, as outlined in the GLA's Adult Education Budget Funding and Performance Management Rules for Procured Providers for 2019 to 2023. Bidders did not need to specify the amount of funding they expected to redirect from their Flexible Allocation in their proposals.
- 4.23. The AEB procurement process was launched by TfL in October 2018 and closed on 21 December 2018. In total, the GLA received 202 bids from a broad range of applicants for an aggregate amount of £811 million, including Independent Training Providers, FE Colleges, Institutes of Adult Learning and Local Authorities, across the two Lots.
- 4.24. During initial discussions and timetabling, GLA representatives had been expecting their colleagues in TfL Procurement to produce all necessary procurement documents with support from GLA staff, including both the SSQ and ITT, and had planned resources accordingly. While the TfL Procurement team had much experience of procuring large contracts, they were unfamiliar with the service requirements relating to the Adult Education Budget. This meant that significantly more support was required from GLA staff than originally anticipated. For example, TfL had initially been using their standard procurement contract template as a basis for procuring education services. However, the template was unfit for this purpose, as it contained a good deal of unrelated information.
- 4.25. Both the SSQ and ITT went live on ProContract¹⁹ (the procurement portal used by TfL) at the same time in October 2018, with an eight-week response period ahead of the 21 December deadline. The GLA and TfL opted for the 'light touch' approach mentioned above, as it allowed for the SSQ and ITT to run concurrently over an eight-week period, which was considered necessary to meet later AEB milestones. Feedback provided by providers during the evaluation consultations highlighted that this 'one-stage' process represented a waste of internal resources for those bidders that failed the SSQ stage (on basic compliance issues).
- 4.26. On 14 November 2019 (approximately three weeks after the tender documents went live), a corrigendum was published. The corrigendum included a revised set of clarifications to aid the completion of SSQ forms and minor changes to tender documentation, as well as an amendment to enable more flexibility for providers through an increase in the Flexible Allocation amount from 10% to 15% of a given Lot.
- 4.27. Up to this point, TfL had issued a number of separate bid clarifications through the ProContract portal in accordance with the requirement in the Public Contract Regulations for transparency and fairness. While the issuing of bid clarifications to all was done to ensure absolute fairness in the procurement approach, feedback provided

¹⁹ <https://procontract.due-north.com>

by providers' representative organisations during the evaluation consultations highlighted that this may not have been communicated to providers effectively, and led to confusion in some instances.

- 4.28. GLA and TfL expected approximately 250-300 bids from providers. Ultimately 202 providers submitted 336 tender responses by the 21st December 2018 deadline, including 183 bids to deliver Lot 1 and 153 for Lot 2 – representing the largest number of bids ever submitted to ProContract in a single procurement exercise.
- 4.29. Feedback provided by the GLA and TfL teams during the evaluation consultations indicated that, as a platform, ProContract lacked sufficient capacity to deal with a procurement of this scale. This became apparent to members of TfL procurement and the GLA skills team once they attempted to assign bid evaluators through the portal. The ProContract system was unable to function due to the large number of bids it was attempting to process, which led the GLA skills team to take the decision to undertake the evaluation offline.
- 4.30. This approach had major resourcing implications, and impacted the procurement timeframe, i.e. TfL had anticipated that bidder compliance checks would take just one week to complete but this process would ultimately take three months due, in part, to the issues with ProContract.
- 4.31. Overall, just over 34% of tenders were rejected on compliance issues. These rejections were due to the tender being either incomplete (i.e. where a required response or document was missing from the tender) or completed incorrectly (i.e. in many cases due to submission of programme targets that were mathematically unachievable). The GLA sought to minimise the level of bidder non-compliance by publishing two separate clarifications, which offered all bidders the opportunity to review their tenders and correct for specific issues. While the GLA's strict adherence to fairness ultimately ensured the absolute credibility of this procurement process, feedback provided during the evaluation consultations highlighted that many applicants still lacked familiarity with the complexities of ESF requirements. This may have led some larger providers to seek the support of external tender-writing services, which, in turn, may have disadvantaged providers with no access to such services.
- 4.32. In assessing the providers' bids, the GLA opted to assign two individual evaluators to each bid, with some caveats (for example, no official could be paired with their line manager), who would each score their applications independently, before convening for a TfL-adjudicated moderation meeting, where the final scores for each application were agreed. Each evaluation pair remained anonymous to each other until the moderation meeting. The organisation of this new approach was a massive administrative undertaking, which GLA staff conducted successfully, ensuring that each application was fairly assessed.
- 4.33. As noted in paragraph 4.20, the available funding was split 75:25 across the two procured Lots; this meant that, of a total budget of £130 million, £97.5 million would be allocated to Lot 1, and £32.5 million to Lot 2. Once all bids had been scored and

