

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2736

### Title: Changes to the Adult Education Budget decision-making process

#### Executive Summary:

This decision form seeks approval to make changes to the Adult Education Budget (AEB) decision-making process. The changes will: 1) set out which decisions can be taken by the Mayor at AEB Mayoral Board meetings, and those which will require a Mayoral Decision (MD) form under the [Mayoral Decision-Making in the GLA framework](#), as set out in the guidance in Chapter 1 of the AEB Assurance Framework; 2) maintain robust and lawful decision-making whilst enabling routine programme decisions to be taken quickly and effectively; and 3) meet the needs of internal and external stakeholders.

The changes are being made to streamline the existing process and reduce the number of decisions that must be reviewed by the Mayor twice. Currently, *all* AEB decisions must be considered by the Mayor at the AEB Mayoral Board meetings, and then formalised through an MD form. The standing delegations that exist in other areas of the GLA's work do not apply to the AEB. This decision form proposes a two-tier decision-making process, whereby AEB decisions can be made by the Mayor either via a MD form, or at the AEB Mayoral Board meetings.

The proposed changes and the decisions under each tier are set out in Section 2 below and Appendix A of this MD. Amendments are also required to the AEB Assurance Framework, the AEB Mayoral Board Constitution and the Mayoral Decision-Making framework included at Appendices B, C and D respectively. These proposals were endorsed by the AEB Mayoral Board on 25 November 2020.

#### Decision:

That the Mayor approves:

1. Changes to the Adult Education Budget (AEB) decision-making process as set out at paragraphs 2.3-2.10 of this form and Appendix A;
2. Amendments to the AEB Assurance Framework (attached at Appendix B) to reflect the changes to the AEB decision-making process, as well as additional minor updates to the content in Chapter 1, noting that an updated version will be published to the GLA website;
3. Amendments to the AEB Mayoral Board Constitution (attached at Appendix C) to reflect changes to the AEB decision-making process outlined in this MD; and
4. Amendments to Part G of the Mayoral Decision-Making framework (attached at Appendix D) to reflect the changes to the AEB decision-making process outlined in this MD.

#### Mayor of London

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

The above request has my approval.

Signature:



Date:

2/3/21

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

### Decision required – supporting report

#### 1. Introduction and background

- 1.1. The Secretary of State for Education delegated certain AEB functions and funding to the Mayor from 1 August 2019 through a formal delegation letter.<sup>1</sup> Under the legislative framework which permitted the transfer of the AEB to the Mayor, he must take all related decisions personally.<sup>2</sup>
- 1.2. As a prerequisite to transferring the AEB, the AEB Mayoral Board was established under [MD2328: Governance arrangements for statutory functions relating to AEB](#). At that time, it was decided that all decisions (following consideration by the AEB Mayoral Board) should be made through the MD form process.
- 1.3. Having completed the first full year of AEB delivery in London, the annual AEB business cycle is fully understood, including which decisions could reasonably be taken by the Mayor via the AEB Mayoral Board and those that should be reserved for the MD form process (i.e. the existing arrangements) to align with the GLA's decision-making framework ('Mayoral Decision-Making in the GLA' – MDM).
- 1.4. As such, new governance arrangements have been developed which seek to maintain robust decision-making whilst enabling routine programme decisions to be made quickly and effectively. To ensure we continue to meet the needs of our stakeholders, the proposals in this MD have been developed in conjunction with a wide-range of colleagues including the AEB delivery teams, GLA Governance and Transport for London (TfL) Legal.
- 1.5. The proposals set out in this decision were endorsed by the AEB Mayoral Board on 25 November 2020. The Mayor's Chief of Staff and Deputy Mayor for Planning, Regeneration and Skills are members of the AEB Mayoral Board and were both present at the meeting. Following that endorsement, the changes, including the table at Appendix A of this form,<sup>3</sup> have been written into the AEB Assurance Framework (Appendix B). The AEB Mayoral Board Constitution (Appendix C) has also been updated to reflect the changes, and amendments made to the MDM framework (Appendix D).
- 1.6. The GLA informed the Department for Education (DfE) and London Councils (who were both involved in the initial development of the governance arrangements) of these proposals in November 2020 and neither had comments. Once signed by the Mayor, a copy of this form will be sent to them both for information.
- 1.7. Some additional minor amendments have also been made to the process tables at Appendix A of the AEB Assurance Framework, largely to provide clarity, amend operational processes (including the ability to reprofile contracts for services and grant agreements where the overall value remains unaltered) and to correct administrative errors. These amendments have also been shared with the AEB Mayoral Board for information.

