

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2582

Title: Adult Education Budget Procured Policy Changes for 2020/21

Executive Summary:

This Mayoral Decision (MD) form sets out the proposed changes to the Adult Education Budget (AEB) Funding and Performance Management Rules for Procured Providers (the "GLA AEB Procured Rules") and AEB Funding Rates and Formula from 2020/21 academic year. The draft GLA AEB Procured Rules and GLA AEB Funding Rates and Formula will be published on the GLA website in March 2020.

The changes are not considered to be substantial or material modifications, or changes to contract scope when compared with the original tender documentation.

Decision:

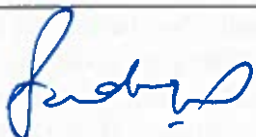
That the Mayor approves the proposed changes to the GLA Adult Education Budget (AEB) Funding and Performance Management Rules for Procured Providers (the GLA AEB Procured Rules) and GLA AEB Funding Rates and Formula set out in the tables at paragraph 2.4 of this decision form.

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:

25/2/20

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

Decision required – supporting report

1. Introduction and background

- 1.1 In November 2019, the Mayor approved two important AEB policy changes for grant recipients (MD2557):
- a 10% increase to the average cost per AEB-funded enrolment for English and maths qualifications at Levels 1 and 2 funded through the legal entitlement in 2020/21, amounting to £77 per funded enrolment; and
 - the introduction of flexibility within AEB grant-funded provider allocations to fully fund relevant learning that upskills eligible teaching and learning support staff to deliver improved provision for learners with Special Educational Needs and Disabilities (SEND) within the publicly funded further education (FE) sector.
- 1.2 It was noted in that MD that further work was required to determine whether it was possible to announce similar changes for procured providers. Having now completed this work, it is proposed that these two policy changes are also implemented for AEB-procured providers. These changes will be implemented via an update to the GLA AEB Procured Rules and the GLA AEB Funding Rates and Formula from 2020/21 academic year. Further detail on the proposed changes, including any risks, is included both in Section 2 of this decision form and in the reserved Part 2 form attached.
- 1.3 The decisions set out in this form were considered by the AEB Mayoral Board on 19 February 2020.

2. Objectives and expected outcomes

- 2.1 This decision form seeks approval for changes to be made to the GLA AEB Procured Rules and GLA AEB Funding Rates and Formula to incorporate the policy changes detailed above. These amendments mainly mirror the changes adopted in the GLA's AEB Grant Funding Rules, for reasons of consistency.
- 2.2 In October 2018, the AEB Procured tender documents made clear to bidders and potential bidders that the GLA AEB Procured Rules with which successful bidders must comply would be subject to change by the GLA from time to time. These changes usually mirror changes to the Funding Rules documents introduced by the Education and Skills Funding Agency (ESFA) on a regular basis.
- 2.3 GLA officers consider that the proposed changes to the GLA AEB Procured Rules are not substantial and do not significantly or materially alter the scope and nature of the existing GLA contracts. Further details in relation to this matter are presented in Part 2 of this Decision Form.
- 2.4 The proposed changes to the GLA AEB Funding and Performance Rules and GLA AEB Funding Rates and Formula to implement these policy changes are set out in the tables below. Once the amendments have been made, both documents will be published in draft in February/March 2020.

Changes to GLA AEB Funding and Performance Rules

Section	Paragraph	Change
Adult Education Budget	Section 2, new paragraph under 140-142	<p>Addition of following text: "We will fully fund eligible learning aims which support the upskilling of teaching or learning support staff to deliver improved specialist provision for learners with SEND within the adult/further education sector.</p> <p>The above funding flexibility must be used to support eligible staff employed within the publicly funded adult and further education sectors in teaching or learning support roles and must be funded via your Flexible Allocation.</p> <p>Only learning aims approved by the GLA in advance of enrolment will be fundable within this flexibility. A list of eligible learning aims will be published on the GLA website and updated from time to time. In order to add a learning aim to this list of eligible learning aims, providers must submit a short business case, using a template found on the GLA website to AEB@london.gov.uk."</p>
Contribution table	Section 2 After 146	Addition of a row noting fully funding adult and further education sector staff members who deliver specialist provision to SEND learners.
Contribution table	Section 2 After 146	Addition of a row noting funding uplift to all learners enrolled in English and maths Level 1 and Level 2 courses under the legal entitlement.
Definitions used in the Adult Education Budget	Section 2 Para 165.2	Amended using the updated London Living Wage: "earns less than the London Living Wage as an annual gross salary on the date of the learner's learning start date. Learners will be deemed to earn less than the London Living Wage as an annual gross salary if they earn less than the hourly London Living Wage at that point in time, multiplied by 37.5 (hours per week), multiplied by 52 (weeks per year). Based on the 2019/20 London Living Wage, this would be £20,962, but AEB Procured providers will need to check the updated rates each year.
Learning in the workplace	New clause 187*	We will fully fund training that is delivered in order to upskill staff to deliver improved specialist provision for learners with SEND within the adult and further education sectors only via your Flexible Allocation, as outlined in paragraphs 140-142.
Learning in the workplace	New clause within 188.4	Addition of following text: "[We will not fund any learning aim delivered at an employee's workplace, and that is either relevant to their job or their employer's business unless] it is delivered to upskill staff to deliver improved specialist provision for learners with SEND within the adult/further education sector, as outlined in paragraphs 140-142 only via your Flexible Allocation."

