

# **WEST OF ENGLAND COMBINED AUTHORITY**

**Adult Education Funding**

**PROVIDER PERFORMANCE  
MANAGEMENT FRAMEWORK 2022/23**

**VERSION 1 - 1<sup>st</sup> August 2022**

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## 1. Purpose

- 1.1. The purpose of this document is to inform all providers with a Grant Funding Agreement (GFA) which deliver Adult Education on behalf of the West of England Combined Authority (the Authority) for the 2022/23 academic year of the performance management and monitoring framework that will be applied to their Combined Authority Adult Education delivery. It should be viewed as a guidance document and the full terms and conditions are within the Grant Funding Agreement and the Funding and Performance Management Rules (the latter is available on the West of England Combined Authority website).

## 2. In-Year Provider Performance Monitoring: Desk-Based

- 2.1. The purpose of the Combined Authority in-year performance monitoring process is to:
  - 2.1.1. Understand what providers have delivered and claimed on behalf of the Authority and how this compares with what the provider committed to deliver on our behalf as set out in their GFA and Curriculum and Delivery Plan (C&DP).
  - 2.1.2. Inform our forecasts of full delivery across the academic year.
  - 2.1.3. Identify potential delivery issues at the earliest opportunity so that appropriate intervention and support may be put in place.
  - 2.1.4. Minimise the risk of under-delivery and over-delivery at both individual provider and whole AEB programme level.
- 2.2. The provider's in-year performance may also have bearing on wider decisions within the Authority adult education provision including (but not limited to):
  - 2.2.1. Eligibility to access any in-year growth funding
  - 2.2.2. Determination of adult education allocations for future academic years
  - 2.2.3. Formal Intervention
- 2.3. The West of England Combined Authority will monitor the performance of providers on a monthly basis throughout the duration of the funding agreement utilising reports which summarise both the data submitted by providers through their monthly submissions of the Individualised Learner Record, and the data and narrative submitted by providers as part of the monthly claim report process.
- 2.4. Where necessary, the Authority may draw upon additional sources of

relevant evidence and or require providers to share additional data and evidence, such as:

- 2.4.1. National Published data and analysis
- 2.4.2. Reports and analysis generated by the provider's own management information systems
- 2.4.3. Ad hoc requests for data and evidence
- 2.5. Our performance monitoring activities will focus on (but are not limited to) the following considerations:
  - 2.5.1. Funding claimed and / or paid during the year to date compared with the agreed profile as set out within the GFA for each category of adult education, broken down by:
    - 2.5.1.1. All Learners
    - 2.5.1.2. Priority Learners (a sub-set of 'All Learners')
  - 2.5.2. Funding claimed year to date for each ring-fenced initiative compared with the agreed profile as set out within the GFA for each category of adult education. The ring-fenced initiatives are:
    - 2.5.2.1. The National Skills Fund Level 3 Offer (NSF L3)
    - 2.5.2.2. The Sector Based Work Academy Programme (SWAP)
    - 2.5.2.3. The WECA Recruitment Pipeline
    - 2.5.2.4. The Low-Wage Programme
  - 2.5.3. Volumes claimed year to date compared with the agreed profile as set out within the C&DP in terms of:
    - 2.5.3.1. Enrolments
    - 2.5.3.2. Achievements
    - 2.5.3.3. Positive Progressions
  - 2.5.4. All of the volumes set out in paragraph 2.5.3 above will in turn be monitored within the following breakdowns as set out in the C&DP Delivery Profile:
    - 2.5.4.1. All Learners
    - 2.5.4.2. Priority Learners
    - 2.5.4.3. Category of Adult Education
    - 2.5.4.4. Initiative

2.5.4.5. Funding Model (Adult Skills or Community Learning)

2.6. Our assessment of provider performance will consider both provision which is delivered directly by the provider and provision which is delivered indirectly through a third-party delivery agreement. The prime provider is accountable for all delivery.

### **3. In-Year Provider Performance Monitoring: Provider Meetings**

3.1. In addition to the desk-based in year monitoring process as set out above, the Authority will also meet with providers to both secure additional intelligence to inform our performance monitoring activities, and to discuss any issues which are either anticipated or have emerged through performance monitoring.