#### 2. Objectives and expected outcomes

- 2.1. The Secretary of State for Education delegated the AEB Decision-Making function to the Mayor, and pursuant to that delegation, the Mayor cannot delegate this function. Presently, all decisions that are made at the AEB Mayoral Board (at which the Mayor attends) must be progressed to the Mayor by way of an MD form, as the MD form is the primary mechanism through which the Mayor takes

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<sup>1</sup> Principle governance documents, including the delegation letter, are available on the [GLA website](#).

<sup>2</sup> In particular, Section 39A of the Greater London Authority Act 1999.

<sup>3</sup> Since endorsement at the 25 November 2020 AEB Mayoral Board, minor changes have been made to the table at Appendix A following discussions with TfL Legal and GLA Governance. These changes have been shared with the AEB Mayoral Board for information.

decisions reserved to him. The delegations that exist in other areas of the GLA's work (for example, that senior officers can take decisions of a value up to £150,000) do not apply to the AEB.

2.2. The AEB decision-making process must comply with the delegation arrangements from the Government. This decision form proposes a new 'two-tier' approach by which AEB decisions should be made by the Mayor. The new approach:

- clearly defines which decisions can be taken by the Mayor via the AEB Mayoral Board, and those which remain reserved to an 'MD form' under the MDM framework;
- maintains robust decision-making whilst enabling routine programme decisions to be taken quickly and effectively; and
- meets the needs of a wide range of internal and external stakeholders.

2.3. The proposed changes and the decisions that sit under each tier are set out in Appendix A<sup>4</sup> and are summarised as follows:

- **AEB decisions that require endorsement by the AEB Mayoral Board and approval by the Mayor via an MD form.** This would include, but would not be limited to: strategic direction and priorities; overarching governance & decision-making arrangements; the AEB commissioning strategy and overarching annual budget; and provider allocations for the year. Decisions taken in this way would first be considered by the AEB Mayoral Board before the MD form is submitted for approval through the Mayoral decision-making process. Where required, overarching MD forms will set the parameters under which the AEB Mayoral Board can consider the matter and the Mayor can make decisions at the AEB Mayoral Board meeting. In addition, if changes are required to the MD after approval, it would be subject to the following variation procedure:<sup>5</sup>
  - Where the value of a Financial Commitment associated with a decision changes, then a new MD form is required unless the original MD form has set out specific criteria or financial thresholds e.g. it is anticipated that annual MD forms for provider allocations will include a provision to enable the Mayor to take further in-year decisions related to individual provider allocations at the AEB Mayoral Board meetings (explained further at 2.6.2); and
  - If there are significant changes to the nature of a decision, the basis on which it was taken or to the outcomes being pursued, then a new MD form may also be required, subject to consultation with GLA Governance.
- **AEB decisions that can be approved by the Mayor at the AEB Mayoral Board meetings.** This would include decision-making that falls within the scope of any MD form setting the strategic direction or Mayoral priorities (and where these do not affect the basis of the original decision) and/or where a decision is not, according to the rules set out in Mayoral Decision-Making in the GLA, reserved to the MD process (see below and Appendix A). In order to record decisions made in this way, following consideration of a report on a matter by the AEB Mayoral Board, the Mayor will approve the decision(s) made at the end of the AEB Mayoral Board meeting which are then recorded. Should the AEB Mayoral Board require amendments to any recommendations, the decision would be automatically referred to an MD and submitted once the changes had been made.

2.4. As a general principle, any decisions that, under Part B of the MDM framework, are Reserved Mayoral Matters which would usually require an MD form (i.e. for areas outside of the AEB) will still be subject

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<sup>4</sup> The table at Appendix A should be considered as guidance and read in conjunction with the AEB Assurance Framework and the Mayoral Decision-Making in the GLA framework, the latter of which sets out the formal GLA decision-making processes, including for the AEB.