moderated, their final scores were compiled in a single spreadsheet, while the chosen allocation method meant that the highest ranked bidder in each Lot would receive the total amount that they had bid for, up until the point where the budget for that Lot had been exhausted. Financial due diligence was undertaken by an external consultant, and quality assured by the GLA Finance team, once a complete ranking of bidders had been compiled.

- 4.34. On 21 May 2019, all bidders that had successfully reached the ITT stage of the competition were informed of the outcome of the tender process. In total, 29 providers were successfully awarded contracts – 22 contracts cover Lot 1 and 15 contracts cover Lot 2. Eight providers deliver across both Lots. Feedback provided by some providers during the evaluation consultations highlighted that this late announcement date presented problems for those providers which had been successful in passing compliance, but then failed to secure funding at the ITT stage, as these providers were only informed of this failure two months prior to the end of the 2018/19 academic year (e.g. Independent Training Providers would have preferred earlier notification to support curriculum planning ahead of the 2019/20 academic year).
- 4.35. The same consultations also highlighted that more clarity should have been provided about final decisions made, and raised questions over the prioritisation of certain compliance requirements, stating that: 'Ofsted is a strong measure of quality, and one third of new GLA providers have never had an Ofsted inspection, despite passing the GLA compliance requirements.' GLA officers considered Ofsted ratings along with other indicators of quality and performance at the SSQ stage. Use of Ofsted ratings alone to consider past performance would have excluded providers that had never had an Ofsted inspection including some smaller specialist providers, and providers from abroad (that would mean breach of public procurement regulations).²⁰
- 4.36. Following the notification of results to bidders, TfL received several provider clarifications. The absolute adherence to fair and equitable practice throughout from the TfL Procurement team, while (at times) resource-draining and confusing/frustrating for bidders, ensured that the credibility of the procurement process was absolutely guaranteed.
- 4.37. Review of the procurement process against the requirements of the CCS procurement guidelines for the purposes of this evaluation has shown that the process through which the GLA procured AEB provision was of a high standard. Furthermore, the approach adopted for the procurement of the AEB enabled GLA staff to develop new skills relating to the delivery of procurement of large programmes, complementing pre-existing staff expertise on administering large programmes, such as the ESF.
- 4.38. Procurement deadlines were successfully met. However, the process of doing so proved resource-intensive and challenging for GLA staff. While the GLA had staff members with knowledge of skills policy, ESF and running very large open and competitive grant award processes, and TfL had a strong organisational knowledge of

²⁰ The approach adopted by the GLA also ensured compliance with EU regulations.

the process of services procurement, neither organisation had any specific experience of procuring an adult education programme of this size. Therefore, this knowledge had to be acquired and developed subsequent to the delegation of the AEB. Some MCAs opted to outsource their education procurement process to a private contractor. However, TfL usually undertakes all procurements on behalf of the GLA Group.

4.39. In terms of the £306,444,875 AEB for the 2019/20 academic year, this is allocated as follows:²¹

- Grant-provider allocations – £262.9 million (85.8% of the funding);
- Procured-provider AEB allocations – £32.5 million (10.6% of the funding); and
- Skills for Londoners Innovation Fund – up to £6.4 million (2.1% of the AEB funding).²²

c) Systems Development

4.40. Key issues explored in relation to activities related to systems development are summarised below:

- Preparations prior to the development of AEB systems and onboarding including reviews undertaken to define the key requirements of AEB systems, and better understanding of the ILR and contract-management processes.
- Development of GLA OPS to process and manage payments to AEB grant and procured providers.
- Key relationships including working with the GLA OPS team and contracted developers.
- Project management, i.e. delivery of key milestones, contingency arrangements, and budgeting.
- User testing undertaken in advance of systems rollout, and rollout of GLA OPS across AEB provision including any operational issues.
- GLA management of the provider onboarding process including clarity of GLA's requirements for providers and supporting providers to meet those requirements ahead of the commencement of delivery.

