

The West of England Combined Authority

Adult Education

Due Diligence and Funding Higher-Risk Organisations 2022/23

1. Purpose

- 1.1. This document outlines the West of England Combined Authority due diligence process to assess the degree of risk in funding Adult Education providers for the 2022/23 academic year. It sets out the criteria that would prevent an organisation being considered for funding by the Combined Authority or result in the discontinuation of Adult Education funding to that organisation.
- 1.2. This document applies to both organisations who are directly funded by the West of England Combined Authority to deliver Adult Education and organisations delivering provision that is funded by the Combined Authority through a third-party arrangement. The West of England Combined Authority includes in its Grant Funding Agreement the right to require a lead provider not to enter into or to stop third-party arrangements. Please see the Grant Funding Agreement and the West of England Combined Authority Adult Education Funding Third-Party Delivery Funding Rules 2022/23 for further detail.
- 1.3. Where the West of England Combined Authority providers are delivering through a third-party provider, they are expected to incorporate an equivalent approach within their third-party procurement, due diligence, and management processes. Please see the West of England Combined Authority Grant Funding Agreement and the West of England Combined Authority Adult Education Funding Third-Party Delivery Funding Rules 2022/23 for more information.

2. Background

- 2.1. Adult Education falls within the general principles of the West of England Local Growth Assurance Framework. This sets out the West of England's governance arrangements for these funds, how due diligence, transparency and accountability are ensured.

2.2. All organisations that receive Adult Education funding from the West of England Combined Authority will deliver education and training services in accordance with the West of England Combined Authority's terms and conditions of funding as detailed in their 2022/2023 Grant Funding Agreement. This forms the basis of the contractual relationship between the West of England Combined Authority and the provider, alongside the following published Adult Education policies;

- Funding and Performance Management Rules 2022/23
- Funding Rates and Formula 2022/23
- Provider Performance Management Framework 2022/23
- The Third-Party Delivery Funding Rules 2022/23

3. Due Diligence

3.1. Due diligence is conducted prior to taking any final decision to fund Adult Education providers, and before the first payment can be released. This is to ensure that doing so would not place either learners or the West of England Combined Authority at risk. The process is led by Grant Funding and Assurance Team and supported by the Adult Education team. The due diligence process informs the decision as to whether a grant should be awarded, identifies any potential risk and necessary mitigations and contributes towards development of contingency plans that are intended to ensure continuity of learning and protect the interests of learners should the Provider fail to perform.

3.2. The West of England Combined Authority have a minimum contract value threshold of £150k for the 2022/23 academic year. 2021/22 Providers with allocations above this threshold will be offered an indicative roll-forward allocation for the 2022/23 academic year.

3.3. The West of England Combined Authority will launch an open application process in April 2022 to grow provision in line with our priorities. Applications will be open to new providers with a minimum contract value of £150K, please see the [Open Application Process 2022 and Priority Specification](#) for further details. Providers with allocations below the minimum contract value who wish to access the West of England Combined Authority Adult Education funding will need to do so through a third-party arrangement.

3.4. Providers funded through the roll-forward allocations will have successfully met the pre-grant financial due diligence in previous academic years, however a due diligence refresh is required each time a Grant Funding Agreement is issued. We will ask roll-forward providers to complete a 'West of England Combined Authority Due

Diligence Review Form' to ensure consistency and to give clarity that controls are robust and monitored to meet funding requirements;

- Each academic year prior to a new grant funding agreement being issued, each provider will need to complete a due-diligence process with a due-diligence review form.
- Any brand-new providers will be subject to additional due diligence checks as detailed in Table 1 under Entry Level Requirements. They will be required to answer supplementary questions around performance management, capacity and capability. The eligibility and criteria for the Open Application Process will be confirmed in separate documentation at a later date.
- Monthly checks will be carried out on the provider in line with the Performance Monitoring Framework.

4. Risk Based Approach

- 4.1. The West of England Combined Authority has adopted a risk-based approach for provider management using a range of factors, including pre grant due diligence, and routinely measures risk against operation, strategic, quality and financial criteria. Risk management is embedded both at strategic and operational levels with a Corporate, Directorate and Programme level Risk Register reviewed and updated on a regular basis.
- 4.2 We will routinely review the status of each provider as either Low, Medium or High Risk at key review points, such as mid-year and end of year. In addition to this an annual assurance programme of work, which comprises a range of assurance reviews, including funding compliance audits, financial statement reviews and financial health checks will be implemented in conjunction with the ESFA.