<sup>5</sup> The proposed variation process is an adapted version of the existing arrangements in the Mayoral Decision-Making in the GLA framework.

to the MD form process. Decisions that would usually be delegated, either to Senior Officers or staff more widely, but cannot due to the restrictions relating to AEB, will be taken by the Mayor at the AEB Mayoral Board (rather than through an MD form).

2.5. Any decisions considered to be 'novel, contentious or repercussive' would remain subject to the MD form process. The AEB Mayoral Board would also reserve the right to refer any recommended decision to the MD form process should they consider it appropriate, even where the decision could be approved by the Mayor at the AEB Mayoral Board meetings.

2.6. Officers expect the number of AEB-related MD forms to be reduced and that routine programme decisions can be made more efficiently than is currently possible. This would particularly be the case for matters where multiple MD forms are currently required each year. A few examples of what this means in practice are set out below:

2.6.1 The AEB Funding Rules and Rates are amended multiple times per Academic Year in line with national changes introduced by the Education and Skills Funding Agency (ESFA), and also to incorporate AEB policy changes introduced by the Mayor in-year. Due to the delegation arrangements, many of these changes are significant enough to constitute a 'decision' and therefore require approval in-principle by the AEB Mayoral Board and subsequently for the Mayor to approve by the MD form process, even where the basis of those decisions (i.e. the policy changes) have already been approved under a separate MD form. Under the new process, there will be two AEB Funding Rules MD forms per Academic Year: the 'draft' and the 'final' versions for the following Academic Year. Any further 'in-year' changes could be approved by the Mayor at AEB Mayoral Board meetings and the amended versions published shortly after.

2.6.2 Another example is the AEB allocations, where currently there are multiple MD forms per year, even to agree relatively low value but 'significant' changes to individual provider allocations.<sup>6</sup> Under the new process, the overall indicative and final Grant provider allocations would remain subject to MD form, as would any subsequent changes applied across all providers. However, further in-year changes to individual Grant or Procured allocations (such as growth or reductions) could be agreed by the Mayor at the AEB Mayoral Board meetings.

2.6.3 In terms of finance, the annual AEB Financial Management MD sets out how London's AEB allocation from the DfE is apportioned across the main budget categories. If this decision is agreed, any changes to spend within those categories may be made by the Mayor at the AEB Mayoral Board meetings. However virements between the budget categories would be subject to a further MD. Any additional budget provided in year (such as the COVID-19 Skills Recovery Package agreed in September 2020 under MD2684), would again be subject to MD form to agree how it would be allocated.

#### AEB Urgency Procedure

2.7. Alongside the work on the AEB decision-making process, the AEB urgency procedure has been reviewed to understand whether a more streamlined approach to sign-off of urgent items should be introduced.

2.8. Similar to the existing route for normal AEB decisions, the current urgency procedure requires the Mayor and members of the AEB Mayoral Board to approve a decision twice: through the AEB Mayoral Board, and then through the MD form process. Having reviewed this process and considered the types of decision that have been taken through the urgency procedure in the past, officers are of the view that this process provides the right level of robustness, while providing a clear audit trail for urgent decisions.

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<sup>6</sup> See table under the 'Schedule of Officer Responsibilities' in the AEB Assurance Framework, which sets out the values at which changes to individual allocations are considered 'significant' and must be made by the Mayor.

2.9. It is therefore proposed that the two-tier approach outlined above is not applied to AEB urgency decisions, and that all decisions made in this manner continue to be taken by MD form (noting the exceptional procedure in paragraph 10.5 of the AEB Mayoral Board Constitution). There are, however, ways in which the process can be made more efficient and an amended sign-off process is set out below. This is likely to speed up the existing process by one to two weeks. The urgency procedure would be as follows:

- For any urgent AEB decision where it is not practical to arrange an extraordinary AEB Mayoral Board meeting (notwithstanding the exceptions set out at paragraph 10.5 of the AEB Mayoral Board Constitution), the draft decision must be circulated to the AEB Mayoral Board for comment concurrently to it undergoing final checks for consideration at the Corporate Investment Board (CIB). Any comments from AEB Mayoral Board members will be required ahead of the CIB meeting and any changes made by CIB will be incorporated into the MD form prior to final sign off.

