

# GREATER **LONDON** AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2410

### **Title: Delegation of Adult Education Budget functions and funding from HM Government to the Mayor of London**

#### **Executive Summary:**

In preparation for the Secretary of State for Education delegating statutory functions relating to the Adult Education Budget (AEB) to the Mayor of London from the 2019/20 Academic Year, this decision seeks approval for the Mayor to sign the delegation letter and Memorandum of Understanding (MoU) between the Mayor and the Secretary of State for Education confirming the delegation of certain functions relevant to the AEB to London from 1 August 2019. The letter, MoU and related documents were approved at a meeting of the AEB Mayoral Board on 10 January, which the Mayor attended.

Once signed, the delegation letter will constitute the legal mechanism for delegating the statutory AEB functions from the Secretary of State for Education to the Mayor. The MoU underpins this delegation and the mechanism for transferring the circa £311m annual AEB.

#### **Decision:**

That the Mayor signs the Adult Education Budget delegation letter and the Memorandum of Understanding with the Secretary of State for Education, confirming the delegation of certain Adult Education Budget functions to the Greater London Authority from 1 August 2019.

#### **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:**

22/1/19

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

### Decision required – supporting report

#### 1. Introduction and background

- 1.1. The GLA is expecting to take on responsibility for the Adult Education Budget (AEB) for London from the 2019/20 academic year (1 August 2019) pursuant to a formal delegation of powers from the Secretary of State for Education to the Mayor of London.
- 1.2. Under cover of MD2255 – Devolution of the Adult Education Budget to the Mayor, the Mayor accepted the delegation of AEB functions, subject to the final arrangements being confirmed by the Secretary of State.
- 1.3. For the Secretary of State to delegate the functions and funding for AEB to the Mayor, he needs to be satisfied that the Mayor meets a number of readiness conditions and agrees to a number of key documents. The documents include:
  - 1.3.1. A delegation letter from the Secretary of State for Education formalising the delegation of the statutory functions (attached at Appendix B);
  - 1.3.2. A letter regarding the transitional AEB funding arrangements for Richmond and Hillcroft Adult Community College (RHACC) (attached at Appendix C). This letter is an annex to the delegation letter<sup>1</sup>; and
  - 1.3.3. A Memorandum of Understanding (MoU) in support of the delegation letter to underpin the general principles (attached at Appendix D).
- 1.4. Once signed, the delegation letter will constitute the legal mechanism for delegating the statutory AEB functions from the Secretary of State for Education to the Mayor. The MoU underpins this delegation and the mechanism for transferring the circa £311m annual AEB.
- 1.5. In exercising the delegated functions, the Mayor must have regard to guidance issued by the Secretary of State (Appendix E). This should be considered alongside conditions on the exercise of the transferred functions in the delegation letter and the associated MoU.

#### 2. Objectives and expected outcomes

- 2.1 The delegation letter (Appendix B) is the formal mechanism for delegating the statutory functions from the Secretary of State for Education to the Mayor. The letter is annexed by the letter regarding the transitional AEB funding arrangements for RHACC (Appendix C). The letter is supported by a MoU (see Appendix D) that will establish a clear understanding between the DfE and the Mayor in relation to the delegated functions.
- 2.2 The MoU, wherever applicable, will be identical to those to be agreed between the Secretary of State and the seven Combined Authorities (CAs) that are receiving the same AEB functions through a different statutory mechanism.<sup>2</sup>
- 2.3 The delegation letter and MoU provide confirmation that:
  - 2.3.1 **delegated functions are as expected** i.e. all AEB functions will be delegated to the Mayor with the exception of those relating to apprenticeships training and adult detention; and

---

<sup>1</sup> See paragraph 2.4 below for further detail on funding arrangements for RHACC

<sup>2</sup> The other CAs are receiving devolved funding via Orders currently laid before Parliament whereas the Mayor is receiving delegated functions through s39A of the GLA Act 1999.

**2.3.2 functions will come with the necessary funding** (circa £311m for 2019/20). Functions will come with the necessary funding (circa £311m for 2019/20) with the amount based on the ESFA 2016/17 learner budget. A request has been made to HM Government for a reasonable ongoing budget to administer the AEB funding, but HM Government has resisted calls to provide this budget. This means any administration costs will need to be top-sliced from the learner budget.