4.41. In autumn 2018, prior to commencing the development of a new AEB data administration platform, members of the Skills and Employment Unit team tasked with development of GLA systems liaised with the wider Unit team as part of a knowledge gathering exercise in order to better scope the requirements of AEB data

²¹ MD2462 Financial Management of the 2019/20 Adult Education Budget at <https://www.london.gov.uk/decisions/md2462-financial-management-201920-adult-education-budget>

²² The remainder 1.5% of the AEB funding for 2019/20 academic year is allocated to management and administration.

collection and administration. This process allowed the GLA systems development team to build an understanding of:

- National ILR data collection systems;
- The information required to allow for successful AEB administration; and
- Any additional data required for implementing the Skills and Employment Unit team's desired policy changes, and where this differed with the ESFA's national ILR returns.

4.42. The evaluation consultations have highlighted that this initial phase took longer than had been anticipated, but the length of time was necessitated by the lack of pre-existing knowledge of both the contents of and potential additions to FE datasets among members of the systems development team.

4.43. Once a sufficient familiarity with ILR datasets had been established, the team proceeded to ascertain what additional data would be required to enable desired policy changes in GLA-funded provision, aiming to minimise additional administrative burdens on providers where possible. Ultimately, the transfer of the AEB functions to devolved authorities required the ESFA to make several additions to ILR specification for 2019, to which new monitoring codes were added at the request of the GLA and other MCAs. These included:

- A new **Source of Funding Code (SOF 116)** to indicate provision now funded by the GLA, (each MCA with devolved AEB powers also received an SOF code (110-115)).
- **Learning Start Date Postcode** to determine whether learners are in a devolved or non-devolved area.
- **Devolved Area Monitoring (DAM) codes**, up to four new bespoke data fields for devolved authorities with AEB control, designed to indicate learner participation in programmes or initiatives in devolved areas.

4.44. In addition to this, providers delivering AEB procured provision are required to submit GLA Supplementary Data, in line with ESF eligibility related contractual requirements.

4.45. As well as developing a familiarity with ILR and additional AEB data collection, the GLA team were also required to develop a new platform on which providers could submit their financial details, and individual delivery contracts could be managed. In other policy areas, such as housing, the GLA delivered these functions through GLA OPS. After an assessment of requirements, the decision was taken to build the required capacity through extending functionality in this platform, to enable the delivery and management of AEB programmes. To this end, some aspects of the pre-existing OPS were repurposed while others had to be newly created.

4.46. Development of the OPS for the purpose of skills funding delivery required the creation of a number of new blocks (i.e. collection of new information fields) to record, for

example, provider allocations as well as a new payments system that would enable the scheduled delivery of funding to providers based on payment profiles.

- 4.47. The platform was developed using an 'Agile' approach, which enabled small sections of larger system functions to be developed and completed independently, and included interaction with providers for early testing and feedback. This enabled a swift completion and a more robust and user-friendly result.
- 4.48. Planning for OPS development occurred throughout the winter of 2018, and the elements of the new platform required for onboarding were finalised in February 2019; funding allocations for grant providers were signed-off immediately upon its completion. The project was initially scheduled for completion in January (2019), though resourcing issues during development caused a delay; this consequentially slightly postponed two workshops for grant-funded providers, scheduled to ensure familiarity with the new system, from April to May. Nevertheless, all core elements of the new platform were completed to deadline.
- 4.49. While the development of OPS to administer skills contracts and grant agreements was ultimately successful, some complications arose during the process, which could have threatened timely delivery, and which will need to be considered in future planning. These included:
- **Capacity:** There was a moderate turnover of OPS staff during the development of the AEB platform, which had an impact on the delivery capacity of the (at most) five-strong team, as each new team member had to spend time becoming familiar with skills policy and the ILR. Feedback provided during the evaluation consultations indicates that the GLA may have placed more of a focus on technical skills when hiring replacement OPS staff, rather than prior knowledge of skills policy, or ILR/Management Information Systems experience, which was required within the team.
 - **Corporate support:** the successful development of the new OPS system within the required timeframe was, in part, enabled by the high degree of significance placed on this policy area by the Mayor, and the priority attached to the OPS development by the corporate team.
 - **Operational matters:** OPS contract management systems cannot allocate and administer multiple contracts to a single provider, instead amalgamating several contracts into one overall funding amount. While this has not caused any significant issues up to now, there remains the potential that, should a provider delivering multiple contracts meet the delivery targets for one contract and not another, a significant issue in funding accreditation will be presented. It is the view of WECD that this should be rectified as soon as practicable.