2.10. All decisions taken under this procedure will be reported to the next AEB Mayoral Board meeting. The effectiveness of CIB and the AEB Mayoral Board considering decisions concurrently will be reviewed as part of the annual Assurance Framework review (next due in July 2021).

### **3. Equality comments**

3.1. In carrying out any functions in respect of the AEB, the Mayor must comply with the public sector equality duty under section 149 of the Equality Act 2010.

3.2. Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities – of whom the Mayor is one – must have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.3. Relevant protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The AEB Assurance Framework includes a Diversity and Inclusion section which references the Mayor's Equality, Diversity and Inclusion Strategy and states how implementation of the AEB promotes equal opportunities.

3.4. Equalities comments are considered on a case by case basis for each AEB decision prior to it being submitted to the Mayor for approval. All AEB Mayoral Board reports and MD forms contain a section on equality comments and equalities impacts must be considered as a part of this process.

3.5. It is not considered that there are any equalities impacts relating to the proposed changes to the decision-making process. It will however speed up the process by which a number of AEB decisions are made.

### **4. Other considerations**

4.1. Delivering the AEB will support the Mayor's vision to ensure that all Londoners and businesses gain the skills they need to succeed as set out in the Skills for Londoners' Strategy. It aims to meet the strategy's three aims:



- empower all Londoners to access the education and skills to participate in society and progress in education and work;
  - meet the needs of London's economy and employers, now and in the future; and
  - deliver a strategic city-wide technical skills and adult education offer.
- 4.2. The AEB Mayoral Board decision making mechanism will need to be robust to ensure that it includes all the matters that the Mayor must consider when making a decision, as currently set out in the MD form.

#### Risks arising/mitigation

- 4.3. There is a risk that that by introducing a two-tier process, it either becomes overly complicated or there is a perception that the robustness, including transparency, of decisions has been diminished.
- 4.4. Work will be undertaken to ensure that the new process is fully understood by those administering the AEB matters, that it is embedded properly, and that there is engagement at the right point. Processes will be put in place to ensure that decisions made by the Mayor at the AEB Mayoral Board are recorded appropriately.
- 4.5. In terms of scrutiny of decisions, under these proposals, any overarching programme decisions would still be subject to an MD form, as would any novel, contentious or repercussive decisions. In addition, the AEB Mayoral Board would be able to refer any decision to be dealt with via MD form should they consider it appropriate even where the decision could, under the arrangements set out in this form, be approved by the Mayor at the AEB Mayoral Board meeting. A summary of each AEB Mayoral Board meeting will be reported back to CIB for noting and therefore CIB would be made aware of any approvals by the Mayor at the AEB Mayoral Board under these new proposals.
- 4.6. Furthermore, in the interests of openness and transparency, AEB Mayoral Board agendas and minutes are published on the GLA website except in those cases where officers reasonably consider that information may be exempt from disclosure under an applicable exemption under the Freedom of Information Act 2000 (FOIA). Finally, the proposals will be reviewed annually as a part of the AEB Assurance Framework review (the next review of which will take place in July 2021).
- 4.7. The AEB Assurance Framework sets out robust governance arrangements for managing the AEB to minimise any programme risks. The GLA's publication of an over-arching framework setting out the GLA's approach to decision-making, transparency, audit, value for money and engagement can give stakeholders confidence that any decisions are proper, evidence-based and capable of being independently scrutinised.
- 4.8. Regarding the urgency procedure, with any urgent decision there is a risk that it does not get the same level of consideration as it would have through the usual process. This risk is mitigated by ensuring urgent AEB decisions remain subject to an MD form.<sup>7</sup> In addition, it is proposed that the number of urgent decisions will be minimised wherever possible, and where they are necessary, this risk will be mitigated by providing briefings to AEB Mayoral Board members on any key risks and issues when seeking the decision. This includes briefing the Deputy Mayor for Planning, Regeneration and Skills, or seeking a steer from the Mayoral Director for Policy or Mayor's Chief of Staff as recommendations are developed.
- 4.9. There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

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<sup>7</sup> Notwithstanding urgent decisions taken in exceptional circumstances as set out at paragraph 10.5 of the AEB Mayoral Board constitution.

