

MAYOR OF LONDON

Managing Provider Performance

GLA AEB Grant-funded provision monitoring and
intervention policy 2019-2020

Version 1

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Summary

1. The purpose of this document is to set out the Greater London Authority's (GLA) approach to monitoring provider performance for quality and financial stability. This document also 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.
2. 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. A full review of the policy will take place in advance of the 2020/21 delivery year.
3. This publication is primarily intended for providers in receipt of a Conditions of Funding (Grant) Agreement (the funding agreement) with the GLA. This includes:
 - general further education (FE) colleges;
 - local authorities;
 - institutes for adult learning;
 - sixth form colleges; and
 - universities and higher education institutions.
4. 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.
5. If you are a learner who wishes to provide feedback on your education/training, please refer to the [information available](#) online on how to share your views with the GLA.

Approach to Performance Management

Role of the GLA Provider Manager

6. 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 funding agreement, and will visit the provider on a quarterly basis to discuss performance.

Working with other agencies

7. 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. Most 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.
 - 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.

- FE Commissioner. The FE Commissioner may review provision funded by the GLA and make recommendations to improve the quality or financial resilience of a provider. The GLA will share information to assist the FE Commissioner and his team to complete any investigations, which will be coordinated by the ESFA. If a provider is visited by the FE Commissioner, the provider must give advance warning to their GLA Provider Manager and give the option for the GLA Provider Manager to attend key meetings.

Terminology

8. “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).
9. “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.
10. Where this document refers to “delivery year” this is taken to mean August to July in a calendar year.
11. Providers in receipt of AEB Procured funding should refer to the [GLA AEB procured provision monitoring and intervention policy](#).

Monitoring Delivery

12. Provider managers will aim 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 support action to improve performance and prevent poor performance.
13. Table 1 sets out the business cycle of information returned by providers and the envisaged timing of quarterly GLA Provider Manager visits in 2019/2020.

Table 1 – Monitoring Delivery Timetable		
Month	Business Cycle Activity	GLA Provider Manager visits
August 2019	Year 1 delivery begins	Onboarding visit
September 2019		
October 2019		
November 2019	R04 ILR return Financial statements return	Quarter 2 monitoring visit
December 2019		
January 2020		
February 2020	R06 ILR return Mid-year claim	Quarter 3 monitoring visit
March 2020		
April 2020		
May 2020	Financial health assessments	Year 2 funding allocations issued
June 2020		
July 2020		
June 2020	R10 ILR return Subcontracting plan approvals for next delivery year (2020/21)	Quarter 4 monitoring visit
July 2020		
July 2020	End of year 1 delivery Financial planning information return	

	External assurance on subcontracting certificate returns	
August 2020	Year 2 (2020/21) delivery begins	Quarter 1 monitoring visit of new academic year
September 2020	R13 ILR return Year-end claim Subcontracting plan reconciliations	
October 2020	R14 ILR return Final funding claim	

14. Within the above business cycle, providers will have the opportunity to apply for a growth to their funding agreement value via the Skills for Londoners Innovation Fund. Further guidance on the Skills for Londoners Innovation Fund will be released in Autumn 2019.

15. 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.
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.

FE Commissioner assessments	The findings or report of any FE Commissioner investigation or diagnostic assessment, and the action plan developed by the provider as a result of assessment.
Initiative funding	The progress with the delivery of any initiative or growth funding allocated in addition to the recurrent grant funding allocation.
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	The report of audit processes, in particular where findings are qualified or require management action.
Subcontracting plan	Progress with the delivery of the AEB subcontracting plan and any issues with performance.
Participant feedback and complaints	Information applicable to investigate a complaint raised by a learner.
Other	Any other information applicable to determine the level of risk associated with delivering the contract.

College Groups

16. Where a provider operates as a group, the funding agreement is held with the legal entity for the group. 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, as well as the group management of the funding agreement. 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

17. The GLA wants to ensure that provider delivery subcontracting meets strategic aims and enhances the quality of their learner offer for London residents.

18. 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 provider website at the start of each funding year.
19. Providers should return their subcontracting plans for the forthcoming delivery year to the GLA Provider Manager annually in June, 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. Providers must reconcile their subcontracting plans at the end of the delivery year as part of the AEB reconciliation arrangements.
20. 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.
21. If annual subcontracted delivery aggregate value exceeds £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 July (R11). The GLA Provider Manager may request to see the full report.
22. 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; if they do not meet the GLA or ESFA Minimum Standards; 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.
23. 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.

Early intervention

24. GLA provider managers will work with providers to ensure that provision is of a high quality and that providers maintain financial stability. A provider may enter early intervention when one or more of the following triggers have been breached:

- GLA or ESFA Financial Health assessment determines that the provider's financial health 'Requires Improvement', or risks declining to 'Requires Improvement' or 'Inadequate' in future and/or the provider's financial information shows that the provider may not be able to meet liabilities in future;
- Two consecutive 'Requires Improvement' ratings for overall effectiveness by Ofsted;
- Poor and/or a measurable decline in performance management data; and/or
- Escalation by the GLA Provider Manager due to local intelligence or poor-quality data returns.

