

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2716

### **Title: Changes to the GLA Adult Education Budget 2020/21 Funding Rules and Rates for Grant and Procured Providers**

#### **Executive Summary:**

This Mayoral Decision (MD) form sets out proposed changes to the Adult Education Budget (AEB) Funding and Performance Management Rules for Grant and Procured Providers (the “GLA AEB Grant Rules” and the “GLA AEB Procured Rules”) and AEB Funding Rates and Formula for the 2020/21 Academic Year. The GLA AEB Grant Rules and the GLA AEB Procured Rules and GLA AEB Funding Rates and Formula will be published on the GLA website in November 2020.

The most significant changes to the GLA AEB Grant and GLA AEB Procured Rules are centred around the introduction of new programmes and additional funding in response to COVID-19, approved by the Mayor under cover of MD2684. Other amendments follow those adopted by the Education and Skills Funding Agency (ESFA) in their latest AEB Funding and Performance Management Rules for 2020/2021.

#### **Decision:**

That the Mayor approves the following changes:

- 1) GLA Adult Education Budget (AEB) Funding and Performance Management Rules for Grant Providers (the GLA AEB Grant Rules) set out in Appendix A;
- 2) GLA Adult Education Budget (AEB) Funding and Performance Management Rules for Procured Providers (the GLA AEB Procured Rules) set out in Appendix B; and
- 3) the proposed changes to the GLA AEB Funding Rates and Formula set out in Appendix C.

#### **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:**

1/12/20

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

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

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

- 1.1. In July 2020, the GLA published versions of the GLA AEB Grant Funding Rules, GLA AEB Procured Rules and GLA AEB Funding Rates ahead of the commencement of the 2020/21 Academic Year. The published documents indicated that these would be reviewed in September 2020, following publication of Version 2 of the national AEB Funding Rules by the Education and Skills Funding Agency (ESFA).
- 1.2. In the Chancellor of the Exchequer's Summer Economic Update (8 July 2020) it was announced that there would be additional funding made available as part of the Department for Education's (DfE) COVID-19 Skills Recovery Package and wider Government plans to protect, support and create jobs. The GLA was allocated £12,943,836 as part of the DfE's recovery package.
- 1.3. In September 2020, MD2684 approved receipt of the additional AEB from DfE and the allocation of an additional £1,771,086, recovered from grant underperformance in 2019/20 and a further £203,939 GLA held AEB funding, bringing the total amount to £14,918,861. This additional funding would be used to fund the following programmes:
  - delivery of high value courses to provide an additional programme of study for 19-year olds, of selected high value level 2 and 3 qualifications, if they cannot find employment or work-based training;
  - London Recovery Programmes to support unemployed Londoners or Londoners that are at risk of becoming unemployed to undertake skills provision to support them. This includes courses designed to support employment aligned to the expanded work and health programme; and
  - the sector-based academies programme (SWAP) designed to support Jobcentre Plus claimants to gain work experience and training to improve their job prospects.
- 1.4. Following Mayoral approval, the GLA wrote to AEB grant providers in September 2020 to inform them of the additional AEB London Recovery allocation available to them. AEB Procured providers also received a letter to inform them that they could claim an additional £400 per learner for delivery of eligible high value courses to 19-year olds within their existing contracts. AEB Procured providers will be able to apply for additional funding via the usual process for contract increases.
- 1.5. In October 2020, the ESFA published Version 4 of its AEB Funding and Performance Management Rules for the 2020/21 Academic Year. ESFA updates to the Rules have included several amendments to support providers delivering AEB in the context of the COVID-19 pandemic.

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

##### AEB Grant Funding Rules

- 2.1. The GLA AEB Grant Rules (table of changes attached at Appendix A) have been updated to set out rules relating to the new recovery programmes and arrangements for managing the AEB London Recovery allocations.
- 2.2. Eligibility requirements for the programmes that are fundable under the AEB London Recovery allocation have been set out. The AEB London Recovery allocation is separate from the GLA grant funded AEB and will be managed as a distinct allocation funding stream. It is a ringfenced pot with allowances for learner support and learning support included.

- 2.3. Similar to the AEB block grant, providers will be given the opportunity to use 10% of their AEB London Recovery allocation to deliver non-formula funded provision. This will support providers to fully utilise the funding allocated to them and align provision with local priorities.
- 2.4. The AEB London Recovery allocation will be subject to reconciliation in 2020/21 on the same basis as the AEB block grant. Where providers deliver 90% of their allocation, they will be paid in full. If providers deliver less than 90% of their Recovery allocation, the GLA retains the right to recover this funding.
- 2.5. Other changes to the GLA AEB Grant Rules follow changes in the latest ESFA AEB Funding Rules document. This includes a new section on the response to COVID-19 which sets out new rules for supporting learners during the pandemic. New arrangements have been introduced to ensure learners can be supported to participate via online learning where classroom learning is disrupted, for example through purchase of suitable devices. Learners can now also take a break in learning for reasons such as self-isolation. Furthermore, electronic and digital signatures for records or documents that require them are now acceptable as long as a secure process to obtain and store signatures was followed.
- 2.6. The ESFA has frequently updated the national AEB Funding Rules in recent months and published Version 4 of the rules in late October 2020. The changes to GLA Grant and Procured Rules have been made following review of ESFA AEB Funding Rules Version 4 and earlier versions published by the ESFA.