3.2. The Authority will aim to convene performance monitoring meetings with providers on a least a termly basis but aspires to discuss performance with most providers more frequently. The actual frequency of discussions will be determined through a combination of risk and capacity.

3.3. Providers may however request a Performance Monitoring Meeting at any time and any issues emerge which are likely to have a significant impact on performance should do so in order to bring the matter to our attention at the earliest opportunity.

3.4. Performance Monitoring Meetings may also be used to allow the provider and the West of England Combined Authority relationship manager to discuss emerging issue, agree appropriate actions, monitor implementation, and evaluate the effectiveness of the response before it becomes necessary to escalate the matter to the formal intervention stage.

3.5. Minutes will be recorded for each provider meeting and shared in a timely manner with the provider after the meeting has been concluded.

### **4. Informal Intervention**

4.1. Following the identification of significant issue such as actual or forecast under-performance the Authority will work with the provider to ensure that they have put appropriate measures in place to rectify the issue.

4.2. At this stage the intervention is deemed to be informal as the proposed solution should primarily be determined by the provider through their own internal performance and quality management processes. The Authority may however ask a provider to put an informal intervention measure in place if we identify an issue which the provider has not yet identified.

4.3. The West of England Combined Authority's involvement will normally be

limited to advice, support, and monitoring implementation to ensure that the intervention is effective.

- 4.4. The Authority would expect the intervention to be proportional to the scale of the specific issue identified. The intervention would normally take the form of a specific time limited action plan with appropriate milestones and measures of success, but other forms of redress may be appropriate.
- 4.5. If the informal intervention does not adequately resolve the issue within the planned timescale the Authority may opt to either extend the timescale within which the matter must be resolved or escalate the matter to formal intervention.

## **5. Formal Intervention**

- 5.1. The Authority may require the provider to put formal intervention measures in place in the following circumstances:
  - 5.1.1. The issue identified is considered by the Authority to be sufficiently significant to be dealt with formally rather than informally.
  - 5.1.2. Attempts to resolve the matter through informal intervention have not been successful within a reasonable timeframe.
- 5.2. The Authority will instigate formal intervention measures when indicators evidence a risk to the viability of the WECA Grant Funding Agreement.
- 5.3. In contrast to informal intervention, any formal intervention will be both initiated by the Authority and will include specific conditions which the provider will be required to satisfy by a certain date. These conditions would normally be confirmed through a variation to the providers Grant Funding Agreement and therefore become contractual obligations.
- 5.4. If the conditions are not addressed to the Authority's satisfaction this will be considered to be either a minor or serious breach of the grant funding agreement and we may respond in a number of ways, including (though not limited to):
  - 5.4.1. Extending the deadline by which the condition must be satisfied (on condition that there is clear evidence of progress, and we are satisfied that the issue will be fully resolved given more time)
  - 5.4.2. Reducing the providers allocation
  - 5.4.3. Withdrawing any future allocation or indicative allocation shared with the provider
  - 5.4.4. Ruling the provider ineligible to secure growth funding

- 5.4.5. Requiring the provider to reprofile
- 5.4.6. A temporary or permanent suspension of recruitment (either in general or limited to the specific area of concern)
- 5.4.7. A temporary or permanent suspension of delivery (either in general or limited to the specific area of concern)
- 5.4.8. A temporary or permanent suspension of payment (either in general or limited to the specific area of concern)
- 5.4.9. Commissioning a formal investigation of the provider
- 5.4.10. Commissioning an audit of the provider
- 5.4.11. Requiring the provider to repay funding already released
- 5.4.12. Terminating the Grant Funding Agreement
- 5.5. Whist reserving the right to respond to a failure to satisfy conditions which form part of intervention through the means outlined above, the Authority deems this to be a last resort and will seek to resolve emerging issue in partnership with the provider before such measures become necessary.