Table 1-Section 7 below lists the information required to assess risk or ensure adherence to the funding conditions, it sets out the acceptable evidence and minimum standard where applicable and how the West of England Combined Authority will obtain this information. This is not a definitive list, and as the review proceeds, additional items may be requested.

5. Approach to managing risk with Further Education Colleges

- 5.1. Further Education (FE) colleges are subject to a separate ESFA monitoring regime and are not required to submit entry level accounts to the West of England Combined Authority. Where Colleges financial plans, performance indicators or other data sources suggests that there is a risk of failure, the ESFA and the West of England Combined Authority have a separate approach. The ESFA post 16 intervention and accountability framework is, outlined on the Gov.uk website:

<https://www.gov.uk/guidance/16-to-19-education-accountability> and within the West of England Combined Authority Grant Funding Agreement.

- 5.2 We will work with the ESFA and colleges to facilitate swift mitigating actions that focus on ensuring a return to sound financial resilience and, where required, improvement in quality. The aim would be to lower the risk of a college falling into the scope of formal intervention measures and achieve a rapid turnaround at a lower cost to public funds, while maintaining high quality learning delivery to students, adult learners and employers.
- 5.4 In order to receive Grant Funding Agreement and for payments to be made, all Colleges must submit evidence of their ESFA Health Rating Assessment. The West of England Combined Authority will conduct further investigation where we have not received acceptable evidence. If the College has been rated as Inadequate, is under Notice of Concern or Serious Breach under the West of England Combined Authority approach to Intervention, we reserve the right to access financial information. If acceptable evidence is not received, the West of England Combined Authority reserves the right to withhold or withdraw funding.

6. Exemption for Local Authorities

- 6.1. Local Authorities are exempt from the ESFA financial health assessment process and do not need to submit Trading Accounts & Financial Declarations. All other West of England Combined Authority Compliance and Audit Entry Level Information will apply.

7. Table 1 – Due Diligence, Assurance and Compliancy Checks (IDENTIFYING STAGE REQUIRED)

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
ENTRY LEVEL FINANCIAL INFORMATION						
1	PRE- GRANT FUNDING AGREEMENT	ESFA Financial Health Assessment	<p>The formula-based assessment categorises a providers' financial health as either exempt, outstanding, good, satisfactory, or inadequate.</p> <p>The ESFA base these categories on a scoring of 3 ratios: solvency (current ratio); performance (profit after tax, minus dividend payments divided by income); and gearing (total debt as a percentage of reserves and debt). An 'Outstanding', 'Good' or 'Satisfactory' grade is required</p>	Refreshed Annually	<p>The ESFA will copy the West of England Combined Authority into this information for our joint providers in area, with funding above £250k (according to the DSA).</p> <p>All other Providers must send a copy of one of the following to the West of England Combined Authority; ESFA PRA Letter ESFA Finance Dashboard ESFA Declaration Letter</p> <p>Requested within the DD 2022/23 Form</p>	All Providers except Local Authorities
2	PRE- GRANT FUNDING AGREEMENT	Credit Risk Score	<p>Creditsafe calculates a business credit score using sophisticated statistical algorithms. The score ranges from 0 to 100 with the lowest companies carrying the highest risk. The credit score considers over 150 parameters, as well as economic and industry factors including group structure, up to 5 years of annual accounts, global structure, trading locations, CCJ information and company house documents.</p>	Refreshed Annually	<p>Permission to be sought from Provider to run an Annual Credit check, carried out by the West of England Combined Authority in conjunction with Creditsafe.</p> <p>A minimum Credit Safe Score of 30/100 is required, and risk rating applied in conjunction with the Accounts review (below). If you are found to have a credit score under 30 (a high-risk rating) the West of England Combined Authority reserves the right to withdrawal your allocation and not issue a GFA.</p> <p>Requested within the DD 2022/23 Form</p>	All Independent Training Providers (ITPs), Charitable and Commercial Providers & Employer providers. High-Risk Further Education establishments with an inadequate ESFA Financial Health Assessment
3	PRE- GRANT FUNDING AGREEMENT	Latest Trading Accounts & Financial Declarations	<p>Full filled Accounts (not abbreviated / abridged), and audited, where appropriate. If only abbreviated accounts are required for Companies House filing, providers must still submit their full statutory accounts to us, which must include, as a minimum, the following elements</p> <ul style="list-style-type: none"> • An end of period Profit and loss account, or equivalent • An end of period Balance sheet 	As applicable	<p>Providers must submit their latest filed accounts and subsequent filings as per their accounting reference date. A risk rating will be applied drawn from accounts analysis and the credit and finance indicators.</p>	All Independent Training Providers (ITPs), Charitable and Commercial Providers & Employer providers.

