

# **WEST MIDLANDS COMBINED AUTHORITY**

## **Adult Education Budget**

### **FUNDING**

### **RULES 2019/2020**

**(For the funding year 1 August 2019 to 31 July  
2020)**

### **Version 2**

This document sets out the funding rules that apply to all providers of education and training who receive adult education budget funding for residents residing in the West Midlands Combined Authority (WMCA) area.

## Contents

Section 1 – Overview .....	6
Devolution of the Adult Education Budget.....	6
Introduction and purpose of the document.....	8
Understanding the terminology .....	9
Section 2 – Principles of funding .....	10
Qualifying days for funding.....	10
Recognition of prior learning .....	11
Starting, participating and achieving .....	11
Breaks in learning .....	12
Self-declarations by residents .....	12
Confirmation and signatures .....	12
Leaving learning.....	12
Match funding .....	13
Section 3 WMCA Devolved Adult Education Budget.....	14
Eligibility for WMCA residency funding .....	14
Who the WMCA funds.....	15
What the WMCA funds.....	17
What the WMCA will not fund .....	19
Support funding.....	19
Learning Support .....	20
Exceptional learning support claims above £19,000 .....	20
Resident Support .....	20
Community Learning.....	21
Prince's Trust.....	21
Subcontracting .....	21
Section 4 Data Submission .....	23

Resident file .....	23
Annex One Key Definitions and Glossary of terms .....	25
Employed .....	25
Residents in receipt of low wage.....	26
Full level 2.....	26
Full level 3 set out additionally what the approach is for L3 .....	26
Eligible qualifications.....	27
Non-regulated learning.....	27
Learning in the workplace .....	28
English and maths for those aged 19 or older.....	28
Individuals aged 19 to 23 (excluding English, maths and ESOL).....	29
Individuals aged 24 or older (excluding English, maths and ESOL).....	29
Glossary .....	30
Annex Two - Eligibility for funding (may change following decision on Brexit) .....	37
Non-EEA citizens .....	39
Individuals with certain types of immigration status and their family members .....	39
Asylum seekers.....	39
Family members of EU and EEA nationals .....	40
Children of Turkish workers .....	41
Persons granted stateless leave .....	41
Residents in the armed forces .....	42
Individuals who are not eligible for funding .....	42
Annex Three - Resident and Learning Support .....	43
Learning Support .....	43
Resident Support .....	43
Hardship.....	44
20+ childcare .....	45
Annex Four Community Learning.....	46
Non-formula community learning funding .....	46
Pound Plus and local fee remission policy .....	47

Partnership working .....	47
Community Learning Objectives .....	48
Annex Five Subcontracting .....	50
Subcontracting Definition .....	50
Awarding a contract .....	51
Entering into a subcontract .....	51
Terms that you must include in your contracts with delivery of subcontractors.....	52
Monitoring of subcontracted provision .....	53
Second-level subcontracting .....	54
Reporting subcontracting arrangements .....	54
Subcontracting Fees and Charges.....	54
Distributing income between you and your delivery subcontractors.....	54

#### WMCA AEB Funding Rules Version 2: Updates

- Paragraph 9 table updated to reflect both procurement under contract for services and grant providers
- Paragraph 44 Updated the funding contribution table in page 16 to ensure consistency with what we will fund based on age, employment status and/or low wage.
- Paragraph 47 updated in relation further concessions on funding rules on a case by case basis
- Paragraph 49 updated to include flexibilities agreed in grant agreements
- Paragraph 51 updated to reflect Universal Credit work allowances
- Paragraphs 54-59 introduced an 'entitlements' section and 'local flexibility'
- Paragraph 64 removal of reference to end-point assessment which is related to apprenticeship funding only through ESFA
- Paragraph 65 & 66 removal of duplicated funding rules for support funding in
- Paragraph 88 attendance and participation added to support record statement in bullet point 9
- Paragraph 92 and 93 updated for unemployed and economically inactive
- Paragraph 96 updated to reflect that bank statements can also be used as evidence
- Paragraph 97 provides a link to WMCA ILR Data Collection document
- Paragraph 99 updated with reference to paragraph 92 & 95



- Paragraph 123 ESOL clearly referenced
- Paragraph 127 updated to reflect residency status
- Paragraph 139 updated to include WMCA resident
- Paragraph 197 updated to include provider undertake own due diligence financial checks for sub-contracting
- Paragraph 206 adjusted to reflect financial checks in paragraph 197
- Updated all paragraph referencing to ensure referral points are accurate

## Section 1 – Overview

### Devolution of the Adult Education Budget

1. The West Midlands Combined Authority (WMCA) will, from the 1 August 2019, exercise, in relation to their area, certain adult education functions of the Secretary of State under the Apprenticeships, Skills, Children and Learning Act 2009. This transfer of functions has been achieved by way of orders made under the Local Democracy, Economic Development and Construction Act 2009 and the West Midlands Combined Authority (Adult Education Functions) Order 2018 (SI 2018/1144)
2. Ministers have agreed under a Memorandum of Understanding and a Data Sharing Agreement certain functions and activities will be undertaken by the Education and Skills Funding Agency (ESFA) on behalf of the WMCA for the 2019/20 funding year.
3. The WMCA is publishing these funding rules, which will apply to providers in receipt of devolved WMCA adult education budget (AEB) funding from 1 August 2019, for AEB delivery to residents in the West Midlands. This excludes the 19-24 traineeship programme, 2018 to 2019 continuing AEB residents, and apprenticeships.
4. To deliver our ambitions for the AEB, we are seeking to create an 'Adult Offer' that moves us towards the following for our residents:
  - Every adult should have the opportunity to achieve a basic level of English and maths
  - Every adult should have the opportunity to gain basic digital literacy skills
  - Every adult not working and wanting to work should have the opportunity to undertake short, job-related training or longer occupational qualification training
  - Adults furthest from the job market should be able to access first steps and community-based learning that builds confidence and prepares them for further learning
  - Adults on low wages or in unstable employment should be able to access a re-training offer that helps them gain entry into a new occupation or gain higher-level skills
  - Every adult should be able to access training that leads to higher-level qualifications
5. We recognise that historic funding and policy approaches have often created a set of behaviours conditioned against funding rules. We want to use the opportunity that devolution provides to establish conditions that enable a place-based approach to delivery where we can fund an adult offer in each locality rather than a list of qualifications. We also recognise that providers need a 'rule book' to give certainty and a reference point. We have taken the ESFA funding rules and looked at what we wanted to flex and what we thought would make a difference and changed those things then kept the rest the same as ESFA for continuity.

6. We were really keen to be able to describe employment status simply and not require a strict link to evidence and benefits. We are also keen to continue to develop our approach to partnership working and sub-contracting. We want to work throughout the year with our providers to develop a shared articulation of how we all want things to work – we're not there yet but we're committed to more thinking on this.
7. We want to test some flexibilities in the first year, things that will make a difference to our residents. We're happy to share risk and want to see changes in what is delivered through AEB. We want to hear from providers where flexibilities might be needed to meet our aims. We also want to hear when there are rules that seem to be counter-intuitive or acting as a barrier.
8. The below flexibilities are the first to be applied, and we intend to work proactively and collaboratively, and be open and transparent, to make full use of the other flexibilities that we can apply going forward. Providers may have specific flexibilities over and above these agreed as part of their delivery plan.
9. The main changes that the WMCA is making for the 2019/20 funding year are shown in the table below.