## **6. National Intervention**

- 6.1. The West of England Combined Authority approach to informal and formal intervention as detailed above is limited to matters concerning the delivery of the adult education provision which WECA funds. In addition to this some providers will be subject to the national intervention regime which is led by ESFA and the FE Commissioner
- 6.2. The Authority is committed to ensuring all providers are delivering high quality provision for adults across the West of England and as part of the devolution deal the Authority will support and work in conjunction with the FE Commissioner, Ofsted and ESFA to deliver early intervention activities to support providers achieve positive outcomes for adult learners.
- 6.3. The Authority 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 national ESFA policies and guidance about the oversight of providers are published here;
  - 6.3.1. College oversight: support intervention  
[College oversight: support and intervention - GOV.UK  
\(www.gov.uk\)](https://www.gov.uk/government/policies/college-oversight-support-and-intervention)

6.3.2. How ESFA maintains oversight of independent training providers

How ESFA maintains oversight of Independent Training Providers (ITPs) - GOV.UK ([www.gov.uk](http://www.gov.uk))

6.4. Where the Provider is also subject to intervention by the ESFA through the national oversight arrangements, the Authority will work with the ESFA to ensure that action to improve performance is complementary.

6.5. For Colleges in significant financial difficulties, the existing support arrangements from the ESFA remain in place, including emergency funding. The Authority will maintain dialogue with the provider and the ESFA and assist in supporting the provider back to financial resilience and an acceptable level of quality.

6.6. This approach will reduce the need for any separate review to be undertaken. The ESFA and the Authority will be looking to ensure that any action taken:

6.6.1. is in the interests of learners

6.6.2. protects public money

6.6.3. achieves resolution of financial or quality concerns at pace

6.7. Please consult the Funding and Performance Management Rules and the Grant Funding Agreement for more information.

## **7. Annual Provider Performance Review**

7.1. The West of England Combined Authority will undertake a more formal review of provider performance at the mid-year point. This will normally be conducted in or around January and may examine:

7.1.1. Any intelligence secured through the in-year provider performance monitoring process to date.

7.1.2. Final confirmed performance in the previous academic year (based on the final monthly claim form submission and R14 ILR Return).

7.1.3. Actual performance year to date in the current academic year (based on the most recent monthly claim form return and the R04 ILR Return).

7.1.4. Forecast performance across the full current academic year.

7.1.5. Any applications for in-year growth (if available and not already considered through other processes).

7.1.6. Any updated financial health analysis.

- 7.1.7. Any updated due diligence information and analysis.
- 7.1.8. Any relevant information relating the quality of the provider, such as:
  - 7.1.8.1. Ofsted Inspection and Monitoring Reports
  - 7.1.8.2. Provider Self-Assessment and Quality Improvement Plan progress
  - 7.1.8.3. Nationally published performance data
  - 7.1.8.4. The Authority calculated success rates
  - 7.1.8.5. The Authority calculated positive progression rates
- 7.2. Our analysis of performance will consider all of the aspects of Adult Education as set out in paragraph 2.5 above.
- 7.3. As a result of our Annual Provider Performance Review, the Authority may decide to:
  - 7.3.1. Address actual under-performance in the previous academic year through requiring immediate re-payment (or an agreed repayment plan) and / or the rebasing allocations relating to the current and / or future academic years.
  - 7.3.2. Put formal intervention measures in place (see paragraph 5 above) to address:
    - 7.3.2.1. Actual under-delivery in the current academic year up to and including the R04 ILR return.
    - 7.3.2.2. Forecast under-delivery across the remainder of the current academic year.
    - 7.3.2.3. Any other concerns or issues identified.
  - 7.3.3. Address actual under-performance in the current academic year due to actual under-delivery up to and including the R04 ILR return through:
    - 7.3.3.1. Requiring immediate repayment
    - 7.3.3.2. Securing repayment through an agreed repayment plan
    - 7.3.3.3. Reducing and re-profiling the allocation for the current academic year
    - 7.3.3.4. Rebasing any actual allocation or indicative allocation for future academic years