25. 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:

- **S**pecific – how the action will realise a clear improvement in the financial resilience or quality of the provider;
- **M**easurable – a measurable value or indicator which will be realised as a result of the action;
- **A**ttributable – a named officer or officers will have responsibility for achieving the action;
- **R**ealistic – how the action will gain the desired improvement within the available resources; and
- **T**imebound – achievable within a realistic timeframe.

26. Where the provider is also subject to intervention 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 in planned income.
- The provider's risk plan.
- Information on planned strategic developments, including but not limited to federation or merger arrangements with other colleges or training organisations.
- Reports 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.

27. 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 early or formal intervention, the GLA will work with the provider and the ESFA to ensure that any improvement actions are complementary to deliver rapid improvement.

Financial Irregularity

28. 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.

29. Where MOPAC determines that there is enough information to investigate the allegation, the provider will be placed in early intervention 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.

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

Exiting early intervention

31. A provider will exit early intervention measures and return to the monitoring process as outlined in the early intervention of this document when:

- Ofsted have completed a review of provision and confirmed 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

32. If the provider fails to agree an action plan, or does not implement the 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 formal intervention measures.

Formal intervention

33. A provider may enter formal intervention when one or more of the following triggers have been breached:

- failure to comply with informal intervention 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;

- FE Commissioner diagnostic assessment determines that a provider requires urgent escalation to formal intervention;
- 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’;
 - the provider is considering structural change, including via an Independent Business Review (IBR), or Structure and Prospects Appraisal (SPA); and/or
 - if a provider enters the FE insolvency regime, as defined by the Technical and Further Education Act 20171.
- 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).

Educational Performance Data

34. The GLA recognise that the Qualification Achievement Rates (QARs) and Minimum Standards calculation is an important assessment of provider quality. Following the announcement that the ESFA are consulting on the replacement of Notices to Improve based on Minimum Standards², GLA Provider Managers will use provider ILR data returns and National Achievement Rates Tables (NARTs) to benchmark provider performance. GLA Provider Managers’ initial assessment of the providers past performance will 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.

35. GLA Provider Managers will review the providers’ NART data over the previous three years to identify early signs of declining performance.

¹ Technical and Further Education Act 2017 (TEFA 2017) available at <http://www.legislation.gov.uk/ukpga/2017/19/contents>

² Department for Education, College Oversight: Support and Intervention policy document, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/796610/College_Oversight_Support_and_Intervention.pdf

36. 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.
37. The GLA reserve the right to review the intervention triggers and corrective actions in line with national policy, once available.

Structural changes: Independent Business Reviews (IBRs) and Structure and Prospect Appraisals (SPAs)

38. A provider seeking structural changes to their institution or group must inform their GLA Provider Manager at the earliest opportunity. The GLA Provider Manager, supported by colleagues with financial and legal expertise, must be invited to participate in any IBRs or SPAs, regardless of whether the IBR or SPA has been commissioned by the provider, the FE Commissioner or a third party, such as a creditor.
39. The GLA will not provide financial assistance for IBRs.
40. Providers should ensure that the GLA Provider Manager is informed of the IBR and/or SPA. The GLA may, at its discretion, implement further measures of intervention including, but not limited to, reducing the allocation value or suspending payments in the event that the provider fails to notify the GLA where IBR or SPA is instigated.

Insolvency and the Technical and Further Education Act 2017

41. The Technical and Further Education Act 2017 introduced the insolvency regime applicable to FE Colleges, sixth form colleges, Institutes for Adult Learning and specialist designated institutions. If a provider enters the FE insolvency regime, they must alert their GLA Provider Manager and enable them to participate in the process, including any IBR as set out above.
42. In accordance with the [Memorandum of Understanding](#), the GLA will alert partner agencies, including the DfE and ESFA, in any cases where the GLA Provider Manager believes that a provider is at risk of insolvency. This may be before formal notification of the insolvency regime from the provider, when the provider's financial health indicators evidence that the provider is at risk of insolvency.
43. Further information on the FE Insolvency Regime is available in the [Technical and Further Education Act 2017](#) and the [Department for Education's College Oversight: Support and Intervention policy document](#).

Formal intervention tools to rectify performance

44. Should a formal 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 action plan which must be submitted to the GLA Provider Manager. The action plan must include a range of activities to remedy, or mitigate further consequences, of the trigger being breached to secure rapid improvement.
45. 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 early intervention mitigation process (as set out in paragraph 26), the GLA may implement further measures of intervention, including:
- suspension of payments against grant value within the standard national profile;
 - a reduction in the grant value; and/or
 - referral to partner agencies such as the ESFA and FE Commissioner.

Exiting formal intervention

46. The provider will remain in formal 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 FE Commissioner is satisfied that the provision is of good quality and the provider has adequate financial stability; and/or
 - 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; and/or
 - The provider is no longer at risk of insolvency, as confirmed by the appointed education administrator.
 - 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.

47. When a provider exits formal 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.

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