

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2719

Title: Reconciliation of Adult Education Budget funding for 2019/20 Academic Year

Executive Summary:

This Mayoral Decision (MD) seeks the Mayor's approval for:

- the reconciliation of Adult Education Budget (AEB) Grant funding for the 2019/20 Academic Year;
- the approach to reconciliation of funding for the AEB Procured programme for the 2019/20 Academic Year; and
- the approach to reconciliation of the Skills Funding Support payments which were allocated to AEB Procured providers to sustain delivery cashflows through the COVID-19 period of closures.

Decision:

That the Mayor approves:

- 1) the proposed approach to the reconciliation of funding relating to 2019/20 Academic Year for Adult Education Budget (AEB) Grant providers;
- 2) the proposed approach to the reconciliation of funding relating to the 2019/20 Academic Year for AEB Procured providers;
- 3) confirmation of the end date of the period for COVID-19 support to 31 July 2020; and
- 4) AEB Procured providers' retention of Skills Funding Support payments where the sum of earnings plus the Support Payment does not exceed operational running costs.

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:

1/12/20

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

Decision required – supporting report

1. Introduction and background

- 1.1. As set out in [MD2634](#), following the closure of education provision from March to July 2020, the AEB funding reconciliation approach for 2019/20 was revised to support provider funding stability. The closure of provision impacted on the scope for AEB providers to enrol new students and to continue delivery for learners where a physical presence in the classroom was required. Providers were encouraged to deliver provision through remote online learning; however the closure of classroom settings by central government impacted on the ability of providers to deliver against their funding agreements.
- 1.2. Details of the revised funding reconciliation approach were set out in a letter to providers from the Deputy Mayor for Planning, Regeneration and Skills on 31 March 2020. This letter provided reassurances over funding following the outbreak of COVID-19 and that the performance reconciliation for grant-funded providers for 2019/20 would be based on the full-year forecast in their Mid-Year Claim. Where forecasted AEB delivery was at 97% or above, the GLA would fund the allocation in full in line with the tolerance threshold agreed by the Mayor.
- 1.3. The letter also explained that where year-to-date delivery at the Mid-Year Claim was lower than expected or future delivery significantly relied on planned subcontracting, allocations would be reconciled on a case-by-case basis and that the GLA would set out in writing to providers how reconciliation arrangements would apply in their case.
- 1.4. In May 2020, AEB grant providers applied for additional funding required to provide rapid response skills delivery to meet the immediate training needs arising from the pandemic. This Skills for Londoners (SfL) COVID-19 Response Fund Strand 1 funding was allocated on the premise that it would be reconciled based on actual delivery against the allocated amount for the year.
- 1.5. The AEB Mayoral Board, via its urgency procedure, agreed that the GLA could make advance payments ('Skills Funding Support' payments) to AEB procured providers to support their cashflow during the period of closures and this was set out in a letter to AEB procured providers on 31 March 2020. These advance payments were an uplift on earned payments to maintain the provider's income at the average monthly earned funding for the previous three months. The letter also stated that these advance payments would be reviewed as part of the year-end reconciliation process in December 2020 and that any profits from Skills Funding Support payments would not be permissible.
- 1.6. As AEB procured providers operate under four-year contracts with the GLA it was also agreed that they would be permitted to carry forward any underspend caused by the COVID-19 closures to deliver in future years.

2. Objectives and expected outcomes

Reconciliation of AEB grant funding relating to 2019/20

- 2.1. Building on MD2634, this decision form seeks to confirm the revised approach to the reconciliation for AEB grant providers for 2019/20 based upon the full-year forecast in their mid-year claim, following the receipt of final claim information from providers on 5 November 2020.
- 2.2. Under the revised arrangements, where providers were under-performing at the mid-year claim stage, their allocations were reviewed on a case by case basis. There were 11 providers in this category and their 2019/20 allocations were reduced to an achievable level and these reductions were approved by the Mayor undercover of MD2634.

