



Department  
for Education

# **The exercise of delegated adult education functions**

**Guidance for the Mayor of London and  
Greater London Authority**

**[xxx] 2018**

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## Summary

### About this guidance

1. This guidance relates to the delegation of certain adult education functions in the Apprenticeships, Skills, Children and Learning Act 2009 to the Mayor of London ('the Mayor') by the Secretary of State. The relevant functions of the Secretary of State have been delegated to the Mayor under the Greater London Authority Act 1999 ('the GLA Act')<sup>1</sup>. The delegation arrangements are set out in a delegation letter **[dated x]** from the Secretary of State and agreed by the Mayor in accordance with S39A of the GLA Act.<sup>2</sup>
2. The delegation of the specified adult education functions will enable the Mayor to determine adult education provision in relation to Greater London for academic year 2019/20 and thereafter, and to manage the associated adult education budget (AEB). The Mayor will be carrying out the delegated functions where appropriate through the Greater London Authority ('the GLA') and references to the Mayor in this document should be read accordingly.
3. As set out in the delegation letter, the Mayor must have regard to guidance issued by the Secretary of State when exercising the specified functions. This guidance provides support to the Mayor when exercising the specified adult education functions. This should be considered alongside conditions on the exercise of the transferred functions in the delegation letter, and any associated Memorandum of Understanding<sup>3</sup> agreed between the Mayor, the Department for Education (DfE) and the Education Skills Funding Agency (ESFA)<sup>4</sup>.
4. This guidance is also intended to ensure that funding and provider management arrangements are agreed by the Mayor with providers in a way that minimises costs and maximises consistency and transparency.
5. The Mayor and the GLA, DfE and ESFA through the Memorandum of Understanding will agree any further areas as required.
6. Prior to making any amendments to the section of this guidance entitled 'What the Mayor should know and do' the Secretary of State will consult with the Mayor.

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<sup>1</sup> Section 39A of the Greater London Authority Act 1999. [Either add link to the delegation letter or attach as an annex]

<sup>2</sup> [link to delegation letter when published on GOV.UK]

<sup>3</sup> [link to MoU letter when published on GOV.UK]

<sup>4</sup> The Education Skills Funding Agency is an executive agency of DfE and responsible for funding education and skills for children, young people and adults

## **What legislation does this guidance refer to?**

- The Greater London Authority Act 1999
- The Apprenticeships, Skills, Children and Learning Act 2009

## **Who is this guidance for?**

This guidance is for:

- The Mayor exercising adult education functions in accordance with the delegation letter.

## **What the Mayor should know and do**

### **The functions**

The Mayor will be exercising delegated adult education functions contained in section 86 to 88 of the Apprenticeships, Skills, Children and Learning Act 2009 ('the 2009 Act') with the exception of such functions relating to apprenticeships training, adult detention or any power to make regulations or orders. The functions under section 86 to 88 are as follows, and are exercisable by the Mayor instead of by the Secretary of State in relation to the area of Greater London.

- a) section 86 (education and training for persons aged 19 or over, and others subject to adult detention);
- b) section 87 (learning aims for persons aged 19 or over: provision of facilities);
- c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)

In addition, the Secretary of State's functions under section 90 of the 2009 Act which relate to the encouragement of education and training for persons aged 19 or over, and section 100(1) of the 2009 Act which relates to the provision of financial resources, are exercisable by the the Mayor in relation to Greater London. These functions are exercisable by the Mayor concurrently with the Secretary of State.

The delegation letter contains conditions on the exercise of the transferred functions, including that, the Mayor must have regard to the Secretary of State's guidance, and that the Mayor must adopt rules of eligibility for awards by an institution to which the Mayor makes grants, loans or other payments under section 100 of the 2009 Act in accordance with any direction given by the Secretary of State.

### **What approach should the Mayor take to commissioning adult education provision?**

Providers are key to the delivery of the adult education system. Many education providers are complex organisations that rely on a variety of public funding to operate their business. The Mayor, as a funder of education and training provision, must have regard to best value for the public purse and securing the best outcomes for students. It is also important to make sure that arrangements by public bodies for securing and funding provision are fair and reasonable and that demands made of providers are clear, transparent and timely.

A provider may secure funding from numerous sources and funding from the Mayor may form a relatively small proportion of this overall funding. The Mayor will make the decision about the type of provision required to meet local skills needs. Most education providers

will have become accustomed to how they have been funded for adult provision previously and have their systems and arrangements aligned with that regime. Given this, the Mayor when exercising the delegated functions in relation to the commissioning of adult education provision, should give consideration to the following:

- a) the fairness, reasonableness and proportionality of the requests made of providers by the Mayor through consideration of the entirety of that provider's overall business.
- b) ensuring that all providers are given an equal opportunity to compete for funds in any competitive process.
- c) how the Mayor's commissioning approach aligns to the existing adult education funding key milestones that a provider operates under when commissioning.
- d) when the Mayor determines that it is appropriate to deviate from the ESFA commissioning process the Mayor should give a reasonable notice period<sup>5</sup> to allow providers to adapt.

The Mayor should give consideration to these areas and work jointly with providers at the design and planning stage on the provider's proposed funding arrangements with a view to:

- building positive relationships;
- enabling providers to understand and meet the Mayor's needs;
- enabling the Mayor to understand what providers need to plan and respond properly to deliver adult education for the Mayor.

## **When making and communicating adult funding decisions what should the Mayor take into account?**

The Mayor should:

- a) consult with representative providers on the Mayor's approaches to funding and performance management rules, funding rates and funding formula.
- b) publish a conflicts of interests policy for the allocation of relevant funds that includes:

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<sup>5</sup> A reasonable notice period should be considerate of the nature of the change and the potential impact on provider's usual business cycle.

- i. requirements on all those involved in decision-making and all those receiving funding from this budget to declare and record actual and perceived conflicts of interest; and
  - ii. appropriate external checks, including an internal monitoring process and external input to decisions.
- c) publish in advance of the start of the funding year (traditionally 1 August) conditions of funding against which providers should deliver. This should be published on a website in a manner which recognises accepted web accessibility standards and which allows for the content to be:
  - i. downloadable; and
  - ii. published in such a way that search engines can index it.
- d) give consideration to the ESFA's adult funding key milestones<sup>6</sup> when communicating funding plans and allocations including methodologies. This will help those providers that may be in receipt of adult funds from both the ESFA and the Mayor to plan their overall adult provision staffing and delivery and to manage their business model and income appropriately and efficiently to ensure value for money;
- e) ensure that providers have a point of contact in the event that they need to discuss their delivery, payments or funding arrangements. This should be established early in the relationship.
- f) identify for providers how and to whom they can complain in the event that they believe they have grounds to do so.
- g) conduct appropriate due diligence in establishing which providers will deliver AEB-funded provision, complying with Public Contracts Regulations 2015, as appropriate.
- h) have a clear commercial strategy to undertake legally compliant exercises and put in place contract/performance management regimes.
- i) have clear market entry arrangements that are available to potential providers.
- j) have a clear funding reduction and/or exit requirements strategy.

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<sup>6</sup> For example; publication of funding rules, publication of funding rates/formula, notification of funding allocations to providers and contracts/agreements issued for the upcoming academic year.



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