



Department
for Education

The exercise of delegated adult education functions

**Guidance for the Mayor of London and
Greater London Authority**

August 2019

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Summary

About this guidance

1. This guidance relates to the delegation of certain adult education functions in the Apprenticeships, Skills, Children and Learning Act 2009 to the Mayor of London ('the Mayor') by the Secretary of State. The relevant functions of the Secretary of State have been delegated to the Mayor under the Greater London Authority Act 1999¹, and the Mayor must have regard to guidance issued by the Secretary of State when exercising the specified functions.
2. The delegation of the specified adult education functions will enable the Mayor to determine adult education provision in relation to Greater London for academic year 2019/20 and thereafter, and to manage the associated adult education budget (AEB). The Mayor will be carrying out the delegated functions where appropriate through the Greater London Authority ('the GLA') and references to the Mayor in this document should be read accordingly.
3. This guidance provides support to the Mayor when exercising the specified adult education functions. This should be considered alongside the Memorandum of Understanding² agreed between the Mayor, the Department for Education (DfE) and the Education Skills Funding Agency (ESFA)³.
4. This guidance is intended to ensure that funding and provider management arrangements are agreed by the Mayor with providers in a way that minimises costs and maximises consistency and transparency. It is also intended to set out the reports the Mayor must provide to the government on the delivery of adult education functions in the Greater London Authority area.
5. The Mayor and the GLA, DfE and ESFA, through the Memorandum of Understanding, will agree any further areas as required.
6. Prior to making any amendments to the section of this guidance entitled 'What the Mayor should know and do' the Secretary of State will consult with the Mayor.

What legislation does this guidance refer to?

- The Greater London Authority Act 1999

¹ <https://www.legislation.gov.uk/ukpga/1999/29/contents>

² <https://www.gov.uk/government/publications/devolution-of-adult-education-functions-mous>

³ The Education Skills Funding Agency is an executive agency of DfE and responsible for funding education and skills for children, young people and adults.

- The Apprenticeships, Skills, Children and Learning Act 2009

Who is this guidance for?

This guidance is for:

- The Mayor exercising adult education functions in accordance with the delegation letter.

What the Mayor should know and do

The functions

The Mayor will be exercising delegated adult education functions contained in section 86 to 88 of the Apprenticeships, Skills, Children and Learning Act 2009 ('the 2009 Act') with the exception of such functions relating to apprenticeships training, adult detention or any power to make regulations or orders. The functions under section 86 to 88 are as follows, and are exercisable by the Mayor instead of by the Secretary of State in relation to the area of Greater London:

- a) section 86 (education and training for persons aged 19 or over and others subject to adult detention);
- b) section 87 (learning aims for persons aged 19 or over: provision of facilities); and
- c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees.

In addition, the Secretary of State's functions under section 90 of the 2009 Act which relate to the encouragement of education and training for persons aged 19 or over, and section 100(1) of the 2009 Act which relates to the provision of financial resources, are exercisable by the the Mayor in relation to Greater London. These functions are exercisable by the Mayor concurrently with the Secretary of State.

The delegation letter contains conditions on the exercise of the delegated functions, in particular that the Mayor must have regard to the Secretary of State's guidance, and that the Mayor must adopt rules of eligibility for awards by an institution to which the Mayor makes grants, loans or other payments under section 100 of the 2009 Act in accordance with any direction given by the Secretary of State.

What approach should the Mayor take to commissioning adult education provision?

Providers are key to the delivery of the adult education system. Many education providers are complex organisations that rely on a variety of public funding to operate their business. The Mayor, as a funder of education and training provision, must have regard to best value for the public purse and securing the best outcomes for students. It is also important to make sure that arrangements by public bodies for securing and funding provision are fair and reasonable and that demands made of providers are clear, transparent and timely.

A provider may secure funding from numerous sources and funding from the Mayor may form a relatively small proportion of this overall funding. The Mayor will make the decision about the type of provision required to meet local skills needs. Most education providers

will have become accustomed to how they have been funded for adult provision previously and have their systems and arrangements aligned with that regime. Given this, the Mayor when exercising the delegated functions in relation to the commissioning of adult education provision, should give consideration to the following:

- a) the fairness, reasonableness and proportionality of the requests made of providers by the Mayor through consideration of the entirety of that provider's overall business.
- b) ensuring that all providers are given an equal opportunity to compete for funds in any competitive process.
- c) how the Mayor's commissioning approach aligns to the existing adult education funding key milestones that a provider operates under when commissioning.
- d) when the Mayor determines that it is appropriate to deviate from the ESFA commissioning process the Mayor should give a reasonable notice period⁴ to allow providers to adapt.

