
Covid-19 Guidance Note

Electronic Evidence and E-signatures

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**Greater London Authority
May 2020**

Published by
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ISBN
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Issue date	18 May 2020
Amendments made from previous version	Notification of relaxations to evidence of enrolment and continued participation for outputs, outcomes and results
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Review date	May 2021
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Guidance Note for

GLA AEB PROCURED and

GLA ESF PROVIDERS

Version 2, 18 May 2020

Some providers have raised queries about electronic confirmation of learner/participant eligibility and evidence collection in the context of the COVID-19 outbreak.

The ESF Managing Authority have advised that they are currently exploring with the European Commission the potential for easements to ESF evidence requirements. Some relaxations have been made regarding the evidencing of enrolment and continued participation (see the response to Q15 in DWP's ESIF Coronavirus Q&A, the link to which can be found in the footnote below), but at this point in time funding recipients are required to continue to submit evidence in line with existing requirements for outputs, outcomes and results. Should this situation change, the GLA will advise providers as soon as possible.

AEB procured and ESF providers that wish to use electronic systems to enrol learners/participants, to deliver learning/support, or to collect supporting evidence or learner/participant 'signatures' should satisfy themselves that the system(s) they have put in place meet the criteria in the existing guidance published by the Department of Work and Pensions, as follows:

- Guidance on E-Signatures can be found in the 'ESF National Eligibility Rules and Programme Guidance' (<https://www.gov.uk/government/publications/european-social-fund-eligibility-documents/esf-national-eligibility-rules-and-programme-guidance>).
- Guidance on acceptable forms of electronic evidence can be found in paragraphs 15 to 23 of the 'Guidance on Document Retention, including Electronic Data Exchange, for 2014-20 ESF Projects' (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/832230/ESF_Document_Retention_Guidance.pdf).
- Guidance on the use of emails to evidence ESF participant results/outcomes can be found on page 25 of the 'ESF Data Evidence Requirements – Eligibility and results' (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835524/data_evidence_guidance.pdf).

¹ See DWP's ESIF Coronavirus Q&A which can be found at:

<https://www.gov.uk/government/publications/european-structural-and-investment-funds-coronavirus-covid-19-response>

These documents confirm that electronic documentation is acceptable as evidence for ESF audit purposes, provided that they are subject at all times to an adequate system of control over their completeness and validity.

Paragraph 308 of the GLA's AEB 'Funding and Performance Management Rules for Procured Providers for the 2019 to 2023 Funding Period' ('The Rules', https://www.london.gov.uk/sites/default/files/2019-23_gla_aeb_procured_funding_rules_.pdf) provides additional clarification for AEB procured providers which is also pertinent to ESF providers. The Rules confirm that electronic signatures, evidence and systems should provide assurance that learners/participants exist and are eligible and should offer:

- authentication – linking the originator to the information;
- integrity – allowing any changes to the information provided to be easily detected; and
- non-repudiation – ensuring satisfaction (in a legal sense) about where the electronic signature has come from

Providers should always ensure that the processes and systems they use to collect, process, store and transfer data are compliant with the Data Protection Act 2018 ('DPA') and the General Data Protection Regulation ('GDPR') as it applies in the UK, regardless of whether these are electronic or paper-based. The risks of breaches in data protection and data security may increase if systems involve unencrypted electronic transfer of data, signatures or evidence between a provider and a learner/participant and providers should consider these risks and any mitigation options carefully before deciding whether an electronic process or system is appropriate.

The GLA is not in a position to approve any provider's electronic evidence collection system and AEB procured and ESF providers remain wholly responsible for ensuring that the evidence and data they collect (in whatever format) is sufficient to meet ESF audit requirements and is compliant with the DPA and GDPR.

Nonetheless, the GLA recognises that providers may find further information helpful given that the current situation with Covid-19 necessarily requires providers to adopt online and remote approaches to data and evidence collection. The GLA is unable to confirm that the following will be compliant ESF audit purposes, below are some approaches which Providers wish to consider at their own risk in these exceptional Covid-19 circumstances.

Enrolment and evidence of eligibility, and evidence of continued participation

It is important that the evidence and data collected includes the participant's/learner's agreement to the AEB procured or ESF data protection declarations, and their confirmation that the information and evidence collected is accurate and true.

