

MAYOR OF LONDON

Managing Provider Performance

GLA AEB Grant-funded provision monitoring and
intervention policy 2022-2023

For Independent Training Providers

Version 2

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What's New?

Section	Paragraph	Change
Summary	1.	Rationale for the development of an Independent Training Provider focused policy
Future Changes	6.	Notice that due to on-going changes to the ESFA's oversight policy, this document is subject to change
Monitoring Delivery	14.	Inclusion of standardised business cycle, which is subject to change in-year.
Monitoring Information	16.	Table 2 - Individualised Learner Record (ILR) data returns: notification that we will send automated communication to providers in-year with data errors
Monitoring Information	16.	Table 2 – Delivery Plans: inclusion of discussions about delivery plans and insights from Annual Strategic Conversations.
Monitoring Information	16.	Table 2 - Audit and fraud investigations: inclusion of fraud investigations.
Monitoring Information	16.	Table 2 – Initiative and other skills funding: inclusion of discussions about other funding streams which may be included in the Grant agreement (e.g. National Skills Funding)
Monitoring Information	16.	Table 2 – London Learner Survey (LLS): inclusion of discussions about LLS baseline completion rates.
Monitoring Information	17.	Notification that the GLA reserves the right, at its discretion, to reduce the funding agreement in line with performance.
Subcontracting Arrangements	22.	Change to subcontracting submission deadline from July (R06) to November in the following academic year.
Subcontracting Arrangements	23.	Removal of Minimum standards as a reason for the GLA rejecting subcontracting requests.
Active Support	25.	Notification that “active support” replaces “early intervention” measures.

Active Support	26.	Change from Ofsted x2 Requires Improvements triggering “active support”, to the first Requires Improvement.
Active Support	26.	Inclusion of overall Ofsted monitoring report determining “insufficient progress”, triggering active support.
Active Support	26.	Clarification that “local intelligence” includes insights such as learner complaints.
Active Support	26.	Including clarification that the GLA will notify providers in writing if they are placed in Active Support.
Active Support	26.	Including a notice that providers should be aware that of the provisions set out in “Quality Assurance and Raising Standards” of their funding agreements.
Active Support	30.	A clause empowering the GLA to reduce or remove agreements if a provider’s delivery is below funding thresholds, in line with the Funding Rules.
Active Support	30	Inclusion of standard quality assurance measures the GLA expects providers to take during delivery. This information mirrors the clauses set-out in funding agreements.
Educational Performance Data	34.	Removal of GLA monitoring of providers’ NART data over the previous three years.
Intervention	35.	Inclusion of the ESFA determining the provider is a “high risk organisation” triggering Intervention measures.
Formal Intervention tools to rectify performance	42.	Clarification of the measures that the GLA may take to rectify intervention issues.
Termination	43 - 44	Inclusion of text clarifying the circumstances which may lead to the GLA terminating a contract.

Summary

1. Since the Adult Education Budget was delegated to the Greater London Authority (GLA), the breadth of Independent Training Providers (ITPs) with access to AEB funding has significantly increased. Therefore, the GLA have determined that a tailored approach to monitoring Independent Training Provider's performance for quality and financial stability is required.
2. This document sets out when the GLA will intervene when performance or financial resilience of a provider is below expected levels. This document supplements the information available in the Performance Management Rules. Providers should refer to the Performance Management Rules, this document and their funding agreement.
3. This document will be periodically updated to ensure that policy aligns to the requirements of GLA performance and measurements, alongside national policy requirements. Any updates will be clearly marked in new versions.
4. This publication is primarily intended for Independent Training Providers in receipt of a Conditions of Funding (Grant) Agreement (the funding agreement) with the GLA. This includes:
 - Independent Learning Providers
 - Independent Specialist Providers
5. In addition, this document may also be of interest to:
 - learners who wish to see how providers are monitored for performance;
 - Department for Education (DfE);
 - Education and Skills Funding Agency (ESFA);
 - Office for Standards in Education, Children's Services and Skills (Ofsted);
 - Further Education (FE) Commissioner;
 - Mayoral Combined Authorities;
 - Office for Students; and
 - other education and training providers.