Support for the Unemployed (core AEB)	<b>Through the procurement of Lot 1 and offer to unemployed through grant providers, WMCA flexibilities will enable:</b> <ul style="list-style-type: none"> <li>• Testing new ways of funding sector-based work academies that comprise specific skills-based learning and work experience. WMCA will be funding the work experience element</li> <li>• Statutory entitlement</li> <li>• Focus on young unemployed</li> <li>• Targeting hard to reach communities and supporting prior groups</li> <li>• Pre-apprenticeship provision</li> </ul>
Support for the Employed (core AEB)	<b>Through the procurement of Lot 2 and offer to employed through grant providers, WMCA flexibilities will enable:</b> <ul style="list-style-type: none"> <li>• Testing the partial or full funding of some Level 3 qualifications and units in priority sectors</li> <li>• Statutory entitlement</li> <li>• Low paid low skilled</li> <li>• Re-training</li> <li>• Pre-apprenticeship provision</li> </ul>
Innovative delivery (Pilot and Test)	<b>Through the procurement of Lot 3, WMCA flexibilities will enable:</b> <ul style="list-style-type: none"> <li>• Innovative project and pilot-based approaches to respond to needs within the seven constituent local authority areas of the WMCA</li> <li>• Opportunities to co-locate provision</li> <li>• Inform the move towards a skills system focused on impact and outcomes</li> <li>• Support overall ambitions of our adult offer and Regional Skills Plan (RSP).</li> </ul>
Low Wage Pilot	<b>The WMCA will in the 2019/20 funding year fund the National Living Wage:</b>

	<ul style="list-style-type: none"> <li>• The WMCA will adopt the principles of the low-wage trial introduced by Government last year but increase the low wage threshold to match the national living wage.</li> </ul> <p>WMCA residents earning less than £17,550 (£9.00 per hour) will be able to access fully-funded courses at Level 1 and Level 2, including English for speakers of other languages (ESOL). This proposal is in line with TUC recommendations and will support more of the region's low-paid residents to access training.</p>
--	--

## Introduction and purpose of the document

10. This document sets out the West Midlands Combined Authority (WMCA) adult education budget (AEB) funding rules for the 2019 to 2020 funding year (1 August 2019 to 31 July 2020). The rules apply to all providers of education and training who receive devolved AEB funding from the WMCA.
11. A key part of the AEB aims to engage adults and provide the skills and learning they need to equip them for work, an apprenticeship or other learning. It enables more flexible, tailored programmes of learning to be made available, which may or may not require a qualification, to help eligible adult residents engage in learning, build confidence and/or enhance their wellbeing.
12. The WMCA AEB will play a key role in delivering the Regional Skills Plan ([RSP](#)) and contribute to inclusive growth through the improvement of the qualification levels and skills of residents. Our focus is to use AEB to support those who are unemployed, and those residents in low-paid and/or low-skilled jobs who wish to retrain to source employment in higher-paid or more sustainable work.
13. Through devolution, the WMCA will seek to deploy its funding flexibilities to support its residents and respond to the skills priorities detailed within the WMCA's 2019/20 Regional Skills Plan.
14. These rules do not apply to apprenticeships, traineeships and advanced resident loans or to education and training services funded by the European Social Fund. The Education and Skills Funding Agency (ESFA) will continue to fund apprenticeships, traineeships and advanced resident loans for WMCA residents – you can access these separate funding rules on the GOV.UK website.
15. This document forms part of the terms and conditions of funding, and you must read them in conjunction with your funding agreement. You must operate within the terms and conditions of the funding agreement, these rules, and the Individualised Resident Record (ILR) Specification. If you do not, you are in breach of your funding agreement with WMCA.
16. All information, including any hyperlinks, were correct when the WMCA published this document. During the 2019/20 funding year, this document will be kept under constant review to ensure that as we gain feedback from you and a better understanding of how the new flexibilities and delivery plans are working, the document can quickly be updated. The WMCA reserves the right



to make changes to these rules and will publish any updated versions on the WMCA website.

## **Understanding the terminology**

17. The term 'WMCA' refers to the West Midland Combined Authority. When WMCA refers to 'you' or 'providers', this includes Colleges, Sixth Form Colleges, independent training providers (ITPs), voluntary community sector providers and Local Authorities who receive funding from us to deliver adult education and training to WMCA residents. WMCA will use the generic term 'you' or 'provider' unless the requirements only apply to a specific provider type. The term funding agreement can be a Grant agreement or a contract. Key definitions used in the adult education budget (AEB) and a full glossary of terms are included in Annex One.

## Section 2 – Principles of funding

18. These funding rules apply to all residents resident in the WMCA area starting new learning aims on or after 1 August 2019. Continuing residents who commenced learning in 2018/19 will continue to be funded by the ESFA for a period of one year only.
19. You must hold evidence to assure us that you are using WMCA AEB funding appropriately. Most evidence will occur naturally from your normal business process, but if required by the WMCA, additional evidence should be retained. It is a condition of funding that all outcomes for WMCA residents, either directly delivered by you or your subcontractors, are recorded on the ILR.
20. The WMCA Adult Education Budget must only be utilised to fund WMCA residents. Funding cannot be transferred between different budgets, including, where applicable, your ESFA Adult Education Budget, Apprenticeships and advanced resident loans.
21. The WMCA will continually review and monitor whether the education and training you provide is delivering positive and agreed outcomes as detailed and agreed by WMCA within your 2019/20 Delivery Plan. The WMCA will also monitor your performance to ensure that the funding you received from the WMCA is delivering high quality provision for adults within the WMCA area and represents good value for money. New risk-based provider management arrangements will operate between you and the WMCA. These regular performance monitoring meetings will take place throughout the funding agreement period and each provider's arrangements will be agreed in advance of the 1 August 2019. The focus of the main discussion will be your progression towards meeting your Delivery Plan, but we'll also discuss your plans more generally and your ideas for the future.
22. If the WMCA considers the delivery is not resulting in positive outcomes for adults in the WMCA area and/or the quality of provision is not to the required standard, the WMCA may (following a discussion with you) reduce your grant allocation or contract value. Equally, if you are finding it difficult to deliver your allocation or you have unmet demand, then we want you to tell us. Additional information is contained in the AEB Provider Payment & Performance Management Framework.

### Qualifying days for funding

23. A resident must be in learning for a minimum number of days between their learning start date and learning planned end date before you can earn funding, including learning support. This does not apply where the resident achieves the learning aim. We have adopted the ESFA rule for this year, but this is something we are interested in discussing with you and reviewing over the next 12 months.

Planned length of learning aim	Minimum qualifying days
--------------------------------	-------------------------

168 or more days	42 days
14 – 167 days	14 days
Fewer than 14 days	1 day

## Recognition of prior learning

24. The WMCA expectation is that providers will not require residents to repeat learning related to employability programmes, unless there is a specific link to developing key sector vocational skills. Evidence should be retained if repeat learning is undertaken.
25. A resident could have prior learning that has been previously accredited by an awarding organisation or could be formally recognised and count towards a qualification. If this is the case, you must:
  - reduce the funding amount claimed for the learning aim by the percentage of learning and assessment the resident does not need
  - follow the policies and procedures set by the awarding organisation for delivery and assessment of the qualification
  - not claim funding if the prior learning meets the full requirements of the awarding organisation to achieve the learning aim
  - The WMCA does not set limits on the length of time of either prior learning or previously certificated learning. However, where the individual's learning and/or achievement occurs outside of five years, you must assess whether the learning is still valid and relevant.
26. You must not use prior learning to reduce funding for English and maths qualifications up to and including level 2.
27. If a resident enrolls on an advanced subsidiary (AS) level qualification followed by an A level, you must reduce the funding claimed for the A level to take account of the prior study of the AS level and record this in the 'Funding adjustment for prior learning' field in the ILR. You can access ILR information on the GOV.UK website.