Depending on the technology available to the provider and the participant/learner,

- Data to complete the enrolment form could be captured through:
 - A recorded secure video-conference conversation with the learner/participant;
 - A telephone conversation with the learner;
 - Email correspondence where data security can be assured or other secure electronic document transfer method;
 - Postal correspondence where data security can be assured (e.g. with track & trace, proof of delivery and signatures required as a minimum).

- Supporting evidence might be captured through:
 - A recording of a secure video-conference with sources of evidence being 'shared' visually and captured as part of the recording (as long as the content of the evidence is clearly legible);
 - 'Screenshots' of evidence;
 - Certified scanned copies of evidence submitted securely via email (e.g. encrypted and/or with a password shared separately by phone) or by other secure electronic document transfer method;
 - Where it is not technically possible to capture 'copies' of the evidence via secure video conferencing or screenshots, and the participant or provider does not have access to secure email or electronic document transfer, the documents could be shared visually via secure video conferencing, the provider could then email the participant to confirm what they have seen (ensuring no personal or sensitive data is recorded in the email) and the participant/learner could respond to confirm this information was shared;
 - Certified copies submitted by post where data security can be assured (e.g. with track & trace, proof of delivery and signatures required as a minimum).

- The participant's 'signature' and declarations could be captured through:
 - Secure email, electronic or postal correspondence, whereby the provider sends the completed enrolment form and declarations to the participant/learner and the participant/learner returns the information with a covering email confirming (i) that the content is accurate and (ii) that they agree to any Declaration and Privacy Statements.

Ideally, when Covid-19 social isolation restrictions are lifted, the provider should seek to obtain a 'wet' counter-signature from the participant/learner.

Evidencing outputs and ESF results

A learner's/participant's self-declaration, countersigned by the provider, is not sufficient evidence to verify an output or ESF Result for which payment is being claimed.

Emails may be sufficient evidence of Results where they are able to meet the requirements of page 25 of the 'ESF Data Evidence Requirements – Eligibility and results' and all of the specific evidence requirements for the particular output or Result as described in the AEB procured Rules or the ESF 2019-23 or ESF 2014-20 'Eligibility and Evidence Handbook'. However, in many cases an email is likely to only provide partial evidence (for example, an email from an employer confirming that someone has started work for them may not satisfy the requirement to evidence that an ESF participant is being paid during their sustained period, or the requirement that an AEB procured learner is no longer claiming benefits).

Where an email is available but is not sufficient to meet all of the evidence requirements for payment of an ESF Result, or where no appropriate email evidence is available, the Provider should endeavour to obtain copies of additional supporting evidence. Approaches for doing this could be the same as those used to capture supporting evidence at enrolment.

Providers should note that these suggestions are neither an exhaustive list, nor 'approved' by the GLA or ESF Managing Authority. Other approaches may be possible and may provide an equally (or more) robust audit trail.

Recovery of payments where supporting evidence is not available

If providers are unable to obtain evidence of participant eligibility or outcomes/Results, they may decide to take the risk of continuing to deliver remotely/online on the assumption that that they will be able to secure evidence from participants at a later date.

If a provider delivering one of the GLA's ESF 2019-23 or ESF 2014-20 projects submits a claim for payment of an output or Result and is subsequently unable to provide sufficient supporting evidence when requested to do so by the GLA or an auditor, the GLA will recover payment for that ineligible output/Result in accordance with the conditions of the relevant contract or grant agreement.

If an AEB procured provider submits a claim for payment of an output or Result and is unable to provide sufficient supporting evidence when requested to do so by the GLA or an auditor before the R14 reconciliation, they will be able to transfer the ineligible claim to their Flexible Allocation, assuming they have sufficient Flexible Allocation to do so, or the GLA may recover payment for that ineligible output/Result. However, if the provider is unable to provide sufficient supporting evidence when requested to do so by the GLA or an auditor *after* the R14 reconciliation, the GLA will recover payment for that ineligible output/Result.

Note that where the GLA or an auditor identify multiple ineligible outputs/Results they may extrapolate to the level of the relevant claim(s) and recover funding accordingly.

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