## 5. Financial comments

- 5.1. There are no direct financial implications arising from the proposed changes to the AEB decision-making process, amendments to the AEB Mayoral Board Constitution, and amendments to Part G of the Mayoral Decision-Making framework.

## 6. Legal comments

- 6.1. In preparation for the delegation of adult education functions from the Secretary of State to the Mayor of London, the Mayor established the AEB Mayoral Board and approved its Constitution in July 2018, under MD2328. Upon being satisfied as to these arrangements, the AEB powers and funding were delegated by the Secretary of State for Education to the Mayor of London under Section 39A of the Greater London Authority Act 1999 (GLA Act) from 1 August 2019. The Mayor is not permitted to delegate the discharge of these functions and must discharge them personally (section 39A (6) of the GLA Act). The terms and conditions of the delegation are contained in a letter, dated December 2018 ("the Letter"), delegating specified adult education functions from the Secretary of State to the Mayor. In exercising the delegation functions, the Mayor must have regard to the statutory guidance issued by the Secretary of State, as amended from time to time. The Mayor has also signed a Memorandum of Understanding with the Secretary of State for Education, dated January 2019, entitled "Delegation of Certain Adult Education Functions to the Greater London Authority," which sets out the agreed understanding of how the delegation will operate.
- 6.2. The proposed changes to the decision-making framework will comply with the legal requirement that the power delegated to the Mayor by the Letter must be discharged by him personally (section 39A (6) of the GLA Act). Paragraph 1.6 confirms that officers have engaged with the DfE as part of this process.
- 6.3. The AEB Mayoral Board Constitution provides, at paragraph 11, that the Mayor retains the right to amend this Constitution at any time following consultation with the Board, or if urgent in consultation with his Chief of Staff and the Deputy Mayor for Planning, Regeneration and Skills. The AEB Mayoral Board endorsed the two-tier approach to decision making at the 25 November 2020 meeting, and noted that the Mayor would be asked to approve changes to the AEB Mayoral Board Constitution. Paragraph 1.5 provides that the Chief of Staff and the Deputy Mayor for Planning, Regeneration and Skills (who are both members of the Board) attended the 25 November 2020 meeting.
- 6.4. Public bodies must have due regard to the Public Sector Equality Duty as set out in paragraph 3. Paragraph 3 of this report sets out how the Mayor will continue to pay due regard to his equalities duties when making decisions, and the factors he will need to consider in order to discharge his duty with regards this proposal.

## 7. Planned delivery approach and next steps

Activity	Timeline
Implementation of the process set out in this decision form	February 2021, with processes fully in place by the first meeting of the AEB Mayoral Board following the May 2021 elections.
Review of the AEB Assurance Framework	July 2021

### Appendices:

Appendix A – Table of AEB decisions for the Mayor at the AEB Mayoral Board, and by Mayoral Decision (Schedule of AEB Matters Reserved for the Mayor)

Appendix B – Amended AEB Assurance Framework v2.1

Appendix C – Amended AEB Mayoral Board Constitution

Appendix D – Amends to the Mayoral Decision-Making framework

**Background documents:**

- AEB Mayoral Board report on changes to the AEB decision-making process – 25 November 2020
- Tracked changes version of the AEB Assurance Framework (copy submitted with this decision form for information)



**Public access to information**

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

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

**Part 1 – Deferral**

**Is the publication of Part 1 of this approval to be deferred? NO**

Until what date: (a date is required if deferring)

**Part 2 – Sensitive information**

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

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

Rachel Greenwood has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Halima Khan has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

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

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 22 February 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

**Date**

23 February 2021

*D. Gove*

**CHIEF OF STAFF:**

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

**Signature**

**Date**

22 February 2021

*D. Bellamy*