- 7.3.4. Address forecast repayment across the remainder of the current academic year through:
  - 7.3.4.1. Reducing and re-profiling the allocation for the current academic year
  - 7.3.4.2. Rebasing any actual allocation or indicative allocation for future academic years
- 7.3.5. Terminate the Grant Funding Agreement for the current academic year.
- 7.3.6. Withdraw or not issue any allocation or indicative allocation for the next academic year
- 7.3.7. Grant additional funds in response to any outstanding applications for in year growth (this is limited to applications to deliver specific provision sought by the Authority. The Combined Authority will not grant additional funds to support unplanned / unapproved over-delivery).
- 7.3.8. Defer decisions until a further formal review to be convened at a later date (normally following the submission of either R06 or R08 data).
- 7.4. In previous years the Authority has applied the same performance thresholds as ESFA at the various performance points throughout the year. However, the purpose of the thresholds was to account for anticipated variances between the actual pattern of performance of the individual provider and the standard national payment profile.
- 7.5. As the Authority no longer utilises the standard national payment profile and allows providers to determine their own delivery and payment profiles the thresholds adopted by ESFA are no longer relevant to the Authority adult education provision and were removed during the 2020/21 academic year.
- 7.6. The Authority expects providers to deliver 100% of the agreed profile each month and reserves the right to recover funds if this is not the case at the Annual Provider Performance Review point.
- 7.7. The Authority shall be entitled to reprofile, reconcile, or cease payment, cease recruitment of new learners, and or delivery of the provision by the Provider to existing learners, at WECA's discretion and subject to the terms of the Grant Funding Agreement

## **8. Recovery of Funds / Rebasing Allocations**

- 8.1. The West of England Combined Authority reserves the right to recover funds and or rebase future allocations for reasons of under-performance, poor quality, or poor alignment with the Authority Strategic Priorities (as

expressed in the West of England Combined Authority Adult Education Strategy and the Curriculum and Delivery Plan of the individual provider). In addition to this we are obligated to recover some elements of funding as this forms part of our agreement with central government and funding will be recovered from the Authority if not fully utilised (e.g. the National Skills Fund Level 3 Offer).

- 8.2. Where we have the power to do so, we may opt to waive our right to recover funding or rebase future allocations if sufficient mitigating circumstances exist at whole-programme or individual provider level. Decisions taken at provider level will be considered on a case-by-case basis and representations must be fully evidenced.
- 8.3. Before reaching the point where the recovery of funds and/or the rebasing of allocations becomes necessary the Authority will normally seek to resolve the issue through a combination of informal measures agreed with the provider and / or formal intervention measures arising from either the escalation of issues from informal measures or the outcome of our annual provider performance review process (including any subsequent formal reviews instigated as a result of annual provider performance review). We however reserve the right to recover funds and rebase allocations in absence of the above should it prove necessary to do so.
- 8.4. The West of England Combined Authority will consider waiving the right to recover funds if mitigating circumstances exist. In such circumstances the provider would need to be in a position to demonstrate:
  - 8.4.1. That they actively brought the risk of under-performance to the attention of the Authority at the earliest possible opportunity so that appropriate informal and / or formal measures may be put in place to mitigate the risk.
  - 8.4.2. The causes of under-performance were issues which were beyond the provider's ability to control.
  - 8.4.3. That the provider has done all that could be reasonably expected of them to maximise delivery.
  - 8.4.4. That any funds not recovered have been exclusively utilised in support of Authority AEB provision and have not been used to subsidise any other programmes or activities.
- 8.5. Where under-performance has occurred and a sufficient case for mitigation is not in place, our decision to recover funds and / or rebase allocations will be informed by the scale of under-performance.
  - 8.5.1. WECA will communicate any formal changes to its Reconciliation approach to Providers.
- 8.6. Where a recovery of funds is required, our preferred mechanism will be to action the recovery through the re-basing future allocations. This

approach is preferred in order to protect the provider from potential disruption emerging from an in-year reduction in income and allow sufficient time to implement any internal changes needed to accommodate the reduction.

- 8.7. If a provider's allocation for a future academic year is rebased, the provider would remain eligible to bid to secure additional funds for that academic year through any open application process or in-year growth process initiated by the Authority. The existence of past / current under-performance would however be a non-barring consideration within the decision-making processes for any such opportunities.

#### **Worked Example - Recovery through rebasing future allocations**

Provider X has an allocation of £500,000 in both the 2021/22 and 2022/23 academic years.