If you are a learner who wishes to provide feedback on your education/training, please refer to the information available on <https://www.london.gov.uk/what-we-do/jobs-and-skills/adult-education-budget> for information on how to share your views with the GLA.

Future Changes

6. Please note that the [Skills and Post 16 Education Bill](#), which encompasses the reforms set out in the [Skills for Jobs White Paper](#), has now received Royal Assent. To ensure guidance at regional and national level is clear, City Hall will ensure information on reforms is used to further inform our future approach to the provider infrastructure. Details of these changes will be included in future versions of this document.

Approach to Performance Management

Role of GLA Provider Manager

7. Each provider will have a named GLA Provider Manager who will work with a dedicated number of grant-funded providers and act as the first point of contact when managing the funding agreement between the GLA and the provider. The GLA Provider Manager will be responsible for monitoring providers throughout the life of the funding agreement, including when performance is below the level as set out in the contract, and will visit the provider on a quarterly basis to discuss performance.

Working with other agencies

8. The GLA's Skills and Employment Delivery Teams will work with partner agencies in line with the [Memorandum of Understanding](#) for the delegation of certain adult education functions to the Mayor of London and other Service Level Agreements to ensure that there is oversight of AEB programme delivery for London residents, including:
 - DfE/ESFA. Some providers will receive funding from the GLA and the ESFA in delivering their courses. The GLA will share data and intelligence which indicates concerns over a provider's performance or financial resilience with the ESFA's territorial and case management team to ensure that any measures which are

implemented to correct underperformance do not have unintended consequences for the ESFA and vice versa. The ESFA will also share this information with the FE Commissioner.

- As noted above, most providers will hold a funding agreement directly with the ESFA. While the GLA and ESFA will share intelligence in relation to provider performance and risk, this does not mean that the GLA will act to impose measures that correct underperformance against the ESFA contract. GLA Provider Managers will only instigate intervention measures when indicators evidence a risk to the viability of the GLA funding agreement.
- Office for Standards in Education, Children's Services and Skills (Ofsted). AEB provision funded by the GLA is in scope for inspection by Ofsted. Providers who are subject to an Ofsted inspection must make GLA colleagues aware of the inspection on receipt of the notice and invite the GLA provider manager to attend the feedback meeting. Following inspection, the GLA Provider Manager will review the outcomes of inspection and discuss any actions required to improve quality.

Terminology

9. "Funding agreement" means the Conditions of Funding, the attached Appendices to the Conditions of Funding and any documents or parts thereof, policies or guidance specified in this Agreement and any variation to the Agreement accepted by the GLA in OPS (as the same may be amended, added to, supplemented, substituted or varied in accordance with the terms of this Agreement).
10. "OPS" means the "GLA Open Project System", being the GLA's on-line management information system (MIS), or any successor system and/or any other system which performs any of the same functions and which GLA notifies to the Body from time to time.
11. Where this document refers to "delivery year" this is taken to mean August to July in a calendar year.
12. Providers in receipt of AEB Procured funding should refer to the GLA AEB procured provision monitoring and intervention policy.

Monitoring Delivery

13. Provider managers will seek to work collaboratively with providers to support them in delivering the provision set out in their funding agreement. Provider managers will monitor performance to identify where providers are at risk of underperforming against their funding agreement, and implement actions to improve performance and prevent poor performance.

14. Table 1 sets out the business cycle of information returned by providers and the envisaged timing of quarterly GLA Provider Manager visits.