d) Provider onboarding

- 4.50. This subsection considers the adequacy of GLA management of the provider onboarding process, including: i) the clarity of GLA's requirements for providers; and

- ii) the support supplied to providers to meet those requirements ahead of the commencement of delivery.
- 4.51. Once grant allocations were signed-off in February 2019, the Onboarding team began to engage with providers, working in tandem with TfL colleagues. As all GLA payments are made through SAP, which TfL administrate, the TfL team led on payment set-up, contracting, OPS registration, and payment delivery.
- 4.52. TfL and GLA internal procedures stipulated that all contracts must be signed physically, prohibiting any form of digital or online completion; feedback given to WECD as part of this evaluation indicated that this caused a degree of confusion among providers as the ESFA has accepted digital signatures for delivery contracts since 2017.
- 4.53. Overall, onboarding was completed satisfactorily, with 106 grant providers and 29 procured providers successfully inducted onto the newly-developed contract management platform prior to the 1st August contract commencement date. The onboarding team hosted several workshops in May 2019 to inform providers of the new policy changes, payments and contract management systems; feedback for these workshops was generally positive.
- 4.54. It should be noted that the timeframe the onboarding team had in which to engage with the providers that had successfully applied to deliver procured provision was significantly condensed due to the lengthy delay in the signing of procured delivery contracts. This delay was caused by an extension of the procurement 'standstill period' during which the GLA and TfL worked to respond to provider clarifications.
- 4.55. The 'standstill period' ended on 20th June. From this point, the onboarding team had approximately six weeks (until 1 August) to engage with, visit, and successfully induct all 29 procured providers onto the new platform; this exercise was completed with minimal issues, and the onboarding team was able to use the experience of onboarding for grant-providers to ensure this process was completed swiftly and effectively.
- 4.56. The final step of provider onboarding was to ensure that payments were processed effectively. Despite the multiple levels of rigorous viability testing that the systems development team had completed to ensure that the new OPS platform would process payments effectively, its viability could not be confirmed until the first payment was delivered successfully; as such, a 'plan-B' system through which payments to providers could be delivered manually was developed. Ultimately, the use of this contingency system was ultimately not required, as the OPS was a success. Feedback from providers has been positive, and each provider has a Provider Manager responsible for the verification of their client's submitted information.

5. Conclusions and Recommendations

- 5.1. The background research and consultations undertaken to inform this evaluation indicate that the delegation of the London AEB has been a complex and resource intensive process. Nevertheless, this was carried out successfully enabling the satisfactory delivery of AEB functions by the GLA from the start of the 2019/20 academic year. This concluding chapter presents key conclusions that have emerged from this evaluation, as well as recommendations for future transfer of additional policy functions.

Making the case for the devolution of the AEB

- 5.2. Section 39A of the GLA Act represented the only available mechanism that allowed for the swift transfer of control of London's AEB allocation from the Secretary of State for Education. It is recognised that transferring AEB powers to the GLA in a way that would entirely mirror the devolved settlement agreed with MCAs would have required both the passing of primary legislation by the Government and the amendment of the GLA Act, which would have significantly delayed the timeframe for the decentralisation of London's AEB allocation.
- 5.3. However, the evaluation has highlighted that certain complications have been brought about as a result of this approach. These relate to:
- **Additional administrative requirements** - Compared to devolution, delegation increased the administrative requirements on the GLA, particularly those relating to AEB governance structures. The conditions set out by Section 39A of the GLA Act 1999 for the delegation of powers to the Mayor required distinct accountability and governance structures for the transfer of AEB powers. This meant that while MCAs were able to incorporate AEB governance requirements into their pre-existing overview and scrutiny processes, the GLA had to establish entirely new structures, with all decisions referred to the Mayor for sanctioning.
 - **Delegation of functions rather than devolution of powers**, with reference to both accountability lines and (local) fiscal autonomy, as described below:
 - **Accountability lines** - Functions have been transferred to the Mayor of London, and not the authority (i.e. the GLA), and these functions are not capable of further delegation. The resulting governance of the AEB-funding provision in London demands significant commitment of administrative and management resources, for both the Mayor and the GLA, than would otherwise be the case.
 - **Fiscal autonomy** - MCAs have the capacity to choose to either incorporate their devolved AEB allocation into other funding streams as part of their 'single-pot', or treat it as an entirely separate administrative budget that may occasionally supplement/be supplemented by other funding pots; the Mayor

of London lacks such autonomy, and may be mandated to return any unallocated AEB at the end of a given academic year.