## Starting, participating and achieving

28. You can only claim WMCA-funded AEB when directly related to learning starts. You can only claim additional activity e.g. enrolment, induction, prior assessment, diagnostic testing or similar learning, if this was agreed as part of your Delivery Plan under Lot 3 activity for testing and innovation.
29. For your direct delivery, and any subcontracted delivery, you (and where relevant, your subcontractor(s)) must have direct centre approval and where appropriate, direct qualification approval from the respective awarding organisation for the regulated qualifications you are offering. Delivery of the qualification (including resident registration with the awarding organisation) for direct delivery and any subcontracted delivery must be in line with the

qualification specification and guidance set out by the relevant awarding organisation.

30. You must have evidence that the learning took place and the resident was not certificated for prior knowledge. Where the learning is certificated, you must follow the relevant awarding organisation's procedure for claiming the relevant certificate(s) and ensure the resident receives them. You must evidence this has happened in the resident file.

## **Breaks in learning**

31. You can suspend learning while the resident takes an agreed and organised break from learning, where it is known that the intention of the resident is to return. This allows the resident to continue later with the same eligibility that applied when they first started their learning. Typical examples include; for economic reasons, long term sickness, maternity leave or religious trips.
32. Breaks in learning must not be used to 'suspend' learning where contact is lost, or the attendance or academic performance of the resident is poor. The WMCA will not fund a resident during a break in learning. You must have evidence that the resident agrees to return and continue with the same learning aim, otherwise you must report the resident as withdrawn. You must not use a break in learning for short-term absences, such as holidays or short-term illness.

## **Self-declarations by residents**

33. All self-declarations must confirm the resident's details and describe what the resident is confirming for requirements set out in this document. If a resident self-declares prior attainment, you must check this in the personal learning record (PLR) and query any contradictory information with the resident. The PLR will not necessarily override the resident's self-declaration.
34. For 2019/20, WMCA-funded residents must also complete a self-declaration form to confirm that they are **employed** if they are undertaking WMCA flexibilities for those in employment.

## **Confirmation and signatures**

35. The resident or employer must confirm the information is correct when it is collected. You must have evidence of this, which can include electronic formats. The WMCA accepts electronic evidence, including digital signatures, but you must have wider systems and processes in place to assure you that residents exist and are eligible for funding. You must keep effective and reliable evidence. You are responsible for making the evidence you hold easily available when the WMCA needs it.

## **Leaving learning**

36. You must report the learning actual end date in the ILR for a resident who leaves learning as the last day that you can evidence they took part in learning.

## **Match funding**

37. Funding awarded through either contract for services or grant is classified as being clean in terms of being matched with EU structural funds (e.g. ESF). Organisations commissioned to deliver AEB must not endeavour to independently match AEB funding to any other funding stream without the express consent of the WMCA. The WMCA reserves the right to match this funding at source.

## **Section 3 WMCA Devolved Adult Education Budget**

### **Eligibility for WMCA residency funding**

38. WMCA AEB devolved funding can only be spent on WMCA residents with a WMCA postcode.
39. AEB funding supports the three legal entitlements to fully fund eligible adults. These are set out in the Apprenticeships, Skills and Children's Learning Act 2009. If an individual meets the legal entitlement eligibility criteria, you must not charge them any course fees and eligible residents exercising their legal entitlement must be enrolled on qualifications from the: 2019 to 2020 list of qualifications in the level 2 and level 3 legal entitlement and/or 2019 to 2020 list of English and maths legal entitlement. Additional information on what the WMCA will fund is set out in paras 44-58.
40. You must not make compulsory charges relating to the direct costs of delivering a learning aim or learning programme to residents the WMCA fully funds, including those with a statutory entitlement to full funding for their learning. Direct costs include any essential activities, or materials, without which the resident could not complete and achieve their learning. If a fully-funded resident needs a Disclosure and Barring Service (DBS) check to participate in learning, you cannot charge them for this. If the learning is associated with the resident's employment, their employer is responsible for carrying out and paying for this check.
41. Providers must make sure an individual is eligible before claiming funding for them. It is your responsibility to check the eligibility of the resident at the start of each adult learning aim, and only claim funding for eligible residents. To be funded by the WMCA, residents must meet the following criteria:
  - On the first day of learning, a resident must be: Aged 19 or older on 31 August within the 2019 to 2020 funding year and reside in a residence with a WMCA postcode.
  - The WMCA recognises that a resident (from outside) the WMCA who is unaware of the funding changes due to devolution of the AEB may wish to undertake learning in the WMCA. Most grant providers will have an AEB allocation from the ESFA for non-devolved areas. Where a grant provider does not have an ESFA allocation then we will discuss directly with the provider if this can be supported. We expect these cases to be minimal but will keep this under review and seek feedback from you during the year.
  - Residents residing in residences that do not have an eligible WMCA postcode will not be funded by the WMCA. They will be funded via the relevant Mayoral Combined Authority (MCA), Greater London Authority (GLA) or ESFA. It is the provider's responsibility to ensure that the relevant funding is secured from the relevant funding body in 2019/20 for their residents.

- The age of the resident on 31 August in the funding year determines whether the resident is funded through the WMCA's AEB methodology. Residents aged 18 or below, or residents aged 19-24 with an Education Health Care Plan, will continue to be funded by the ESFA's young people's funding methodology.
- All individuals aged 19 or over on 31 August 2019 who are continuing a programme they began aged 16 to 18 ('19+ continuers') will continue to be funded by the ESFA's young people's funding methodology.
- Where the WMCA refers to a resident's age being 19, this relates to the resident being aged 19 on the 31 August within the funding year they start a learning aim. For all other purposes, the age of the resident is taken at the start of each learning aim.
- Residents will be eligible for funding for the whole of the learning aim or learning programme if they are eligible for funding at the start, even if the duration is for over one year. You must reassess the resident's eligibility for funding for any further learning they start.
- If an individual starts a learning aim or programme and is not eligible for funding, WMCA will not fund their learning while they remain ineligible.
- You must not fund a resident who is unable to complete a learning aim in the time they have available. Any adult resident aged 19 or over must be able to achieve the learning aim or learning programme within the time they have available.

42. Additional information on all other eligibility is included in Annex Two.

### **Who the WMCA funds**

43. WMCA AEB devolved funding can only be spent on residents with a WMCA postcode. The WMCA flexibilities available through the devolved AEB enables it to fully, co-funded or pay differently for certain activities which it believes will deliver better impact or outcome for residents. These flexibilities will have been agreed as part of your Delivery Plan. In addition, where appropriate for the resident, you can deliver local flexibility provision alongside a legal entitlement qualification.