- 2.3. To ensure that all providers continue to be treated fairly under the approach, the GLA has reviewed the final claim information returned in November 2020. This has included reviewing the claims for those providers where their 2019/20 allocation was reduced based on performance discussions earlier to ensure the final reconciliation approach was reasonable.
- 2.4. The Education and Skills Funding Agency (ESFA) has revised its non-devolved AEB reconciliation approach but with the continued emphasis on not reconciling allocations in 2019/20. The ESFA has set a revised performance threshold of 68% as the point at which allocations are paid in full and it will consider business cases for lower performing organisations on a case by case basis.
- 2.5. In view of the above, the 2019/20 AEB grant reconciliation approach will be applied, taking account of Final Claim information, as follows:
- to pay in full the allocations where mid-year claims were forecast to be above 97% and there are no underlying performance issues;
 - to pay over-performance where a provider outturn for 2019/20 exceeded allocation. The calculation of whether a provider has delivered above 100% will only include delivery of community learning up to the value specified in the grant agreement (where applicable).
 - to pay for over-performance where an allocation was reduced earlier in the year for mid-year performance reasons but the provider subsequently improved delivery; or
 - to reduce the payment made to a provider where performance was significantly lower than expected as shown in Final Claim information. The GLA will apply the Mid-Year Claim performance adjustment as approved by the Mayor earlier in the year. In addition, where providers were not sufficiently adjusted for underlying performance issues and Final Claim performance is lower than 68% of allocation, the GLA will apply a reduction based on this threshold. Providers will be able to make a business case to the GLA by 18 December 2020, where the funding retained is less than the costs of delivery.
- 2.6. The final funding amounts based on categories above are presented in Appendix A.
- 2.7. The SfL Innovation Fund projects were due to begin in March 2020, however this was impacted by COVID-19 closures. As an additional amount of funding which was added to provider's total AEB allocation for 2019/20, it will be reconciled within the total allocation arrangements set out above. Where providers have requested to carry over an allocation from 2019/20 into the 2020/21 Academic Year, this will be actioned up to the value of unearned SfL Innovation Fund allocation for 2019/20. The GLA will receive requests from providers to carry over the allocation up to 30 November 2020.
- 2.8. In addition to the above approach for the main AEB Grant provision (including the SfL Innovation Fund), the GLA will reconcile funding provided in June 2020 in respect of the funding applications for SfL COVID-19 Response Fund Strand 1. In line with the prospectus for applications, the GLA will review performance in the Final Claim information in respect of this additional amount and will reconcile funding that was not delivered. The reconciliation for these additional funds is included in Appendix A.
- 2.9. In line with the national sector accounting arrangements, the GLA will issue reconciliation statements to providers in December 2020 to enable the funding to be included in the financial statements process.

AEB procured programme end of year 2019/20 reconciliation

- 2.10. The AEB procured reconciliation process will cover both performance against delivery of outcomes and performance against funding earned. At the end of September 2020, providers who had underperformed against their key outcome targets by July 2020 (R12 – Individualised Learner Record (ILR) return) were asked to submit recovery plans explaining the reasons for the underperformance and identifying SMART actions to improve performance. This follows the guidance outlined in the *AEB*

[Procured Provision - Managing Provider Performance](#) document published on the GLA website. Provider Managers will assess these and monitor providers' progress against these to ensure they are taking the appropriate actions to improve performance.

- 2.11. In March 2020, AEB procured providers were informed that any impact of the COVID-19 closures would be reviewed as part of the end of year reconciliation process and that they would be permitted to carry forward any underspends caused by the COVID-19 closures to deliver in future years, as described in paragraphs 1.5 and 1.6 above.
- 2.12. End of year reviews will be undertaken in December 2020 and will review progress against the recovery plans, final learner support claims, R14 ILR and supplementary data information, as well as payments made against actual funding earned and the impact of COVID-19.
- 2.13. Underperformance in 2019/20 which is not related to COVID-19 would not be carried forward to 2020/21 and future years, although providers will be allowed to make a business case to carry forward funding where they can evidence a trajectory of improved performance.
- 2.14. In mid-January 2021, Provider Managers will receive the 2020/21 R04 performance data and will review progress against providers' 2020/21 delivery profiles and against recovery plans where these have been required. This 2020/21 performance data will help to confirm performance trajectories and inform the recommendations to the Mayor, via the AEB Mayoral Board, as follows:
 - provider contract is to remain unchanged where providers have performed at a satisfactory level in 2019/20 and are continuing to do so;
 - provider targets and funding not delivered in 2019/20 should be reprofiled across the remainder of the contract period where it is likely that they can deliver these;
 - provider contract values should be reduced where underperformance is not, or not solely, COVID-19 related and it is unlikely that contractual targets will be met over the remaining contract period; or
 - provider can be offered an increase of funding (up to 10% of the contract value) where contracts are performing well.
- 2.15. Based on the above approach, any changes to contracts will be presented to the AEB Mayoral Board meeting in February 2021 for endorsement and subsequent MD if required.

AEB procured programme support payment reconciliation

- 2.16. In March 2020, AEB procured providers were offered the Skills Funding Support Payments to help sustain their delivery cashflow as described in paragraph 1.5 above and were informed that these were advance payments that would be reviewed as part of the end of year reconciliation process.
- 2.17. The end of year process will reconcile the amount paid by the GLA for actual delivery and Skills Funding Support payments against the provider's certified operational costs for the period impacted by COVID-19. If a provider's operational costs for this period are lower than the amount paid by the GLA, the GLA will recover the difference up to the maximum of the Skills Funding Support payment. If the provider's operational costs are higher than the amount paid by the GLA, there will be no recovery of the Skills Funding Support payment. Providers will be asked to return the certified operational costs by 18 December 2020.
- 2.18. The letter sent to AEB Procured providers in March 2020 stated that payments would be uplifted up to the profiled contract value for the 2019/20 Academic Year. As such, in this instance it is proposed to treat 31 July 2020, the final day of the 2019/20 Academic Year, as the end of the period impacted by COVID-19. This date falls after the end date of the COVID-19 period of 30 June 2020 as specified in the "GLA procurement and finance guidance - Procurement Policy Note - Supplier relief due to COVID-19" subsequently issued during April 2020 but prior to the revised deadline of 30 October

2020 proposed by Cabinet Office in their revised Action Note PPN 04/20. However, it is not recommended to apply this in this instance as the operational period would span two Academic Years while the support payments only related to one.