Recommendation:

We recommend that the use of the GLA Act to transfer powers to London needs to be reviewed as a priority, with emphasis on enabling devolution of powers to London **similar to the MCAs**.

Securing delegation of the AEB

- 5.4. **AEB implementation funding provided by the DfE for the GLA was insufficient to cover GLA officers' plans for implementing the AEB**, and as such was complemented by additional funding allocated from the Mayor's budget. Therefore, enhancement of GLA capacity to deliver AEB funding was well justified, **allowing strengthened policy design and ensuring deadlines were met**. These new internal organisational structures enabled the GLA to capably administer AEB funding while also embedding it coherently within a wider local skills and employment strategy.
- 5.5. **The process of meeting the DfE's readiness conditions ensured that the GLA established a solid organisational infrastructure through which AEB funding could be successfully delivered, both to meet immediate deadlines, and into the future**. The unanimous view relayed to WECD during consultations both internally within the GLA, and externally by MCA representatives, was that the stipulated readiness conditions, and the actions required to meet them, were immensely beneficial to ensuring devolved authorities were prepared for the successful administration of AEB funding.
- 5.6. Support provided during this process by **TfL Legal and Eversheds Sutherland was essential** to meet the delegation deadlines, with the latter providing additional specialist knowledge to address the complexity of the legal and administrative issues involved in this task.
- 5.7. **Various joint activities put in place by DfE to support the devolved authorities in their preparations and in building their own technical expertise were helpful and constructive**. These included joint workshops and knowledge exchange sessions, as well as establishing expert groups, such as the DDG. However, the AEB implementation funding provided by the DfE for the GLA was insufficient to cover the GLA plans for implementing the AEB, and as such was complemented by additional funding allocated from the Mayor's budget.
- 5.8. On the other hand, **a mostly top down approach with limited flexibility hindered genuine collaborations at the time and could impact on local autonomy in the future**. The service offer provided by the ESFA did not always match the prior expectations of the GLA. Some useful initiatives were put in place, around data and systems, providing support to enable GLA to implement a limited range of policy

changes in a reasonably flexible way. However, flexibility was at times limited, with ESFA taking a more regulatory approach, rather than working more collaboratively to help GLA to realise its future skills vision. Furthermore, **the limited nature of the flexibilities could limit the extent to which local AEB requirements could be implemented in the future**, restricting the capacity to reflect a visionary policy and become a genuine driver of change.

- 5.9. **Support provided by TfL Legal and Eversheds Sutherland was deemed essential due to a combination of factors**, including: delegation deadlines, the complexity of the legal and administrative issues involved in this task which required additional specialist knowledge, and the need to supplement the capacity of TfL Legal with the specific expertise of Eversheds Sutherland on matters relating to skills provision.

Recommendations:

Improved collaboration and coordination between the GLA and DfE / ESFA. Central government should take a more collaborative approach to working with the GLA and ensure the accessibility, coordination and effective management of shared databases and functions.

Implementation of the AEB

- 5.10. Feedback received from providers' representative organisations indicated that **providers felt that their sector had been adequately consulted throughout the implementation phase**, and that there were ample opportunities to express their views to the GLA. Partnerships between FE providers and the GLA have been continuously improving since the delegation of the AEB, and according to WECD consultations with both internal and external stakeholders, **there are signs that FE provision in London is becoming more 'plan-led', encouraging the uptake of qualifications in sectors reporting skills shortages**, as opposed to a less cohesive 'student-led' approach.
- 5.11. The **GLA developed a grant allocation methodology that maintained funding stability**, as requested by the DfE, for providers in 2019/20. There were four key rules applied within this approach, as follows:
- All London-based providers received no less than 95% of their equivalent London allocation for 2018/19. This approach set a reasonable funding floor to provide stability between academic years.
 - Any London-based provider whose delivery in London in 2017/18 was within three per cent of their equivalent London allocation for 2018/19 received 100 % of their equivalent London allocation. This approach ensured fair treatment of providers delivering in line with the national tolerance arrangements set by the ESFA (i.e. those delivering at least 97% of their funding allocation were considered as having met their target).
 - Any London-based provider whose delivery was higher in 2017/18 than their equivalent London allocation for 2018/19 received their 2017/18 actual delivery value. This approach supported growth for those providers delivering more to London residents.