44. The table below shows the level of WMCA contribution from devolved AEB funding:

Provision	19-23 years of age			24+ years of age		
	Unemployed	Low wage	Employed	Unemployed	Low wage	Employed
English and maths, up to and including level 2 – not achieved GCSE grade c/level 4 or above (National policy legal entitlement)	Fully funded*	Fully funded*	Fully funded*	Fully funded*	Fully funded*	Fully funded*
First Full Level 2 (excluding English and maths) (National policy legal entitlement)	Fully funded*	Fully funded*	Fully funded*	Fully funded*	Fully funded*	Co-funded
Learning to progress to level 2	Fully funded^ (up to and including level 1)	Fully funded^ (up to and including level 1)	Fully funded^ (up to and including level 1)	Fully funded (up to and including level 1)	Fully funded (up to and including level 1)	Co-funded (up to and including level 1)
Learning aims up to and including level 2, (Inc. level 1, and full level 2) where the resident has already achieved a first full level 2 or above	Fully funded	Fully funded	Co-funded	Fully funded	Fully funded	Co-funded
First full Level 3 (National policy legal entitlement)	Fully funded	Fully funded	Fully funded	Loan funded**	Loan funded**	Loan funded**
Level 3 (previously achieved a full level 3 or above)	Loan funded**	Loan funded**	Loan funded**	Loan funded**	Loan funded**	Loan funded**
English for Speakers of Other Languages (ESOL) learning up to and including level 2	Fully funded	Fully funded	Co-funded	Fully funded	Fully funded	Co-funded



\*Must be delivered as one of the English and maths, and/or first full level 2 or first full level 3 qualifications required as part of the legal entitlements.

^Must be delivered as entry or level one provision from local flexibility.

\*\* Availability of loans at level 3 does not replace the legal entitlement to full funding for residents aged 19 to 23 undertaking their first full level 3. Level 3 flexibility may apply if agreed within delivery plan as set out in paragraph 102.

Low wage flexibility refer to paragraph 95.

## What the WMCA funds

45. The WMCA will only fund the provision included in your funding agreement and Delivery Plan. You must make sure that learning is eligible for funding before the resident starts. The ESFA Hub contains details of eligible regulated qualifications, qualification components and non-regulated learning aims.
46. Any delivery you undertake over and above that which is included in your Delivery Plan will not be funded, unless agreed in writing beforehand with the WMCA.
47. The WMCA may make concessions in the funding rules responding to a specific economic event impacting on residents e.g. significant restructuring of large employer leading to residents at risk of redundancy. This will be agreed on a case by case basis.
48. The WMCA will test partial or full funding Level 3 qualifications and units where they support progression in work or career changes. This will be agreed as part of your delivery plan with agreed levels of contribution in line with regional skills plan priorities.
49. To support the unemployed into work, we will test funding through Sector Based Work Academies (SBWA) that comprise specific skills-based learning and work experience. The WMCA will agree the price as part of delivery plans under Lot 1 procurement or through flexibilities within grant agreements.
50. For procured activity under Lot 3, we will work with those successful providers in determining the delivery plan which will set out what we will fund. The WMCA will continually evaluate the impact of Lot 3 to establish an evidence base as to how we might progressively change the way we fund skills delivery over the coming years.
51. For fully-funded residents who are unemployed, the WMCA will pay 50% of the achievement payment if they start a job before achieving the learning aim. If the resident then achieves the learning aim, the WMCA will pay the remaining achievement payment. The following conditions apply that the resident must provide you with evidence through a declaration, that they have a job for 16 hours or more a week for four consecutive weeks. [Universal Credit work allowances](#) may still apply for those residents eligible who become employed and will reduce in time based on the earnings taper rate.

52. The WMCA will continue to fund the Prince's Trust Team Programme where this has been agreed with WMCA.

## Legal Entitlements

The WMCA AEB supports 3 legal entitlements to full funding for eligible adult residents. These are set out in the Apprenticeships, Skills and Children's Learning Act 2009, and enable eligible residents to be fully funded for the following qualifications:

- English and maths, up to and including level 2, for individuals aged 19 and over, who have not previously attained a GCSE grade A\* - C or grade 4, or higher, and/or
- first full qualification at level 2 for individuals aged 19 to 23, and/or
- first full qualification at level 3 for individuals aged 19 to 23

53. If an individual meets the legal entitlement eligibility criteria, you must not charge them any course fees.
54. Eligible residents exercising their legal entitlement, must be enrolled on qualification from the:
- [2019 to 2020 list of qualifications in the level 2 and level 3 legal entitlement](#) and/or
  - [2019 to 2020 list of qualifications in the English and maths legal entitlement](#)

## Local Flexibility

WMCA also supports delivery of flexible tailored provision for adults, including qualifications and components of these and/or non-regulated learning, up to level 2 – we call this 'local flexibility'.

Local flexibility provision either is fully or co-funded, depending on the resident's age, prior attainment and circumstances. Please refer to the 'level of government contribution' table on page 15 and paragraphs 91 to 125 for resident eligibility. Where appropriate for the resident, you can deliver local flexibility provision alongside a legal entitlement qualification.

55. Residents aged 19-23 progressing towards their first full level 2, must undertake learning at entry and/or level 1 only from local flexibility
56. Residents aged 19 to 23 who progress to their first full level 2, must only enrol on a qualification from the legal entitlement list set out in paragraph 54.
57. Residents aged 19 to 23 and aged 24 and over, who have already achievement at level 2, or above can undertake learning up to and including level 2 qualification from the local flexibility offer or qualifications in the level 2 legal entitlement list on the [Hub](#).

58. Residents aged 24 and over, who have not achieved a level 2 qualification can undertake learning up to and including level 2 qualifications from local flexibility offer or qualifications in the level 2 legal entitlement list available on the [Hub](#).

## **What the WMCA will not fund**

59. The WMCA will not fund residents in residences that do not have an eligible WMCA postcode. They will be funded via the relevant Mayoral Combined Authority (MCA), Greater London Authority (GLA) or ESFA. It is a provider's responsibility to ensure the relevant funding is secured from the relevant funding body in 2019/20 for their residents.
60. You must not claim funding where a resident only sits or resits a learning aim assessment or examination and no extra learning takes place. You must not claim funding for any provision you deliver to a resident whose learning is taking place outside England.
61. You must not claim funding for any part of any resident's learning aim or programme that duplicates provision they have received from any other source. You must not enrol individuals on learning aims or learning programmes eligible for AEB funding at the same time as any new apprenticeship they start, funded from an employer's digital account or Government-employer co-investment.
62. The WMCA will not fund a resident to repeat the same regulated qualification where they have previously achieved it unless it is for any GCSE where the resident has not achieved grade C, or grade 4, or higher.
63. You must not use your WMCA AEB allocation to deliver provision to residents in custody. The Ministry of Justice funds prison education in England. Please note you can use your WMCA AEB to fund individuals released on temporary licence.
64. You must provide accurate unique resident number (ULN) information to awarding organisations and ensure all information you use to register residents for qualifications is correct. You can find more information about the Resident Records Service on the GOV.UK website.

## **Support funding**

65. The AEB's over-arching aim is to support as many eligible adult residents as possible to access learning. Some residents will need additional support to start or stay in learning. Where you identify that a resident has a learning difficulty or disability, or a financial barrier, your WMCA AEB allocation enables you to claim learning support and/or resident support funding to meet the additional needs of residents.

## Learning Support

66. Learning support is available to meet the cost of putting in place a reasonable adjustment, as set out in the [Equality Act 2010](#), for residents who have an identified learning difficulty or disability, to achieve their learning goal. Learning support must not be used to deal with everyday difficulties that are not directly associated with a resident's learning on their programme. Additional information on resident support and how it should be claimed is included in Annex Three.