- Final data for the 2021/22 academic year shows an under-spend of £40k and no mitigating circumstances were in place to justify that the recovery should be waived.
- R04 data in the 2022/23 academic year shows an underspend of £10k and no mitigating circumstances are in place to justify that the recovery should be waived.

The Authority's preferred response would be to address this through reducing the providers baseline allocation for the 2023/24 academic year by £50k resulting in baseline allocation (or indicative allocation) of £450k.

If the provider successfully secured growth funding for 2023/24 (potentially through in-year growth or as a result of an open application process) this would be added to the revised baseline.

- 8.8. Where appropriate, the Authority will however consider recovery of funds through:
- 8.8.1. Immediate Repayment
  - 8.8.2. Repayment through an agreed repayment plan
  - 8.8.3. Reducing and reprofiling the providers allocation for the current academic year.
- 8.9. Examples of circumstances where recovery of funds through the mechanisms set out in paragraph 8.8 include:
- 8.9.1. Where the cause of the under-performance will not be present in the future academic year

- 8.9.2. Where the provider will not be in receipt of a Combined Authority AEB Allocation in the future academic years
- 8.9.3. Structural change affecting the provider concerned (e.g. merger)

## 9. Minimum Quality Standards for AEB Delivery

The West of England Combined Authority would normally enforce minimum quality standards through the utilisation of national qualification achievement rate (QAR) data produced by ESFA. However, this is not currently possible as the production of this dataset has been suspended due to the COVID-19 pandemic. The following therefore details the process which the Authority will apply once data becomes available again.

In addition to the QAR approach adopted by ESFA, this section also sets out how the Authority plans to establish minimum standards based on positive progression rates in future academic years. We plan to undertake desk-based monitoring and analysis of these standards during the 2022/23 academic year prior to implementation.

- 9.1. The Authority will continue to use the ESFA overall qualification achievement rate (QAR) methodology to review provider standards for adult provision.
- 9.2. The Authority will review ESFA published thresholds and tolerance levels annually to assess a provider's effectiveness in delivery.
- 9.3. In addition to minimum standards, the Authority will also consider the following Minimum Quality Thresholds:
  - 9.3.1. An Ofsted inspection resulting in a requires improvement grade or an inadequate grade for a provider's leadership and management, teaching and learning and adult learning provision
  - 9.3.2. Learner survey outcomes which evidence poor levels of adult satisfaction levels
  - 9.3.3. FE Commissioner intervention due to poor financial health or quality performance and consequent notice to improve
  - 9.3.4. Instigation of the Insolvency Regime
  - 9.3.5. Instigation of a college or FE Commissioner led Structure and Prospects Appraisal (SPA)
  - 9.3.6. Fraud Investigation specifically related to Adult learning
  - 9.3.7. ESFA Poor financial health reporting

9.3.8. Absence of Matrix Standard Accreditation

9.4. If any of the above are instigated during the funding agreement period (either against the provider or any of their third-party arrangements), the Authority will immediately review the provider's funding agreement and may take one of the following actions:

9.4.1. Require the provider to suspend the recruitment of adult learners funded through the Authority AEB and/or cap any growth in the adult learning provision

9.4.2. Reduce, suspend, or recover payments to the provider

## Appendix 1: Provider Performance Management Cycle

Funding Model		R01	R02	R03	R04	R05	R06	R07	R08	R09	R10	R11	R12	R13	R14
Activity	Aug 21	Sep 21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	Mar 22	Apr 22	May 22	Jun 22	July 22	Aug 22	Sept 22	Oct 22
Monthly Monitoring		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WECA Monthly Claim report & Risk register		See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement
ILR Return	See Funding Agreement	<b>Mandatory R01 ILR Return</b>	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement
Reconciliation Activity					Key Performance Management				Key Performance Management			Key Performance Management			Key Performance Management
Performance Management Meeting	See Funding Agreement	See Funding Agreement	See Funding Agreement	See Funding Agreement	Performance Management Meeting 1	See Funding Agreement	See Funding Agreement	See Funding Agreement	Performance Management Meeting 2	See Funding Agreement	See Funding Agreement	Performance Management Meeting 3	See Funding Agreement	See Funding Agreement	Preparation for Provider Annual Review
WECA Payment to Provider	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			