- 2.4 RHACC is one of four providers nationally that meets a number of criteria regarding the college's specialist nature and reliance on AEB, and was to be funded by the Education and Skills Funding Agency (ESFA) for a two-year transitional period. This funding will now be delegated to the Mayor as part of London's AEB allocation. Appendix C sets out the terms and conditions in relation to these arrangements.
- 2.5 The final delegation letter, its annexes and MoU were endorsed by the AEB Mayoral Board on 10 January 2019 (attended by the Mayor) and are now being submitted for final Mayoral Decision. Once signed by the Mayor and the Secretary of State for Education, the letter will constitute the legal delegation of the statutory functions, whereas the MoU will underpin the relationship between each involved party but will not be legally binding. Once signed, the delegation letter and MoU will be published on the GLA's website.
- 2.6 There is likely to be a supplementary document to the MoU, agreed between the DfE, ESFA and the GLA, that will seek to 'operationalise the MoU' by setting out clear processes for fulfilling the MoU. This operational document will be for guidance purposes only and holds no legal standing. It is expected that this document will be finalised in Spring 2019.

### **3. Equality comments**

- 3.1. This decision deals solely with the mechanics of the proposed delegation of certain educational functions from HM Government to the Mayor, and the provision of funding in relation thereto. The public-sector equality duty under section 149 of the Equality Act 2010 will be relevant to the exercise of any delegated functions.

### **4. Other considerations**

- 4.1. It should be noted that the delegation letter attached to this MD pre-dates consideration of this matter by the AEB Mayoral Board. Had there been any changes requested by the Mayor at the 10 January meeting, we would have sought a revised version of the delegation letter from DfE. However, the Board were content with the documents as attached and therefore these versions are being taken forward for signature.
- 4.2. 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.
- 4.3. 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.
- 4.4. The draft delegation letter and MoU include wording that sets out that the Secretary of State and the DfE Accounting Officers will not participate in, or approve, decisions taken by the Mayor regarding

the exercise of the delegated functions, provided that these are exercised by the Mayor in accordance with the conditions of the delegation, and the requirements to which the Mayor is subject under Managing Public Money.<sup>3</sup>

- 4.5. There is a risk that, because the final delegation letter and MoU will be signed in advance of securing a written commitment from MHCLG, the Ministry will not work with the GLA to amend the GLA Act at the first practical opportunity, enabling formal devolution of powers relating to the AEB to the Mayor. It is, however, important that the delegation proceeds so that delivery can begin in 2019/20, and City Hall will continue to work with MHCLG to secure the commitment required as soon as possible to ensure that the powers are secured on the same terms as the seven combined authorities receiving devolved powers.

#### Confirmation of annual budget

- 4.6. The annual budget is expected to be confirmed by DfE each year through a grant determination letter and transferred via Section 39A of the Greater London Authority Act 1999. This is the same provision used to transfer the AEB functions. The budget is expected to be circa £311m for 2019/20 and it is anticipated that the final allocation will be confirmed at the end of January 2019.

### **5. Financial comments**

- 5.1 As noted within this report, once signed the delegation letter will constitute the legal mechanism for delegating the statutory AEB functions from the Secretary of State for Education to the Mayor and the MoU underpins this delegation and the mechanism for transferring the circa £311m annual AEB to the GLA.
- 5.2 Once the function has formally transferred to the GLA, it is anticipated that the budget for each year will be confirmed annually by the DfE via a grant determination letter and transferred via Section 39A of the GLA Act 1999. The final allocation for 2019-20 is expected to be confirmed towards the end of January 2019 and will include the transitional funding for RHACC, a specialist college that meets the criteria for ring-fenced AEB allocation for a two-year period (as detailed within the main body of this report).

### **6. Legal comments**

- 6.1. Section 39A of the Greater London Authority Act 1999 permits the delegation of ministerial functions to the Mayor, subject to certain limitations and conditions. This forms the basis for the proposed delegation of AEB functions from the Secretary of State for Education to the Mayor.
- 6.2. The proposed delegation of functions letter at Appendix B will constitute the legal delegation of the statutory functions, whereas the MoU at Appendix D underpins the relationship between each involved party, but will not be legally binding.

### **7. Planned delivery approach and next steps**

Activity	Timeline
Confirmation of annual budget	January 2019
Mayor/Secretary of State for Education to sign delegation letter formalising the delegation of certain statutory functions related to the AEB to the Mayor	January 2019

<sup>3</sup> <https://www.gov.uk/government/publications/managing-public-money>

**Appendices and supporting papers:**

Appendix A: Cover letter – Delegation of adult education functions

Appendix B: Letter – Delegation of specified adult education functions from the Secretary of State to the Mayor of London

Appendix C: Letter – RHACC: Transitional AEB funding arrangements

Appendix D: Memorandum of Understanding – Delegation of certain adult education functions to the Mayor of London

Appendix E: Guidance on the exercise of delegated adult education functions

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) 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 approval or on the defer date.

**Part 1 Deferral:**

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

If YES, for what reason:

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

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be 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:**

Lucy Owen 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 the 21 January 2019

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. D. Blö*

Date

21.1.19

**CHIEF OF STAFF:**

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

Signature

*D. Bellamy*

Date

21/1/2019.