Table 1 – Monitoring Delivery Timetable

Month	Business Cycle Activity	GLA Provider Manager visits
August	Delivery for new academic year begins R12 ILR return - Previous academic year	Term 1 onboarding or monitoring visit
September	R01 ILR return R13 ILR return - Previous academic year	Term 1 onboarding or monitoring visit
October	R02 ILR return R14 ILR return - Final return from previous academic year	Term 1 onboarding or monitoring visit
November	R03 ILR return Subcontracting plan approvals for next academic year (2021/22)	Term 1 onboarding or monitoring visit
December	R04 ILR return	Term 1 onboarding or monitoring visit
January	R05 ILR return Indicative allocation for next academic year (multi-year grant providers will not be subject to this process)	Term 2 monitoring visit

February	R06 ILR return Mid-year claim Mid-year forecast (multi-year grant providers will not be subject to this process)	Term 2 monitoring visit
March	R07 ILR return	Term 2 monitoring visit
April	R08 ILR return Allocation statements issued for next academic year	Term 2 monitoring visit
May	R09 ILR return	Term 3 monitoring visit
June/July	R10 ILR return End of year claim	Term 3 monitoring visit
July	R11 ILR return End of year 1 delivery Financial planning information return	Term 3 monitoring visit

15. During the above business cycle, providers will be made aware of opportunities to bid for additional funding, if available.

16. The GLA Provider Manager will take the opportunity at the quarterly meetings to share information and discuss performance based on the information provided by each provider or other agencies such as Ofsted, including:

Table 2 – Monitoring information

Information	Monitoring discussion in respect of AEB
Individualised Learner Record (ILR) data returns	The timeliness and accuracy of ILR data related to London residents studying AEB. We send communication to providers in-year to ensure data errors are corrected before the R14 ILR Final data return. This return is a 'hard close', after which ILR data cannot be changed.
Funding claims	Performance against funding agreement as shown in the mid-year, year-end and final claims, and whether the total funding value should be adjusted to better reflect the level of performance.
Ofsted inspections	The outcome of any recent Ofsted inspection monitoring visit and the quality improvement actions which the provider is implementing to secure better provision.
Initiative and other skills funding	The progress with the delivery of any initiative or growth funding allocated in addition to the grant funding allocation and other funding streams (e.g. Free Courses for Jobs)
Financial health assessments	The outcome of any review of the financial performance information where there are risks to the delivery of AEB and improvement action is required.
Audit and fraud investigations	The report of audit processes, in particular where findings are qualified or require management action. Upheld investigations related to college financial management and governance and/or funding audits and/or significant fraud or fraud practice
Subcontracting plan	Progress with the delivery of the AEB subcontracting plan and any issues with performance.
Participant feedback and complaints	Information required to investigate a complaint raised by a learner.
London Learner Survey	Baseline survey completion rates and actions taken by the provider to increase completion rates among funded learners.
Other	Any other information applicable to determine the level of risk associated with delivering the contract.

17. The GLA Provider Manager will agree the arrangements for quarterly performance management meetings with the provider to ensure that there is the scope for discussion about provision for London residents. If, based on the discussion about performance, a provider is unlikely to meet its overall funding agreement, the GLA reserves the right, at its discretion, to reduce the funding agreement in line with performance.

Subcontracting Arrangements

18. The GLA wants to ensure that providers' subcontracted delivery meets strategic aims and enhances the quality of their learner offer for London residents.
19. Providers must set out the reasons for subcontracting in a Delivery Subcontracting Funding Retention and Charges Policy, which sets out the alignment with strategic aims. Providers must publish the policy on their website before entering into any subcontracting agreements for each funding year.
20. Providers should submit their subcontracting plans for the forthcoming delivery year via GLA OPS annually in June/July, prior to the commencement of delivery. This will include the names of subcontractors used, the value of the subcontracts, learner numbers and the amount of funding retained by the provider for the purposes of managing subcontracts. Based on the information provided, the GLA Provider Manager will approve subcontracting plans or discuss any additional information required. In-year changes to subcontracting plans should be notified to the GLA Provider Manager and approval sought prior to implementing a change and prior to subcontracted delivery starting. Providers must reconcile their subcontracting plans at the end of the delivery year as part of the AEB reconciliation arrangements.
21. In subcontracting plans, providers will be required to state the amount of funding they expect to retain to manage delivery subcontractors. The GLA will consider a retention of up to 20% of funding as a maximum cap and would not expect providers to retain more than this. In exceptional cases, the GLA will consider higher retention amounts and then only if there is a compelling rationale; GLA Provider Managers will assess these on a case-by-case basis.
22. If annual subcontracted delivery aggregate value is equal or greater than £100,000, providers will need to obtain an annual report from an external auditor that provides assurance on their arrangements to manage and control their delivery subcontractors. A certificate to accompany the report, signed by the auditor and the provider's accounting officer or senior responsible person must be submitted to the