## Exceptional learning support claims above £19,000

67. If a resident aged 25+ needs significant levels of support to start or continue learning and has support costs of more than £19,000 in a funding year, you can claim exceptional learning support (ELS). Residents aged 19 to 24 who require significant levels of support should have an EHC plan provided by their local authority and, therefore, would access funding from their local authority.
68. You must submit ELS claims at the beginning of the resident's programme, or when you identify the resident requires support costs more than £19,000 in a funding year, by completing and sending the ELS claims document.
69. To claim exceptional learning support for a resident aged 19 to 24 you must confirm why the individual does not have an EHC plan. This should be a letter or email from the resident's local authority stating the reason(s) why the individual does not need an EHC plan.
70. ELS will be funded from within your AEB allocation.

## Resident Support

71. Resident support is available to provide financial support for residents with a specific financial hardship preventing them from taking part / continuing in learning. Before you award support to a resident, you must identify their needs within the following 'categories'.
- Hardship funding – general financial support for vulnerable and financially disadvantaged residents to support participation
  - 20+ childcare funding – for residents aged 20 or older on the first day of learning who are at risk of not starting or continuing learning because of childcare costs
  - Residential Access funding – to support WMCA funded AEB residents (set out in paragraph 38) where they need to live away from home
72. You must not claim more than 5% of your total Resident Support (including for 19 to 24 traineeships) final claim as administration expenditure. You must document your process for managing your administration costs over the current funding year and record, report and retain evidence on spending for each of the categories. If you do not have a Resident Support allocation, you must follow these rules and claim resident support using the earnings adjustment statement (EAS).

73. Additional information on what you must do and how to claim are included in Annex Three.

## **Community Learning**

74. This section only applies to providers with a non-formula Community Learning allocation included in schedule 2 of their contract.

75. The purpose of Community Learning is to develop the skills, confidence, motivation and resilience of adults of different ages and backgrounds in order to:

- progress towards formal learning or employment and/or
- improve their health and well-being, including mental health and/or
- develop stronger communities

76. Community Learning Courses are delivered and reported on the ILR. Additional information on what activity can be funded and how it should be claimed is included in Annex Four.

## **Prince's Trust**

77. In order to deliver the team programme, you must get approval from the Prince's Trust and the WMCA.

78. For eligible WMCA residents aged 19 to 25, the WMCA will fund the team programme through the WMCA's adult funding methodology. Please also refer to the Prince's Trust section in the Adult Education Budget Funding Rates and Formula 2019 to 2020 document.

79. For eligible residents aged 16 to 19, the team programme is funded through the ESFA's young people's funding methodology.

## **Subcontracting**

80. The WMCA, through its procurement and in dialogue with sector provider groups, set out the important role that subcontracting has in the delivery of the AEB, to continue providing an entry point for small, independent, voluntary and community-based providers to support the adult offer across the region. The detailed subcontracting arrangements which underpin your funding agreement will have been agreed as part of your delivery plan. If you do not have an agreement in place at the beginning of the funding year, you cannot enter into a subcontracting relationship without the express agreement of the WMCA. You must not subcontract to meet short-term funding objectives.

81. If, during the funding year, you wish to make in-year changes to your agreed subcontracting arrangements, you must provide a business case with a clear rationale linked to delivery of the Regional Skills Plan and how it supports achievement of your delivery plan. This plan must be approved and agreed with your WMCA Contract Manager prior to any additional subcontracting procurement activity taking place. The WMCA will be reviewing, through the use

of the ILR and its performance management reviews, the contributions of subcontracting to your Delivery Plan.

82. The WMCA considered whether to set a funding cap on management fees for subcontracting. We have concluded not to at this time, as we feel to prescribe in this way could inadvertently set a market rate which does not support the type of working relationships described above. The WMCA will expect you to retain evidence to support the levels of management fees you charge.
83. Additional information on subcontracting is included in the Annex Five.

## Section 4 Data Submission

84. In addition to the information in this section, a separate document has been provided which sets out how you should submit data and how the WMCA will undertake its financial due diligence, make payments, performance manage, audit and gain assurance from its providers. This document, the Payment and Performance Framework document, should be read alongside your Contract or Grant Agreement and these detailed WMCA funding rules, as they all form part of your contractual relationship with the WMCA.
85. You should also refer to the ESFA ILR specification and provider manual for 2019/20, and any other relevant documents referred to in those documents.

### Resident file

86. The Resident file will continue to be submitted to the ESFA through the Hub. The resident file must contain evidence to support the funding you wish to claim from the WMCA.
87. You must accurately complete all ESFA ILR fields as required in the 2019 to 2020 ILR Specification, published by the ESFA, even if they are not required for funding purposes.
- The ESFA ILR must accurately reflect the learning and support (where applicable) you have identified, planned and delivered to eligible WMCA residents. You must not report inaccurate information that would result in an inflated claim for funding.
  - Where your data does not support the funding you have claimed, WMCA will act to get this corrected and could recover funds you have claimed.
  - As a condition of funding, all destinations and/or progression details are a mandatory requirement for WMCA residents. Destination and progression must be detailed in the defined fields within the ESFA ILR. All resident post codes must be accurately recorded at the start of an aim.
  - Self-declarations by residents: All self-declarations must confirm the resident's details and describe what the resident is confirming for requirements set out in this document.
  - If a resident self-declares prior attainment, you must check this in the personal learning record (PLR) and query any contradictory information with the resident. The PLR will not necessarily override the resident's self-declaration.
  - Evidence in the resident file must assure the WMCA that the resident exists.
  - The resident must confirm information they provide is correct when it is collected.

- If the time spent in learning is short, the level of evidence in the resident file would reflect this.
- Where you hold information centrally, you only need to refer to the source.

88. If applicable, the resident file must confirm the following:

- All information reported to the ESFA for WMCA residents in the ILR and the WMCA Earnings Adjustment Statement (EAS), and if it applies, the supporting evidence for the data you report for each resident
- Your assessment and evidence of eligibility for funding and a record of what evidence the resident has provided
- All initial basic skills and diagnostic assessments
- Information on prior learning that affects the learning or WMCA funding of any of the learning aims or programme
- For 'personalised learning programmes', for example, learning not regulated by a qualification, full details of all the aspects of the learning to be carried out, including supporting evidence of the number of planned hours reported
- A description of how you will deliver the learning and skills and how the resident will achieve their outcomes related to further progression e.g. employment, apprenticeship and/or further learning
- The supporting evidence about why you have claimed funding and the level of funding for a resident, including details of any resident or employer contribution
- Support needs identified, including how you will meet these needs and the evidence of that
- That learning is taking, or has taken, place and attendance/participation records are available
- A resident's self-declarations as to what state benefits they claim
- A resident's self-declarations on their status relating to gaining a job
- All records and evidence of achievement of learning aims or learning programme. This must be available within three months of you reporting it in the ESFA ILR for WMCA residents

89. You must keep evidence that the resident is eligible for funding. Where the resident is unemployed, this must include a record of what you have agreed with them, including the relevance of the learning to their employment prospects and the labour market needs.

90. If a subcontractor delivers any provision to the resident, it must clearly identify who it is. This must match the information reported to us in the ESFA ILR for WMCA residents.