- 2.19. The methodology for calculating any values to be recovered will be applied consistently; however we will assess the most appropriate method of recovery for each provider and will align with generally approved GLA methods to include one or more of; recovery through the December 2020 reconciliation, recovery through offset against future delivery, recovery by invoice. The full list of providers who received the Skills Funding Support payments will be presented to the AEB Mayoral Board meeting in February 2021.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010, as public authorities, the Mayor and the GLA must have 'due regard' to the need to:

- eliminate unlawful discrimination, harassment and victimisation; and
- advance equality of opportunity and foster good relations between people who have a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation) and those who do not.

- 3.2. The implementation of the approach will support the funding stability of the adult education sector in London during the period of COVID-19 crisis. The sector engages a significant proportion of 19-year-old and above learners with protected characteristics including female learners, learners from Black, Asian and minority ethnic (BAME) communities, and disabled learners. The arrangements will ensure that provision for adult learners is appropriately funded for 2019/20.

4. Other considerations

Links to Mayoral Strategies and priorities

- 4.1. The interventions proposed in this MD align with the commitments made to support providers through the challenging period of COVID-19 closures. Ensuring financial stability of the AEB provider base is important to support the achievement of Mayoral priorities relating to London's Recovery Programme.

Risks arising/mitigation

- 4.2. The key risks are:

- Clawback of funding through reconciliation processes may lead to provider instability. The approach that is currently set out was designed with the intention of protecting the financial stability of providers through the period of closures caused by COVID-19. By considering data at R14, we can make a more informed decision regarding any clawback of funding and minimise the risk of undermining the financial stability of our providers.
- Risk to future funding if providers retain allocation despite significant underspends. If our reconciliation approach differs from that used by the ESFA and GLA-funded providers retain their full allocation despite significant underspends, DfE may decide to reduce the value of the AEB allocated to London in future on the grounds that it is not achieving value for money. To mitigate against this risk, our approach allows for us to reduce the payment made to a provider where performance was significantly lower than expected and unrelated to the impact of the COVID-19 closures.

- 4.3. There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

5. Financial comments

- 5.1. Approval is sought for the proposed approach to the reconciliation of funding relating to 2019/20 Academic Year for AEB grant providers and AEB procured providers. There are no direct financial implications to the GLA arising from the proposed approach. Any additional costs arising from the proposed approach will be contained within the ring-fenced AEB budget for the 2019/20 Academic Year. Any clawback of funding recovered through the reconciliation process, will revert to the ring-fenced AEB budget.
- 5.2. Approval is also sought for the extension of the period for COVID-19 support to 31 July 2020 (the final day of the 2019/20 Academic Year), and AEB Procured providers to retain Skills Funding Support payments where the sum of earnings plus the support payment does not exceed operational running costs. There are no direct financial implications to the GLA arising from this proposal. Any support payments retained by AEB procured providers will be contained within the ring-fenced AEB budget for the 2019/20 Academic Year.

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 of the delegation to the Mayor of AEB functions from the Secretary of State for Education. A particular limitation of the delegation is that the usual power of delegation by the Mayor is not available in respect of s39A delegated functions.
- 6.2. The GLA's agreements with AEB grant and procured providers were varied to reflect instructions received from GLA officers concerning the provision of support relating to the effects of COVID-19 following the issue of the letters and procurement policy notes noted in sections 1 and 2 of this MD form. To the extent that any further variation of agreements with AEB grant and/or procured providers is necessary to reflect the proposed approach to be taken to reconciliation officers must seek further advice and ensure that such variations are executed prior to reconciling in that manner.
- 6.3. 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.

7. Planned delivery approach and next steps

Activity	Timeline
2019/20 Reconciliation statements issued to AEB grant providers	December 2020
AEB procured provider End of Year Reviews	December 2020
AEB procured reconciliation recommendations developed	January 2021
AEB procured reconciliation recommendations considered by Mayoral Board	February 2021

Appendices and supporting papers:

Appendix A – Outcome of 2019/20 AEB grant reconciliation process

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? YES**

If YES, for what reason: It is proposed to defer publication of the MD until February 2021 as it contains information intended for publication at a later date. Deferring publication will allow for distribution of provider reconciliation statements and consideration of any queries raised by providers.

Until what date: 28 February 2021

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included 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:

Chris Wright has drafted this report in accordance with GLA procedures and confirm the following: ✓

Sponsoring Director:

Halima Khan 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 30 November 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

D. Gene

Date

1 December 2020

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

30 November 2020