GLA by November each year. The GLA Provider Manager may request to see the full report.

23. Providers must not enter into new subcontracting arrangements or increase the value of their existing arrangements if Ofsted has rated their leadership and management as inadequate; or if the outcome of their annual GLA or ESFA financial health assessment is inadequate, unless the GLA have provided written permission in advance. These conditions will continue until the GLA is satisfied that the concerns have been addressed and the circumstances below no longer apply.
24. Providers are responsible for all the actions of their delivery subcontractors connected to, or arising out of, the delivery of the services which they subcontract. Providers must manage and monitor all delivery subcontractors to ensure that high-quality delivery is taking place that meets the GLA's AEB funding rules.

Active Support

25. In alignment with the ESFA, we are replacing all activity outside of intervention with a range of active support measures, which complements the support from the FE Commissioner and ESFA. This active support replaces early intervention and opens up new forms of support to Independent Training Providers. The details of the GLA's active support offer will be made available in coming months and will be included in future versions of this document.
26. GLA provider managers will work with providers to ensure that provision is of a high quality and that providers maintain financial stability. If the GLA decides to place a provider into Active Support, the GLA will write to the provider to confirm the position. A provider may enter Active Support when one or more of the following triggers have been breached:
 - ESFA Financial Health assessment determines that the provider's financial health 'Requires Improvement', or 'Inadequate' and/or the provider's financial information shows that the provider may not be able to meet liabilities in future;
 - A 'Insufficient progress' rating for overall effectiveness in an Ofsted monitoring report;
 - A 'Requires Improvement' ratings for overall effectiveness by Ofsted;
 - Poor and/or a measurable decline in performance management data (as outlined in the "Quality Assurance and Raising Standards" section of the providers funding agreement);; and/or
 - Escalation by the GLA Provider Manager due to local intelligence, such as complaints or poor-quality data returns.

27. Should one or more of the above triggers be hit, the provider must complete an improvement action plan which must be submitted to the GLA Provider Manager for approval. The action plan must include a series of actions to remedy, or mitigate further consequences, of the trigger being breached. Each action must be:
- **Specific** – how the action will realise a clear improvement in the financial resilience or quality of the provider;
 - **Measurable** – a measurable value or indicator which will be realised as a result of the action;
 - **Attributable** – a named officer or officers will have responsibility for achieving the action;
 - **Realistic** – how the action will gain the desired improvement within the available resources; and
 - **Timebound** – achievable within a realistic timeframe.
28. Where the provider is also subject to Contract Management actions by the ESFA through the national oversight arrangements, the GLA will work with the ESFA to ensure that action to improve performance is complementary. The GLA Provider Manager will maintain dialogue with the provider and assist in supporting the provider back to financial resilience and an acceptable level of quality. The GLA Provider Manager will review the information provided and discuss actions directly with the provider, providing supplementary actions if necessary. The GLA reserve the right to implement one or more of the following actions:
- A meeting with the chair and/or the full board.
 - Request additional data on a regular basis, such as ILR data returns, monthly management accounts and financial information, reports submitted to the provider's senior management team.
 - Impose additional performance monitoring points and meetings with the GLA Provider Manager.
 - Require information which demonstrates how the provider is planning to tackle financial health decline. This may include undertaking a cost scrutiny exercise to identify how to reduce costs and/or bring them within sector standards and/or an assessment of the impact of any funding claw back or reduction on planned income.
 - Request the provider's risk plan.
 - Request information on planned strategic developments, including but not limited to federation or merger arrangements.
 - Require from provider's internal auditors on the management of the provider, including financial compliance and health.
 - Provide the Self-Assessment Reports, Quality Improvement Action Plans and implementation updates.