## Annex One Key Definitions and Glossary of terms

### Employed and Unemployed Residents:

The WMCA has chosen to adopt the Department for Work & Pensions labour force survey definition of employment / unemployment. This is:

Everybody aged 16 years or over is either employed, unemployed or economically inactive. The employment estimates include all people in work including those working part-time. People not working are classed as unemployed if they have been looking for work within the last four weeks and are able to start work within the next two weeks. A common misconception is that the unemployment statistics are a count of people on benefits; this is not the case, as they include unemployed people not claiming benefits.

Jobless people who have not been looking for work within the last four weeks or who are unable to start work within the next two weeks are classed as economically inactive. Examples of economically inactive people include people not looking for work because they are students, looking after the family or home, because of illness or disability, or because they have retired.

### Employed

91. For 2019/20, the WMCA will use a new criterion to confirm whether a resident is employed. The WMCA defines residents as employed if they are in receipt of waged income as either a permanent, temporary (including part time, zero hour and agency contracts) or self-employed worker. Providers should ensure that learning for those employed is directly relevant to providing new skills to enable them to progress into new or broader job roles leading to a better-paid job.

### Unemployed & Economically Inactive

92. For funding purposes, the WMCA defines a resident as 'unemployed' if they're not currently employed and are able to start work or available for work. Providers should ensure that for those unemployed, the learning is directly relevant to their employment prospects and labour market needs and is recorded in the ILP.
93. The WMCA will also define economically inactive residents who are not currently employed and seeking to secure work through re-training as 'unemployed'. For this cohort of resident's providers should ensure that the learning is directly relevant to the resident's future career aspirations in work and is recorded in the ILP. The training must also support their employment prospects and labour market needs.

94. To support assurance, activity providers should secure self-declarations from residents that can be evidenced to identify employment status set out in paragraphs 91, 92 & 93.

### **Residents in receipt of low wage**

95. You may fully fund residents who are 'Employed' and would normally be co-funded. You must be satisfied the resident meets both of the following:

- is eligible for co-funding; and
- Earn less than £17,550 (£9 per hour) based on the real living wage

96. You must have seen evidence of the resident's gross annual wages in these circumstances. This could be a wage slip within three months of the resident's learning start date, bank statement showing the paid amount or a current employment contract which states gross monthly/annual wages. Please note this is not an exhaustive list, but must support your decision to award full funding to an individual who would normally be eligible for co-funding.

97. Refer to the [WMCA ILR collection guide](#) in relation to coding to claim full funding for residents who meet the requirements set out in paragraph 95.

### **Full level 2**

98. Level 2 is the level of attainment which is demonstrated by:

- a General Certificate of Secondary Education in five subjects, each at grade C or above, or grade 4 or above, or
- Technical Certificate at level 2 which meets the requirements for the 2018, 2019 and 2020 16 to 19 performance tables

99. If a resident aged 19 to 23 has achieved a level 2 qualification that was, at the time they started, or still is classed as a full level 2, any subsequent level 2 qualifications will be co-funded unless paragraph 92 & 95 apply. Please contact [aeb.enquires@wmca.org.uk](mailto:aeb.enquires@wmca.org.uk) if you need advice on a previous qualification's designation.

100. If the National Academic Recognition Information Centre has confirmed the authenticity of a qualification gained overseas and confirmed it is comparable/compatible with a regulated qualification in England, currently part of the level 2 and level 3 legal entitlement, the individual will be deemed to have achieved their first level 2 and/or level 3 qualification

### **Full level 3 set out additionally what the approach is for L3**

101. Level 3 is the level of attainment which is demonstrated by a:

- General Certificate of Education at the advanced level in two subjects
- General Certificate of Education at the AS level in four subjects

- QAA Access to Higher Education (HE) Diploma at level 3
- Tech level or applied general qualification at level 3, which meets the requirements for the 2018, 2019 and 2020 16 to 19 performance tables.
- If a resident aged 19 to 23 has achieved a level 3 qualification that was at the time they started, or still is, classed as a full level 3, and wants to enrol on any subsequent level 3 qualification of any size, they may apply for an Advanced Resident Loan (provided the qualification is designated for funding, and subject to resident eligibility conditions), or pay for their own learning. Please contact [aeb.enquiries@wmca.org.uk](mailto:aeb.enquiries@wmca.org.uk) if you need advice on a previous qualification's designation

102. The WMCA will test partial or fully-funding Level 3 qualifications and units where they support progression in work or career changes. This will be agreed as part of your delivery plan with agreed levels of contribution in line with regional skills plan priorities.
103. For new linear AS and A levels, where a resident enrolls on an AS qualification and continues with further study to take the A level qualification in the same subject, you must record both the AS and A level in the ESFA ILR. The AS learning aim will be funded separately to the A level learning aim.

## **Eligible qualifications**

104. Where you deliver regulated qualifications and/or their components, you must ensure they are eligible for WMCA AEB funding as indicated on the ESFA Hub.
105. Certain qualifications that meet statutory employer requirements or a licence to practise are eligible for unemployed residents that meet the criteria in para 93. You can find more information about these qualifications in the ESFA Qualification Eligibility Principles document on the GOV.UK website.
106. Before delivering a component, you must check with the awarding organisation they provide a resident registration facility and the resident can achieve it alone or as part of accumulating achievement towards a qualification.

## **Non-regulated learning**

107. Where you deliver non-regulated learning, you must ensure it is eligible for funding. Such learning could include:
  - independent living skills or engagement learning, supporting adults to operate confidently and effectively in life and work
  - locally-commissioned and/or locally-developed basic knowledge and skills needed to access technical qualifications
  - employability and labour market re-entry
  - locally-commissioned and/or locally-devised technical education short courses (also known as taster sessions)
  - community learning courses

108. The eligibility principles the WMCA applies to non-regulated learning are as follows:
- It must not be provision linked to UK visa requirements
  - It must not be provision linked to statutory employer requirements (including a licence to practise) unless there is an agreed concession in place
  - It must not be vendor-specific provision, linked to a particular employer or commercial system unless this has been agreed as a flexibility
  - It must not be learning, for example, 'induction to college', that should be part of a resident's experience
  - It must not be a non-regulated version of a regulated qualification
  - It must not be above notional level 2 (that is, at notional levels 3 or 4). At notional level 2 it must focus on technical provision
109. Where you are delivering non-regulated learning, you must ensure you have appropriate and robust quality assurance processes in place. For instance, 'The Recognising and Recording Progress and Achievement (RARPA) Cycle'. Further information on RARPA is available from the Learning and Work Institute.
110. It is the intention of the WMCA to use the RARPA model to monitor, review and measure the quality and outcomes from non-regulated provision in 2019/20. Non-regulated learning should have clear achievement aims for the residents and identified progression outcomes prior to commencement of learning.

## **Learning in the workplace**

111. The WMCA will fund learning in the workplace where a resident has a statutory entitlement to full funding for:
- English and/or maths up to and including level 2 (paragraph 113), and/or
  - a first full level 2 (paragraph 120), or
  - first full level 3 qualification (paragraph 120)
112. The WMCA will consider funding provision in the workplace, where it is work experience linked to a Sector Based Work Academy. If you can access this flexibility it will have been agreed as part of your delivery plan.

## **English and maths for those aged 19 or older**

113. WMCA will fully-fund individuals, including individuals who are employed, aged 19 or older, who have not previously attained a GCSE grade A\* to C or grade 4, or higher, in English and maths, as part of their legal entitlement on the day they start the following qualifications:
- GCSE English language or maths.
  - Functional Skills English or maths from Entry to level 2.