- d. For non-London providers (i.e. those geographically located outside the capital), the GLA matched the cash value of their 2017/18 delivery in London.
- 5.12. **Stability was also ensured through the GLA's decision to make only minor, incremental changes to funding policy in the first year of delivery.** This included the extension of eligibility for full funding of some courses for some residents earning below the London Living Wage, and provision of full funding for British Sign Language courses where this is a first or preferred language, on top of existing statutory entitlements.
- 5.13. These policy decisions **ensured that London FE colleges were able to retain the vast majority of their AEB funding for pre-existing delivery through to 19/20, while allowing a further year's period of notice and adjustment pending any further policy developments.**
- 5.14. While grant-funded provision remained stable during this period, the landscape of procured adult education provision in London shifted, as a number of new organisations are now delivering (while the qualifications that are eligible to be funded through the AEB programme have remained unchanged).
- 5.15. The competitive procurement of AEB-funded adult education services represents one of the largest that the GLA has ever undertaken, with a value of approximately £130 million over four years. The **GLA secured the use of an additional £71 million of European Social Fund (ESF) match-funding** for the AEB procured allocation by ensuring that every aspect of the GLA's AEB procurement exercise was fully ESF compliant. This has meant that **a larger pot of funding is available for a range of adult training services for training out-of-work Londoners and Londoners who are in work with low pay or with low skills.** This approach reflects a well-thought approach to effective and efficient use of resources to meet key priorities as set out in the Mayor's Skills for Londoners Strategy.
- 5.16. It is worth noting that, in order to secure the use of this additional £71 million in ESF match-funding, every aspect of the GLA's AEB procurement exercise was required to be fully ESF compliant. As this was the first instance in which many FE providers would have dealt with ESF funding criteria, the GLA arranged several additional engagement events and information sessions designed to support providers which had had no prior experience in the submission of ESF-compliant tender proposals.
- 5.17. **The process through which the GLA procured AEB provision was of a high standard, procurement was successfully completed and all AEB contracts were signed on time.** Furthermore, the approach adopted for the procurement of the AEB allowed the GLA to establish some unique in-house capacity and a greater knowledge base in the design and delivery of procurement of large programmes.
- 5.18. Notwithstanding the overall success of the process, the process itself, however, posed a number of challenges. In particular:

- The procurement of an education programme of this size and complexity was a new experience for both TfL and GLA officers;
- It was a resource-intensive process delivered by a small team;
- TfL's e-tendering portal, ProContract, was unable to operate at scale to handle the volume of bids received resulting in the evaluation being managed offline; and
- Bidder compliance issues were more pronounced than expected and led to delays in informing bidders of the final tender outcome.

5.19. All AEB grant and procured providers were inducted onto the newly-developed grant agreement and contract management platform, the GLA OPS, prior to the commencement of delivery. The evaluation found that redevelopment **of the GLA OPS for the purpose of the AEB delivery was successful**; providers have been receptive of the new system and payments have been delivered efficiently. However, there were resourcing issues during the redevelopment of the OPS system, which related to both staffing limitations and a lack of pre-existing internal knowledge of skills policy and education datasets, though these had little impact on overall timeframe. OPS grant agreement and contract management systems will need to be developed further in the future to allow for the allocation and administration of multiple contracts to a single provider, to ensure that separate targets for separate funding contracts can be effectively assessed.

Recommendations:

- **Alternative procurement e-tendering system.** The preferred AEB e-tendering system should have capacity to accommodate and allow the assessment of a large volume of tenders submitted by education and training providers.
- **Further investment in the development of GLA OPS.** A flexible and fit for purpose grant agreement and contract management system will allow grant and contract payments made to a single organisation and facilitate performance management of all providers.