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
			<ul style="list-style-type: none"> Commentary and breakdown, including relevant notes to the accounts 		<p>Providers must sign a declaration within the Due Diligence Form which indicates whether the organisation, Director(s) or any other person who has powers of representation, decision or control in the organisation been convicted of any of the offences outlined in Section 6 onwards. This section includes checks on providers who form part of a wider group, i.e. Parent Company. The West of England Combined Authority also requests details of your internal and external auditors.</p> <p>Requested within the DD 2022/23 Form and the West of England Combined Authority will carry out Company House Desk Research.</p>	High-Risk Further Education establishments with an inadequate ESFA Financial Health Assessment.
ENTRY LEVEL COMPLIANCE						
4	PRE- GRANT FUNDING AGREEMENT	A registered training provider on the UK Register of Learning Providers	<p>www.ukrlp.co.uk</p> <p>The UK Register of Learning Providers allocates UK Provider Reference Number (UKPRN). This is the unique identifier used to share information with the UKRLP partner agencies.</p>	From Grant Award and updated when Applicable	<p>We expect providers and any third-party providers to continue to be listed on the Register. You must successfully complete the Register, refresh, and update your information when asked to do so</p> <p>Within Curriculum Development Plan and requested in DD 2022/23 DD Form</p>	All Providers & grant recipients
5	PRE- GRANT FUNDING AGREEMENT	Supporting Plans and Policy Information	<ul style="list-style-type: none"> Subcontracting or Third-Party Delivery Policy Fee Remission Policy Public Liability Insurance Number & Certificate Professional Indemnity Insurance Business Continuity Plan Learning Prospectus Health and Safety Policy 	Annual check	<p>Links to digital documents acceptable</p> <p>Where appropriate we may ask for any action plans that underpin these policies.</p>	All Providers & grant recipients

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
			<ul style="list-style-type: none"> • Safeguarding and Prevent Policy • Equality and Diversity Policy • Data Protection Register (ICO) • Quality Assurance • Modern Slavery Act • Document Retention Policy • IAG Policy • Learner Disciplinary Policy 		Requested within the DD 2022/23 Review Form with further explanation on the new Policies requested.	
6	PRE- GRANT FUNDING AGREEMENT	Subsidy Control Compliant	The Provider will need to confirm its provision is compliant with subsidy control regulations. It remains the responsibility of the Provider to ensure that the subsidy control regulations commitments under the TCA or such subsidy control regulations as are implemented in the UK from time to time are adhered to, and that all necessary records and evidence are kept. All providers are advised to seek their own expert independent legal advice on Subsidy Control	Prior to issuing Grant Funding Agreement	Declaration / Check Box within the Due Diligence Form that Subsidy Control Legislation is being adhered to where it applies. T&C's in the Grant Funding Agreement issued.	All Providers & grant recipients
7	PRE- GRANT FUNDING AGREEMENT	Funding Rules Monitoring with ILR Compliant Management Information System	<p>As part of our assurance work, we monitor data from the individualised learner record (ILR) and the monthly Claim Report.</p> <p>The provider must have an ILR Compliant Management Information System in place. Validation checks are in-built to ensure only eligible provision is funded.</p> <p>We expect our providers to use the provider data self-assessment toolkit (PDSAT) to test the credibility of their data and the Funding Information System (FIS) to validate ILR data.</p>	Monthly via ILR and Monthly Claim Report	<p>The Provider must be able to produce an Individual Learner Record (ILR) to Education and Skills Funding Agency (ESFA) specification</p> <p>The West of England Combined Authority can identify possible errors in the funding claimed that may require further investigation.</p> <p>The Senior Relationship Manager will have regular dialogue with the provider to review performance and compliance. Regular contract control.</p> <p>MIS System name requested in DD 2022/23 Form</p> <p>Providers should notify the West of England Combined Authority of any potential issues with the data recorded in ILR data returns.</p>	All Providers & grant recipients