- Stepping-stone qualifications (including components, where applicable) in English or maths approved by the Department for Education and ESFA.
114. If a resident wants to 'retake' their GCSE English and maths qualification because they did not achieve a grade 4 or higher (C or higher), WMCA will not fund the resident to only resit the exam.
115. You must not enrol individuals on qualifications which are not necessary for progressing towards a GCSE or Functional Skill level 2.
116. You must not fund an apprentice for English or maths from the WMCA AEB.
117. The WMCA will fully-fund non-regulated English and maths learning for residents, including those assessed at pre-entry level, aged 19 years and over with significant learning difficulties or disabilities, as part of a personalised learning programme, where assessment has identified the resident cannot undertake provision identified in paragraph 113.
118. You must:
- carry out a thorough initial assessment to determine an individual's current level using current assessment tools based on the national literacy and numeracy standards and core curriculums
  - carry out an appropriate diagnostic assessment to inform and structure a resident's resident file to use as a basis for a programme of study
  - enrol the resident on a level above that at which they were assessed and be able to provide evidence of this
  - deliver ongoing assessment to support learning
  - record the evidence of all assessment outcomes in the resident file
119. The assessments must place a resident's current skill levels within the level descriptors used for the RQF.

### **Individuals aged 19 to 23 (excluding English, maths and ESOL)**

Employed, on the day they start the following learning.

120. Qualifications defined within the legal entitlement that are a resident's:
- first full level 2, and/or
  - first full level 3

### **Individuals aged 24 or older (excluding English, maths and ESOL)**

121. The WMCA will fully-fund individuals aged 24 or older on the day they start provision up to and including a level 2, if they are unemployed, set out in paragraph 92 & 93.
122. The WMCA will co-fund all other residents aged 24 years and older for provision up to and including a level 2. Where residents are employed the low wage flexibility may apply at paragraph 95.

## English for Speakers of Other Languages (ESOL)

123. The WMCA will fully-fund individuals aged 19 and over on the day they start their ESOL learning aim where they are unemployed, set out in paragraphs 92 and 93.
124. The WMCA will co-fund all other individuals aged 19 and over on the day they start their ESOL learning aim. Where residents are employed, the low wage flexibility may apply, refer to paragraph 95.
125. Providers offering ESOL qualifications may need to deliver additional learning to individual residents that incurs additional cost above the qualification rate. You can access information on this in the WMCA Adult Education Budget Funding Rates and Formula 2019 to 2020.

## Glossary

20+ childcare	A category of resident support to assist residents aged over the age of 20 who are at risk of not starting learning or leaving learning due to issues in obtaining childcare.
Adult funding methodology	The funding methodology for individuals aged 19 and over, participating in AEB learning. You can access <a href="#">adult funding methodology</a> on the GOV.UK website.
Advanced resident loan	Advanced resident loans are available for individuals aged 19 or above to undertake approved qualifications at levels 3 to level 6, at an approved provider in England. Advanced resident loans give individuals access to financial support for tuition costs similar to that available in higher education and is administered by Student Finance England.
Break in learning	When a resident is not continuing with their learning but has told you beforehand that they intend to resume their learning in the future.
Care to learn	A Department for Education scheme to assist young parents under the age of 20 with the childcare costs that may form a barrier to them continuing in education.
Continuers	Residents who commenced learning in a previous funding year and remain in learning as of 1 August 2019.
Community Learning	Helps people of different ages and backgrounds gain a new skill, reconnect with learning, pursue an interest, and learn how to support their children better, or prepare for progression to more formal courses / employment.
Components of regulated qualification	A subset of a qualification, which could be a unit.

Delivery Plan (WMCA)	All providers intending to deliver AEB to WMCA residents are required to submit a Delivery Plan to WMCA. This plan allows WMCA to appraise the provider in terms of suitability to deliver to WMCA residents.
Direct costs of learning	Any costs for items without which it would be impossible for the resident to complete their learning aim. This can include the costs of registration, examination or any other activities or materials without which the resident cannot achieve their programme of study.
Earnings adjustment statement (EAS)	The form providers need to fill in to claim funding for WMCA residents that cannot be claimed through the Individualised Resident Record.
Education health and care (EHC) plan	An EHC plan replaces statements of special educational needs and learning difficulty assessments for children and young people with special educational needs. The Local Authority has the legal duty to 'secure' the educational provision specified in the EHC plan, that is, to ensure that the provision is delivered.
English for speakers of other languages (ESOL)	The study of English by speakers of other languages.
European social fund (ESF)	The ESF is a structural fund from the European Union. It improves the skills of the workforce and helps people who have difficulties finding work. The WMCA is a co-financing organisation for the ESF.
Exceptional learning support	Learning support funding to meet the costs of putting in place a reasonable adjustment for a resident who requires more than £19,000 in a funding year.
Full level 2	<p>The following qualifications are designated full at level 2:</p> <ul style="list-style-type: none"> <li>• a General Certificate of Secondary Education in five subjects, each at grade C or above, or grade 4 or above</li> <li>• a Technical Certificate at level 2 which meets the requirements for 2019 to 2020 16 to 19 performance tables</li> </ul>
Full level 3	<p>The following qualifications are designated full at level 3:</p> <ul style="list-style-type: none"> <li>• a General Certificate of Education at the advanced level in two subjects</li> <li>• a General Certificate of Education at the AS level in four subjects</li> <li>• a QAA Access to Higher Education (HE) Diploma at level 3</li> <li>• a Tech level; or applied general qualification at level 3 which meets the requirements for 2019 16 to 19 performance tables</li> </ul>

Functional skills	Applied practical skills in English, maths and ICT that provide the resident with the essential knowledge, skills and understanding to enable them to operate effectively and independently in life and work.
Funding agreement	The agreement between WMCA and providers who receive funding for education and skills training. This can be a Grant agreement or a contract.
Funding year	The WMCA adult funding system operates on a funding year basis, which starts on 1 August and finishes on 31 July.
Guided learning	As defined by Ofqual: “The activity of the resident in being taught or instructed by – otherwise participating in education or training under the immediate guidance or supervision or – a lecturer, supervisor, tutor or other appropriate provider of education or training. For these purposes the activity of ‘participating in education and training’ shall be treated as including the activity of being assessed if the assessment takes place under the immediate guidance or supervision of a lecturer, supervisor, tutor or other appropriate provider of education or training.”
Hardship	Within resident support, a category of support to assist vulnerable and disadvantaged residents to remove barriers to education and training.
The ESFA Hub	The ESFA Hub provides online services including the return of your Individualised Resident Record and completed EAS. You can also search all learning aims, components of qualifications, apprenticeship frameworks and standards along with their validity and funding details.
Individualised resident record (ILR)	The primary data collection requested from learning providers for further education and work-based learning in England. Government uses this data to monitor policy implementation and the performance of the sector. It is also used by organisations that allocate funding for further education. In 2019/20, WMCA will continue to utilise the ESFA ILR to record all outputs for WMCA residents. All providers delivering WMCA AEB must complete all relevant ILR details and send this to the ESFA. The ESFA will then validate the provider’s data and forward WMCA the ILR for WMCA residents.
Job outcome payments	Payments made for residents who are unemployed at the start of learning who cease learning to take up a job.
Resident file	A collection of documents and information brought together to form a single point of reference relating to the learning that is taking place. This provides the evidence to prove the resident exists, is eligible for funding, the learning to be provided, and delivery.