#### AEB Procured Funding Rules

- 2.7. Changes made to the AEB Procured Rules (table of changes attached at Appendix B) mostly reflect the changes made to the AEB Grant Rules. However, though eligibility requirements relating to the new recovery programmes are included, procured providers are not in receipt of additional funding to deliver against these programmes and, as such, arrangements relating to the AEB London Recovery allocations do not apply.
- 2.8. GLA officers consider that the proposed changes to the GLA AEB Procured Rules do not significantly or materially alter the scope and nature of the existing GLA contracts.

#### AEB Funding Rates and Formula

- 2.9. The AEB Funding Rates (table of changes attached at Appendix C) apply to all providers. This document has been updated to include reference to the new recovery programmes.
- 2.10. The document also sets out that all providers can claim an additional £400 per learner for delivery of eligible high-value courses to 19-year olds.

### **3. Equality comments**

- 3.1. Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities, of whom the Mayor is one, must have due regard to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.2. Relevant protected characteristics are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 3.3. The Mayor is required to comply with the duty set out above in making the decision set out in this report and any future decisions relating to the AEB made pursuant to those arrangements which will be subject to separate decision forms.
- 3.4. The aim of the AEB and European Social Fund (ESF) is to improve opportunities for people who are disadvantaged in the labour market. Many potential AEB participants have protected characteristics listed above. The GLA's AEB provision will support a range of groups, particularly the most disadvantaged people not currently receiving sufficient support into employment or education.
- 3.5. The proposed updates to the AEB grant and procured rules for 2020/21 set out arrangements for supporting disadvantaged Londoners affected by the COVID-19 crisis to move into employment or further learning.

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

- 4.1. A key risk associated with this approach is not extending AEB London Recovery funding to AEB procured providers. As AEB Grant providers have received additional funding, the GLA may face accusations from AEB Procured providers that they have been treated unfavourably. However, it is not possible to provide additional funding to AEB Procured providers outside of the stipulated growth process for contract increases. To ensure all AEB providers are supported through these measures the AEB Funding Rates have been updated to enable all providers to claim an additional £400 per learner for delivery of eligible high-value courses to 19-year-olds.
- 4.2. There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

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

- 5.1. There are no current direct financial implications arising from the proposed amendments to the GLA's AEB Funding and Performance Management Rules for both Grant and Procured Providers, and the GLA AEB Funding Rates and Formula.
- 5.2. Whilst there is no financial impact on the overall AEB budget, there may be adjustments to individual programme strands due to the introduction of the additional AEB London Recovery allocation and the additional £400 per learner for delivery of eligible high value courses to 19-year-olds within the existing contracts for AEB Procured providers. If these adjustments do occur, they will be contained within the overall AEB budget envelope.

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

- 6.1. Section 39A of the Greater London Authority Act 1999 permits the delegation of ministerial functions to the Mayor, subject to certain limitations and conditions. This forms the basis for the delegation of AEB functions from the Secretary of State for Education to the Mayor. A particular limitation of a delegation under s39A is that the usual power of delegation by the Mayor is not available in respect of s39A delegated functions.
- 6.2. In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty – namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.
- 6.3. Officers have indicated, at section 2.8 of this MD form that:

- 6.3.1. AEB funding and contracting opportunities were competed and tendered and Grants and Contracts let on the basis that providers must comply with the GLA's AEB Funding Rules as in place and amended from time; and
- 6.3.2. the changes proposed are not substantial for the purposes of regulations 72(1)(e) and (8) of the Public Contracts Regulations 2015.
- 6.4. On that basis the changes in question would fall within the scope of the grants and contracts competed/procured and awarded and could be considered permitted modifications provided that, as officers have indicated, the changes do not:
  - 6.4.1. render a contract materially different in character from that initially concluded;
  - 6.4.2. introduce conditions which, had they been part of the initial procurement procedure, would have:
    - 6.4.2.1. allowed for the admission of other candidates than those initially selected;
    - 6.4.2.2. allowed for the acceptance of a tender other than that originally accepted; or
    - 6.4.2.3. attracted additional participants in the procurement procedure;
  - 6.4.3. change the economic balance of the contract in favour of a contractor in a manner which was not provided for in the initial contract agreement; or
  - 6.4.4. extend the scope of the contract considerably.
- 6.5. Should the Mayor be minded to make the decisions sought, officers must ensure that the changes are published and communicated clearly to providers.

## 7. Planned delivery approach and next steps

Activity	Timeline
GLA AEB Grant Rules, AEB Procured Rules and AEB Funding Rates and Formula published on website	December 2020

### Appendices and supporting papers:

- Appendix A – Table of changes - GLA AEB Funding and Performance Management Rules for Grant Providers for 2020/21
- Appendix B – Table of changes - GLA AEB Funding and Performance Management Rules for Procured Providers 2020/21
- Appendix C – Table of changes - GLA AEB Funding Rates and Formula for 2020/21

**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**

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to confirm the following (✓)

**Drafting officer:**

Simon Lowe has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

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

✓

**Mayoral Adviser:**

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

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 30 November 2020.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

*D. Gove*

**Date**

1 December 2020

**CHIEF OF STAFF:**

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

**Signature**

*D. Bellamy*

**Date**

30 November 2020