29. As described above, the GLA reserves the right to discuss concerns regarding a provider's performance or financial stability with partner agencies, such as the DfE, ESFA and Ofsted, in accordance with the provider's Conditions of Funding (Grant) Agreement and Memorandum of Understanding. Where the GLA has been notified that the ESFA has made its own assessment of financial health, which has triggered active support or intervention, the GLA will work with the provider and the ESFA to ensure that any improvement actions are complementary to deliver rapid improvement.
30. Providers are required to be aware of the provisions set out in their Grant Agreement's regarding the GLA's expectations regarding the quality of delivery and activities which may be considered as a minor or serious breach of contract. These include, using all reasonable endeavours:
- to ensure competent and appropriately qualified staff deliver and assess learning.
 - to offer equality of access to learning opportunities and close equality gaps in learning and outcomes;
 - to provide a safe, healthy and supportive environment, which meets the needs of Learners;
31. The arrangements for managing funding performance are separately set out in the annual funding rules guidance published by the GLA. Where a provider is performing below funding thresholds, the GLA will expect to reduce the allocation in line with the level of performance or remove a future funding allocation where the level of funded provision falls below £100,000. These funding arrangements are not subject to intervention approach described in this document.

Financial Irregularity

32. The Mayor's Office of Policing and Crime (MOPAC), acting on behalf of the GLA, will consider and determine appropriate action for any allegations of suspected fraud and/or financial irregularity, including:
- a funded provider has claimed funding from the GLA through deception;
 - a funded provider has broken the funding rules;
 - a funded provider has not delivered education/ training funded by GLA;
 - corruption (the offering, promising, giving, requesting, receiving, or agreeing to accept an inducement or reward, which may influence a person to act against the interests of the GLA) and bribery – for example, in relation to sub-contracting.

33. Where MOPAC determines that there is enough information to investigate the allegation, the provider will be placed in active support while the investigation is ongoing. The investigation may require additional actions to be taken, these can include but are not limited to:

- additional meetings with the GLA Provider Manager and MOPAC Auditor.
- a review and/or retention of learner files.
- contact with learners and/or subcontractors to verify information contained in learner files.

34. The ESFA and other funding agencies will be informed of allegations that affect their funding streams.

Exiting Active Support

35. A provider will exit active support measures and return to the monitoring process as outlined in this document when:

- Ofsted have reinspected provision and determined that the overall effectiveness of the provider is rated 'Good' or above;
- GLA or ESFA Financial Health Assessment indicates that the provider's financial health is rated as 'Good' or above; and/or
- financial irregularity or fraud investigation is resolved satisfactorily.

Escalation

36. If the provider fails to agree an improvement action plan, or does not implement the improvement action plan as agreed, or does not meet the agreed milestones, the GLA may, at its discretion, implement further measures of intervention including, but not limited to, reducing the allocation value or suspending payments. Under these circumstances, the provider will enter intervention measures

Intervention

37. A provider may enter Intervention when one or more of the following triggers have been breached:

- failure to comply with active support measures as described in the 'escalation' process above;
- quality of the providers provision is evidenced as below contracted levels, as evidenced by:
 - Ofsted inspection determines that the overall effectiveness of a provider is inadequate;
 - a decline in the provider's educational performance data, as described in the below section.
- Financial health assurance:
 - GLA or ESFA Financial health assessment is 'Inadequate';

- Audit, assurance, fraud and investigations:
 - a qualified opinion resulting from a funding audit;
 - a fraud or financial irregularity investigation produces evidence to support suspicion or allegations; and/or
 - a provider fails to provide audit and assurance documents required by the GLA (to be set out in an audit code of practice).
- ESFA defined “high risk organisation”
 - GLA is notified that the ESFA to consider the provider a “high risk organisation”, as defined by the [Funding higher risk organisations and subcontractors policy](#).