English and maths for those aged 19 or older	Section 2, new para after 196	Addition of following text: "We will provide additional funding uplift for fully funded Level 1 and Level 2 English and maths learning aims under the legal entitlement."
Glossary	Annex 5 London Living Wage	Amended a sentence in the definition of the London Living Wage: "The London Living Wage is an hourly rate of pay, currently set at £10.75."

*Please note that this clause will be added to the GLA AEB Grant Funding Rules.

Changes to GLA AEB Funding Rates and Formula		
Section	Paragraph	Change
Introduction	2	Replacing current paragraph with the following text: "In 2020 to 2021, the GLA's AEB programme will only pay an amount different to the ESFA's national programme under the following circumstances: <ul style="list-style-type: none"> • we will fully fund some British Sign Language learning aims, which the ESFA may in some circumstances co-fund; • we will fully fund some in-work learners that the ESFA would co-fund; • we will increase funding for English and maths legal entitlement qualifications at Levels 1 and 2; and • we will fully fund teaching and learning support staff to deliver improved specialist provision for learners with SEND within the adult/further education sector. These circumstances are laid out in more detail in the relevant Funding Rules documents."
The Single Activity Matrix	After para 46	New paragraph: "we will provide an additional funding uplift for fully funded Level 1 and Level 2 English and maths learning aims under the legal entitlement. The value of this uplift will be £77 for each funded enrolment. This is a flat rate increase for all eligible enrolments that will be flagged in the ILR using DAM code X, and claimed in the Earnings Adjustment Statement."

- 2.5 It should be noted that there are a number of other minor amendments to the GLA AEB Procured Rules and the GLA AEB Funding Rates and Formula documents which include minor clarifications and other small changes such as correcting clerical errors that have been made directly to the text. Officers do not consider any of these amendments to be substantive and therefore requiring a formal Mayoral Decision.

3. Equality comments

- 3.1. Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities 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.

Relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 3.2. The Mayor is required to comply with the duty set out above in making the decisions 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.
- 3.3. All AEB policy changes proposed for 2020/21 consider the potential equalities impact for people with relevant protected characteristics (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation).
- 3.4. While there is a risk that directing AEB funding to support the upskilling of teachers and learning support staff could reduce the funding available to learners with relevant protected characteristics it will also help build capacity within London's FE sector to support more learners with SEND.
- 3.5. 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. These include young adults who are not in education, employment or training (NEET), people without basic skills and people who are workless. It will also support Londoners in low-paid/low-skilled jobs.

4. Other considerations

- 4.1. A key risk associated with this approach is:

Risk of not amending the GLA AEB Procured Rules. Risks arise if changes are made to the AEB Grant Rules but not to the GLA AEB Procured Rules because the programmes would then be subject to different sets of Funding Rules. This could confuse providers and learners, result in a requirement for additional data collection and verifications, and ultimately increase the risk of non-compliance and the need to clawback ineligible payments. In addition, there could be considerable reputational risks if providers funded through different mechanisms are considered to be being treated differently in an unfair way. To mitigate this risk, it is proposed that the changes to the GLA AEB Procured Rules mirror the changes approved in the GLA AEB Grant Rules.

- 4.2. Further risks are set out in Part 2 of this decision form.
- 4.3. There are no interests 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 to the GLA arising from the proposed amendments to the GLA's AEB Funding and Performance Management Rules for Procured Providers. Whilst there is no overall financial impact on the AEB budget, there may be changes in re-alignment which may affect individual strands but will be contained within the overall AEB 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, sex, 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 Should the Mayor be minded to make the decisions sought, officers must ensure that the changes are communicated clearly to procured providers.

7. Planned delivery approach and next steps

Activity	Timeline
Mayoral Decision made	February 2020
Approved GLA AEB Funding and Performance Rules and GLA AEB Funding Rates and Formula published	February/March 2020

Appendices:

None.

Supporting papers:

MD2557 – AEB Policy Changes 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 – Yes

Part 2 of this MD form contains advice which is legally privileged.

ORIGINATING OFFICER DECLARATION:

Drafting officer to
confirm the
following (✓)

Drafting officer:

Lubomira Chirmiciu has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Sarah Mulley and 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 24 February 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Bell

Date

24.2.20

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

24/2/2020.