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
ENTRY LEVEL QUALITY						
8	PRE- GRANT FUNDING AGREEMENT	Ofsted	<p>The Office for Standards in Education, Children’s Services and Skills inspect services providing education and skills for learners of all ages. Inspectors use a 4-point grading scale to make judgements during inspections:</p> <ul style="list-style-type: none"> • grade 1: outstanding • grade 2: good • grade 3: requires improvement • grade 4: inadequate <p>West of England Combined Authority Funded Adult Education provision must be assessed by Ofsted as grade 3 or above This will be checked in year, and any changes resulting from an inspection will follow the process outlined in the GFA and Performance Management Framework.</p>	As applicable (usually inspected once every 3-5 years)	<p>Current Grade will be identified, shared, and recorded by the West of England Combined Authority Adult Education Coordinator</p> <p>When the Provider receives notification from Ofsted that the Provision is to be inspected, the Provider shall, on request, provide the West of England Combined Authority with a copy of its quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. As per Grant Funding Agreement.</p>	All Providers & grant recipients
9	PRE GRANT-FUNDING AGREEMENT	Matrix Standard Accreditation	<p>The matrix standard is a framework for organisations to assess and measure their information, advice, and guidance services. It aims to support individuals in their choice of career, learning, work and life goals.</p> <p>https://matrixstandard.com/</p> <p>Provider must state that they give permission for the West of England Combined Authority to verify their Matrix Standard Accreditation directly with the Matrix Standard</p>	<p>Prior to issuing Grant Funding Agreement</p> <p>Plus 6-month check</p>	<p>The provision of information and advice is an essential element of all adult education programmes, both in support of Initial Assessment at the start of the programme and to inform and support effective progression at the end. The West of England Combined Authority Adult Education providers must either:</p> <ul style="list-style-type: none"> • Hold and maintain Matrix accreditation for the duration of the 2022/23 academic year, or: • Begin to work towards Matrix accreditation immediately and secure this within 6 months of the Grant Funding Agreement commencement date. 	All Providers & grant recipients
10	IN-YEAR MONITORING	Qualification Achievement Rates (QAR)	<p>QARs give one measure of how well further education colleges and training organisations perform in each year. In basic terms, QARs calculate what proportion of learning was successfully completed. The result is shown as a percentage figure.</p>	Normally published March and annually	<p>The ESFA produce summary data and a detailed data extract four times a year for:</p>	<p>All Providers & grant recipients</p> <p><i>Not applicable in 22/23 DD</i></p>

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
			<p>The ESFA did not publish any institution-level qualification achievement rates in the national achievement rate tables for the 2020 to 2021 academic year in response to Coronavirus (COVID-19) so these will not be available to inform Due Diligence this year.</p> <p>The 2020/21 QARs are due to be issued securely to providers and Ofsted but not published publicly.</p> <p>https://www.gov.uk/government/publications/qualification-achievement-rates-qar-2020-to-2021</p>		<ul style="list-style-type: none"> in-year QARs based on the June R10 data in-year QARs based on the August R12 data provisional QARs in January (following R04) final QARs in March 	
11	IN-YEAR MONITORING	Provider Annual Self-Assessment Report (SAR), Quality Improvement Plan and Policy / Strategy	Self-Assessment is a process of gathering, reviewing, and using important quantitative and qualitative data and information from multiple and diverse sources about academic programs, for the purpose of improving student learning, and evaluating whether academic and learning standards are being met.	Annual – Year End	<p>Your SAR should address the key questions of the current Common Inspection Framework</p> <p>Self-assessment reports should be produced on an annual basis, generally at the same time each year, and be the result of quality improvement activities over the previous year. A copy should be submitted to the West of England Combined Authority on completion.</p> <p>The Quality Improvement Plan should contain full details of actions completed since the SAR / Inspection. A copy of the Quality Improvement Policy / Strategy should be submitted.</p>	All Providers & grant recipients
AUDIT & FURTHER COMPLIANCE						
12	IN-YEAR MONITORING	Monthly Claim Form and Risk Report	The monthly claim Report contains performance data (Funding, Starts, Achievements, Destination and Progression Outcomes), a narrative section and an area to notify us of proposed changes and any changes to quality, compliance and due diligence and a Provider Risk Register	Monthly	Contractual requirement for performance management.	All Providers & grant recipients
13	IN-YEAR MONITORING	Third-Party Delivery Monitoring, including Self-	The West of England Combined Authority Adult Education Funding Third-Party Delivery Funding Rules 2022/23 sets out the rules in relation to the delivery of Adult Education through a third-party. The equivalent ESFA guidance document is 'Subcontracting funding rules for ESFA funded post-16	Annual report / In-Year Checks	Providers will be asked to outline their plans to use third-party provider delivery at the beginning of each funding year through the Curriculum Development	All Providers & grant recipients