Educational Performance Data

38. GLA Provider Managers will use provider ILR data returns and National Achievement Rates Tables (NARTs)¹ to benchmark provider performance. GLA Provider Managers’ initial assessment of the providers past performance may include the following:
- overall QARs as key indicators of performance by institution type;
 - performance by qualification types against national levels; and
 - performance by sector subject area against national levels.
39. The actions required to mitigate the decline in performance data will depend on the level of improvement required. The GLA Provider Manager will discuss and assist in implementing any actions on a case-by-case basis, ensuring that the provider is supported so that no unintended consequences result from the intervention.
40. The GLA reserve the right to review the intervention triggers and corrective actions in line with national policy, once available.

Formal intervention tools to rectify performance

41. Should an Intervention trigger be realised, the GLA will work with the provider to explore a range of actions for raising financial performance, achievement and quality. The provider must complete a SMART improvement action plan which must be submitted to the GLA Provider Manager. The improvement action plan must include a range of activities to remedy, or mitigate further consequences, of the trigger being breached to secure rapid improvement.
42. The GLA Provider Manager will assess the proposed action plan and implement further actions to bring financial and quality performance in line with contracted levels. In addition to the actions available in the active support mitigation process

¹ When such data is made available

(as set out in paragraph 26), the GLA may implement further measures of intervention, including:

- require providers to suspend the recruitment of Learners to, and/or to cap any growth in Learner numbers; and/or
- give consideration to what changes, if any, are required in its allocations when finalising the amount of Funding in any subsequent Funding Agreement ; and/or
- reduce, suspend or recover payment; and/or
- terminate the provider's Funding Agreement, in accordance with the termination clause set out within it; and/or
- referral to partner agencies such as the ESFA

Exiting Intervention

43. The provider will remain in Intervention until the underperformance trigger has been rectified, as evidenced by:

- Quality of provision:
 - Ofsted inspect the provider and determine that the overall effectiveness of the provider is 'Good' or above;
 - the provider's educational performance data evidences an improvement to that agreed within the provider's action plan.
- Financial health and stability of the provider:
 - GLA or ESFA Financial Health Assessment indicates that the provider's financial health is rated as 'Good' or above
- Audit, assurance, fraud and investigations:
 - a satisfactory follow-up audit following receipt of a qualified opinion;
 - MOPAC Recommendations are satisfactorily implemented and any clawback decisions are complied with; and/or
 - the provider complies with the GLA's audit and assurance requirements.

44. When a provider exits Intervention, the GLA reserves the right to implement additional measures to the usual monitoring process or require the provider to enter early intervention, so that the risk of future declines in performance is monitored and quickly mitigated. This will enable the GLA Provider Manager to support the provider to ensure that the provider is supported to stabilise.

Termination

43. The GLA reserves the right to terminate this Agreement with immediate effect by giving notice in writing if:

- a. the outcome of any financial health and/or control assessment undertaken in relation to the provider is inadequate;
 - b. the provider fails to comply with the requirements of their Improvement Action Plan
 - c. an Ofsted inspection results in the Provision in part or overall being assessed as inadequate
 - d. an Ofsted monitoring visit results in the Provision being assessed as having made “insufficient progress” and in the reasonable view of the GLA Learners may be at immediate risk on safeguarding grounds, and/or the quality of leadership and/or training provision is such that one or more Learner has no reasonable prospect of achieving his or her training objective
 - e. the provider receives a “qualified” rating in two consecutive full funding audits;
 - f. the provider commits a Serious Breach of Contract
44. A full overview of the circumstances which may lead to the GLA terminating a funding contract, and the steps the GLA will take to enforce this act, are set out in the provider’s Funding Agreement.

Other formats and languages

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