The Mayor should give consideration to these areas and work jointly with providers at the design and planning stage on the provider's proposed funding arrangements with a view to:

- building positive relationships;
- enabling providers to understand and meet the Mayor's needs; and
- enabling the Mayor to understand what providers need to plan and respond properly to deliver adult education for the Mayor.

When making and communicating adult funding decisions what should the Mayor take into account?

The Mayor should:

- a) consult with representative providers on the Mayor's approaches to funding and performance management rules, funding rates and funding formula;
- b) publish a conflicts of interests policy for the allocation of relevant funds that includes:

⁴ A reasonable notice period should be considerate of the nature of the change and the potential impact on provider's usual business cycle.

- i. requirements on all those involved in decision-making and all those receiving funding from this budget to declare and record actual and perceived conflicts of interest; and
 - ii. appropriate external checks, including an internal monitoring process and external input to decisions;
- c) publish in advance of the start of the funding year (traditionally 1 August) conditions of funding against which providers should deliver. This should be published on a website in a manner which recognises accepted web accessibility standards and which allows for the content to be:
 - i. downloadable; and
 - ii. published in such a way that search engines can index it;
- d) give consideration to the ESFA's adult funding key milestones⁵ when communicating funding plans and allocations including methodologies. This will help those providers that may be in receipt of adult funds from both the ESFA and the Mayor to plan their overall adult provision staffing and delivery and to manage their business model and income appropriately and efficiently to ensure value for money;
- e) ensure that providers have a point of contact in the event that they need to discuss their delivery, payments or funding arrangements. This should be established early in the relationship;
- f) identify for providers how and to whom they can complain in the event that they believe they have grounds to do so;
- g) conduct appropriate due diligence in establishing which providers will deliver AEB-funded provision, complying with Public Contracts Regulations 2015, as appropriate;
- h) have a clear commercial strategy to undertake legally compliant exercises and put in place contract/performance management regimes;
- i) have clear market entry arrangements that are available to potential providers; and
- j) have a clear funding reduction and/or exit requirements strategy.

⁵ For example; publication of funding rules, publication of funding rates/formula, notification of funding allocations to providers and contracts/agreements issued for the upcoming academic year.

What reports should the Mayor provide to government about the delivery of adult education functions?

The Mayor must provide government with an annual report each year: in January, an indicative draft, incorporating the key financial information; and in March, the fully signed document covering delivery of the adult education functions in Greater London. These reports should demonstrate how delivery of the adult education functions is aligned to the Mayor's Strategic Skills Plans and supports delivery of local economic objectives. This should include a description of the arrangements for enabling effective and meaningful engagement of local and national partners in proposed use and evaluation of the AEB, including but not limited to providers and their representative organisations, employers, National Careers Service and DfE/ESFA.

The Mayor should report annually on the previous academic year findings each January/March (see above), referencing the most up to date publicly available data at that point in time.

The annual report should include, but not be limited to:

- a) the Mayor's policies for adult education;
- b) spend from the AEB;
- c) analysis of the Mayor's delivery of the adult education functions in Greater London. This can draw on published data from DfE and use other data where necessary to present this analysis;⁶
- d) local Impact – should consider the impact the Mayor's exercise of adult education functions has had upon skills in Greater London, with regard to:
 - i. overall participation in AEB funded provision;
 - ii. number of learners exercising their statutory entitlement to full funding for: i) english and maths up to Level 2; ii) first full level 2 (learners aged 19-23); and iii) first full level 3 (learners aged 19-23); and
 - iii. completion and achievement rates.

The Mayor may also want to produce further monitoring and evaluation which goes beyond the data sets DfE publishes annually. The Mayor is encouraged to provide links

⁶ This analysis could be released into the public by government departments. For example, presenting the impacts to parliament of the delegation of the exercise of adult education functions to the Mayor.

and references to any relevant employer or learner surveys available, and report on plans to undertake further surveys, which may include previous academic years.⁷

⁷ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>



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