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
		Assessment Reports	<p>funding (excluding Apprenticeships). The Grant Funding Agreement and the West of England Combined Authority Performance Management Funding Rules must be adhered to, the West of England Combined Authority update the Rules in-year and highlight any changes. The West of England Combined Authority Rules differ from that currently used by the ESFA.</p> <p>The West of England Combined Authority will continue the ESFA requirement for providers to obtain an annual report from an external auditor that provides assurance on their arrangements to manage and control their delivery subcontractors as set out in the GFA.</p>		<p>Plan and the Monthly Claim Report. You must also provide a copy of your sub-contracting policy, which must reflect the West of England Combined Authority Adult Education Funding Performance Management and Third-Party Funding Rules.</p> <p>Approval will be required for any in-year changes to third-party delivery arrangements.</p> <p>The funding rules will set out that the provider must send a copy of the certificate and report to the West of England Combined Authority each year, to confirm that the external assurance work has been completed and that there are no assurance issues.</p>	
14	IN-YEAR MONITORING	Audit and Assurance outcomes	<p>We are utilising the ESFA audit and assurance regime and have a service offer in place whereby results of audit activity, financial health assessments and fraud investigations will be shared between the West of England Combined Authority & the ESFA via the data sharing agreement.</p> <p><u>ESFA Post 16 Audit Code of Practice</u> this sets out the common standard for the provision of assurance in relation to funding of post-16 providers.</p> <p>The West of England Combined Authority focuses on 3 key assurance activities: - Prevention, detection and investigation and intervention for specific cases.</p> <p>To gain assurance of the proper use of public funding over adult education funds paid to further education colleges and independent training providers. We will carry-out independent assurance reviews for a minimum of 3 Providers a year.</p> <p>As a result of the assurance review the West of England Combined Authority will know whether the Providers have complied with the West of England</p>	Annual assurance statements will be shared on an April to March financial year basis	<p>The West of England Combined Authority are using the letter of assurance from the ESFA and auditing all our providers over a 3-year cycle.</p> <p>The West of England Combined Authority may identify further learner tests are required due to lack of coverage or high risk and complete additional assurance and compliance checks to top up overall assurance to the required level.</p> <p>Providers should adhere to the Evidence and Audit Requirements stated in the GFA.</p> <p>The West of England Combined Authority requests external auditor details to manage COI's.</p>	All Providers & grant recipients

Section Reference	STAGE REQUIRED Pre Grant Or In-Year Monitoring	Information Required to assess risk and/or compliancy	Description & Minimum Standard (where applicable)	Date Required	Acceptable Evidence How this will be provided/obtained	Applies to
			Combined Authority funding rules and returned materially (Materiality being based on a sample error rate of 5% as defined by the Combined Authority) accurate data to the West of England Combined Authority.			
15	IN-YEAR MONITORING	Fraud Investigations and Irregularity	If Adult Education funds are the subject of allegations/information, the ESFA or the West of England Combined Authority will share this information. Depending on the nature of the allegations and the funding amounts involved one of the organisations will take the lead on investigations.	When Applicable	The Provider must notify the West of England Combined Authority immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Funding Agreement. Audit Firms will be enabled to undertake investigative audits on behalf of the West of England Combined Authority as required.	All Providers & grant recipients
16	IN-YEAR MONITORING	College Intervention	The purpose of the <u>college oversight regime</u> is to improve financial resilience and quality by incentivising and supporting college leaders to recognise issues and take early action, well before colleges get into serious difficulty. In cases where intervention is needed, the West of England Combined Authority needs to be informed to protect provision and current learners in the event of college failure.	When Applicable	The College should notify the West of England Combined Authority when entering & exiting intervention and clarify the reason for it. ESFA will copy the West of England Combined Authority into the letter received by the college.	Colleges
17	IN-YEAR MONITORING	Annual Certificate of Expenditure	The annual certification of expenditure contained within the Grant Funding Agreement. This provides assurance that the provider has complied with the terms and conditions of the Grant Funding Agreement and any guidance issued from the West of England Combined Authority.	By the close of the academic year (R14)	This is to be completed by an independent auditor/ accountant to report on the grant expenditure at the end of the academic year.	All Independent Training Providers (ITPs), Charitable and Commercial Providers, Employer providers and Local Authorities. Colleges are exempt.

8. Funding Higher Risk Organisations

8.1 The West of England Combined Authority must exercise appropriate control over funding for which it is responsible. In some circumstances, this will result in the Combined Authority exercising discretion to refuse, withhold, or withdraw funding organisations that represent a high risk to the proper use of public funds.

9. Criteria for Rejection

9.1 The West of England Combined Authority aligns its Grant Funding Conditions with the criteria for rejection of organisations and institutions seeking funding set out in the Public Contracts Regulations 2015 (Regulation 57). These are set out below.

9.2 Any provider requesting a Funding Agreement with the West of England Combined Authority must be excluded if the provider, any of its directors, or any other person who has powers of representation, decision, or control, has been convicted of any of the following:

- a. conspiracy which relates to participation in a criminal organisation
- b. corruption
- c. bribery
- d. fraud, where the fraud affects the financial interests of the European Communities and falls within the meaning of any of the following:
 - e. the offence of cheating HM Revenue and Customs
 - f. the offence of conspiracy to defraud
 - g. fraud or theft under the Theft Act 1968 and the Theft Act 1978
 - h. fraudulent trading under the Companies Act 1985
 - i. defrauding HM Revenue and Customs
 - j. an offence in connection with taxation in the European Community
 - k. destroying, defacing or concealing documents or procuring the

execution of valuable security within the meaning of section 20 of the Theft Act 1968

- l. any offence listed in section 41 of the Counter Terrorism Act 2008, or in Schedule 2 to that Act, where the court has determined that there is a terrorist connection
- m. money laundering
- n. an offence in connection with the proceeds of criminal conduct within the meaning of sections 93A, 93B or 93C of the Criminal Justice Act 1988
- o. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004
- p. an offence under section 59A of the Sexual Offences Act 2003
- q. an offence under section 71 of the Coroners and Justice Act 2009
- r. an offence in connection with the proceeds of drug trafficking within the meaning of sections 49, 50 or 51 of the Drug Trafficking Act 1994
- s. any other offence within the meaning of Article 57(1) of the Public Sector Directive 2015

9.3 Any of the above criterion reported to the West of England Combined Authority during the funding agreement period will be investigated prior to review of the organisations funding agreement. The result of this investigation and review could lead to:

- a. potential discontinuation of the West of England Combined Authority Adult Education funding for the remainder of the funding agreement period.
- b. potential recovery of funding if any criterion in paragraph 9.2 weren't correctly declared at application stage

9.4 In addition, any organisation may have its funding discontinued or recovered if that organisation:

- a. is insolvent (if a company) or bankrupt (if an individual)

- b. is guilty of grave professional misconduct, which renders its integrity questionable
- c. has not fulfilled his obligations relating to the payment of social security or taxes
- d. has entered into agreements with other economic operators aimed at distorting competition
- e. has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions
- f. is guilty of serious misrepresentation in providing any information to the contracting authority in relation to a prospective bid
- g. if relevant, is not properly licensed to provide services in the state in which the bidder is established
- h. is not registered on the appropriate trade register in the member state in which it is established (a UK or Irish provider would be deemed to be registered on the professional or trade register if it is established in the UK and is certified as incorporated by the Registrar of Companies)
- i. fails to report in a timely manner any criteria detailed within paragraph 9.2 of this policy

9.5 Where a criterion relates to a criminal offence, the Rehabilitation of Offenders Act 1974 (and subsequent amendments) may apply.

10. Additional criteria for rejection

10.1 The West of England Combined Authority can also refuse to fund or cease funding to organisations or refuse to permit third-party arrangements on the basis of the following criteria:

- a. Previous activities have resulted in significant repayment of the West of England Combined Authority or Education and Skills Funding Agency (ESFA)

Government funding within the last two years (£100,000 or 5% of contract value, whichever is the higher)

- b. Failure to repay funding due to the West of England Combined Authority, the ESFA or other government body
 - c. Failure to repay funding due under a subcontract and/ or third-party arrangement to deliver education and training services funded by the West of England Combined Authority or the ESFA
 - d. Information from awarding bodies identifying significant irregularities in the award of qualifications within the last three years
 - e. Instances where the ESFA, the West of England Combined Authority or its agents have audited the provision of a lead provider and identified issues of non-compliance with conditions of funding within the last two years
 - f. Ongoing investigation relating to suspicion of fraud or irregularity, or possible failure to comply with conditions of funding under an existing funding agreement or subcontract
 - g. Early termination of a funding agreement or a subcontract to deliver education and training services funded by the West of England Combined Authority or the ESFA within the last two years
 - h. Withdrawal of funding following the failure to comply with a Notice of Withdrawal of Funding, or failure to remedy a serious breach of contract within the last three years.
- 10.2 The West of England Combined Authority can refuse to fund or prevent third party arrangements with any organisation, which has a Director, Governor, senior employee, or shareholder associated to the criterion in paragraph 9.2. This may also apply if they were previously a Director, Governor, senior employee, or shareholder, in another organisation where one or more of the criteria in paragraph 9.2 apply.
- 10.3 The West of England Combined Authority can refuse to fund or prevent third-party arrangements with any provider or organisation that has a Director, Governor or senior employee who has been dismissed for gross misconduct. This criterion is extended to those who resigned whilst suspended from employment and subject to a disciplinary investigation concerning allegations of gross misconduct. For organisations with shareholders, this is applicable if the shareholder was previously

one of its employees or employed by a predecessor body, or other Government body

- 10.4 The West of England Combined Authority can refuse to fund or prevent third-party arrangements with any provider or organisation that is undergoing HMRC investigations, material pending / current legal cases or if a Mergers and Acquisition with a party is not approved by the West of England Combined Authority and may operate against its values or there is a high risk of reputational damage.
- 10.5 Where any of the criteria set out in paragraphs 10.2 to 10.3 (above) apply to any organisation, the West of England Combined Authority may take the following action:
- a. Exclude an organisation from completing the process for a funding award
 - b. Cease funding the organisation for the remainder of the funding agreement period
 - c. Recover funding awarded.
- 10.6 If action is taken because of an ongoing investigation relating to suspicion of fraud or irregularity, the position will be reviewed at the conclusion of the investigation. This will determine whether an organisation should be permanently excluded from receiving funding. This will also be applied to organisations that fail to comply with conditions of funding under an existing ESFA funding agreement or third-party arrangement and are also delivering provision to the West of England learners.

11. Decision making process

- 11.1 We will publish this document on our West of England Combined Authority website so that all relevant providers and organisations are aware of the additional criteria on which the West of England Combined Authority may refuse a Provider Application, prevent third-party arrangements, or cease or recover funding. The Chief Executive of the West of England Combined Authority, or a member of staff who has delegated authority, will decide whether to take any of the actions set out in paragraph 10.5.
- 11.2 Normally, we will notify the organisation concerned of the proposed decision, and the reasons for it, and give them the opportunity to make representations. We will consider any representation before making a final decision and communicate the

reasons for the decision.

- 11.3 We will apply the process set out in paragraph 10.4 in all cases, except where action is taken because of an ongoing investigation. This includes serious allegations of fraud or irregularity and informing the organisation could prejudice the investigation. However, we will take all reasonable steps to conclude the investigation quickly and reach a final decision.