Learning support	Funding to enable providers to put in place a reasonable adjustment, set out in the Equality Act 2010, for residents with an identified learning difficulty and/or disability to achieve their learning goal.
Resident support	Funding to enable providers to support residents with a specific financial hardship that might prevent them from being able to start or complete their learning.
Learning or learning aims	Refers to all adult learning that the WMCA funds, whether it is a regulated qualification or other learning.
Learning aim reference number	The unique eight-digit code used to identify a specific learning aim.
Learning planned end date	The date entered onto the individualised resident record (ILR) when the resident is expected to complete their learning.
Local flexibility	Regulated qualifications, and/or their components, and non-regulated learning that the WMCA funds, that is <b>not</b> part of the English and maths, or level 2 or level 3, legal entitlement offer. All regulated and non-regulated learning that is available for funding through the flexible local offer is listed on <a href="#">The ESFA Hub</a> .
Non-regulated learning	<p>Learning which is not subject to awarding organisation external accreditation in the form of a regulated qualification. It may be designed, delivered and certificated by a provider or another organisation. This could include:</p> <ul style="list-style-type: none"> <li>• independent living skills and engagement learning</li> <li>• employability and work skills</li> <li>• labour market re-entry</li> <li>• technical education tasters</li> <li>• community learning</li> </ul>
Ofqual	The Office of Qualifications and Examinations Regulation, which regulates qualifications, examinations and assessments in England.
Personal learning record (PLR)	An ESFA database that allows individual residents access to their past and current achievement records. These can be shared with schools, colleges, further education training providers, universities or employers.
Performance Management Framework	A WMCA management framework detailing how providers will be managed and monitored from both a range of perspectives including quality performance (direct and subcontracted delivery) and earnings against profile.

(WMCA)	
Performance Management Points (WMCA)	Key points during the funding agreement when WMCA will review earnings against profile and apply a specification as detailed in this policy to ascertain if the provider is underperforming against their WMCA allocation.
Programmes	A coherent package of adult learning which may include regulated qualifications, components of regulated qualifications or non-regulated learning with clearly stated aims supporting agreed outcomes
'Provision' or 'learning' or 'learning aims'	Refers to all adult learning that the WMCA funds, whether it is a regulated qualification or other learning.
Recognising and Recording Progress and Achievement (RARPA)	The Learning and Work Institute have undertaken a consultation on the RARPA Cycle and have published <a href="#">updated RARPA Guidance</a> . This comprises a clear framework designed to support residents through the learning process, identifying key outcomes. It provides a robust approach to quality control and improvement of nonregulated provision with a focus on self-assessment that supports standards acceptable to the Office of Standards in Education (Ofsted). You can access further information from <a href="#">The Learning and Work Institute</a> .
Recognition of prior learning (RPL)	<p>An assessment method that considers whether a resident can demonstrate that they can:</p> <ul style="list-style-type: none"> <li>• meet the outcomes for a qualification or a component of a qualification through knowledge, understanding; or,</li> <li>• skills they already have and so do not need to undertake a course of learning for that component or qualification.</li> </ul>
ESFA Register of training organisations (the Register)	<p>A register that provides assurance on organisations that deliver non-apprenticeship education and training services funded by the ESFA, or subcontractors with more than £50,000 in our non-apprenticeship supply chain.</p> <p>Organisations apply to enter the register by completing our market-entry pre-qualification process, which includes due diligence questions and testing of capacity and capability.</p>
Relationship and Performance Officer (WMCA)	Every provider approved to deliver AEB to WMCA residents is assigned a Provider Relationship and Performance Officer to support the provider to monitor the quality of delivery and performance against allocation and the funding agreement.

'Resident and 'resident'	To cover those whose provision is funded by the WMCA.
Residential	Support provided under resident support to residents receiving specialist provision, which involves a residential element, or to support residents who cannot receive provision locally.
Regulated Qualifications Framework (RQF)	The RQF provides a way of understanding and describing the relative level and size of qualifications. The RQF, operated by Ofqual, is a single regulatory framework containing a range of general, technical and professional qualifications.
Senior responsible person	For example, chief executive, managing director, principal or their equivalent.
Self-declaration	A process where the resident can confirm something through his or her own signature.
Start of learning	The date on which learning begins. WMCA do not consider enrolment, induction, diagnostic assessment or prior assessment to be part of learning.
State benefits	State benefits are contributions, both financial and non-financial, made by central and local Government to individuals in certain circumstances to meet their day-to-day living needs.
Statutory entitlement	<p>The <a href="#">statutory entitlement to education and training</a> allows residents to be fully funded who are aged:</p> <ul style="list-style-type: none"> <li>• 19 and over, who have not achieved a Grade A*-C, grade 4, or higher, and study for a qualification in English or maths up to and including level 2, and/or</li> <li>• 19 to 23, if they study for a first qualification at level 2 and/or level 3</li> </ul>
Study programme	Study programmes are for residents aged 16 to 19 and cover all levels up to level 3. Funding is for each resident, rather than for each qualification and can only have one core aim at a time.
Subcontractor	A separate legal entity that has an agreement with you to deliver any element of the education and training WMCA fund. A separate legal entity includes companies in your group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under your direction and control, in the same way as your own employees. The term subcontractor will also apply to any partnership work you have where your staff and/or provision is managed by another partner/institution. The WMCA

	will consider this a type of subcontracting arrangement, and as such, will require all relevant detail on your Delivery Plan for approval and review at relevant Performance Meetings. This arrangement must also be identified in the ILR using the Partner UKPRN Field.
UK provider reference number	A unique identifying number given to all providers by the UK register of learning providers.
Unique resident number	A 10-digit number used to match a resident's achievement to their personal learning record (PLR).
WMCA	West Midlands Combined Authority
Young people's funding methodology	The ESFA's funding methodology for individuals aged 16 to 19 (and those aged 19 to 24 with an Education Health and Care plan). You can access the <a href="#">young people's funding methodology</a> on the GOV.UK website.

## **Annex Two - Eligibility for funding (may change following decision on Brexit)**

126. Residents temporarily outside of England - If someone ordinarily resident in the the WMCA area works outside of England as part of their job, they are eligible for funding if some of the learning takes place in England. You cannot claim for the additional expense of delivering learning outside of England or the WMCA.
127. Residents of the WMCA area will be eligible for funding if they are:
- WMCA resident on start date of learning
  - UK/European Economic Area (EEA) for at least the previous three years prior to start date

### **Countries or areas where residency establishes eligibility for our funding**

128. Member states of the European Union:

You can access a list of member states on the EU website.

129. Other territories are categorised as being within the European Union for the purposes of the fees regulations; are:
- Cyprus: any Cypriot national living on any part of the island qualifies for EU residency and is considered an EU national
  - Finland: includes the Aland Islands
  - the French Overseas Department (DOMS) (Guadeloupe, Martinique, French Guiana (Guyana), France: Reunion and Saint-Pierre et Miquelon) is part of metropolitan France and is part of the EU
  - Germany: includes the former German Democratic Republic and the tax-free port of Heligoland
  - Portugal: Madeira and the Azores are part of the EU; Macau is not
  - Spain: the Balearic Islands, the Canary Islands, Ceuta and Melilla are part of the EU
  - United Kingdom: Gibraltar is part of the territory of the EU
  - To note: The Channel Islands and Isle of Man are part of the United Kingdom and Islands but not part of the EU.
  - Andorra, Monaco, San Marino and the Vatican are not part of the EU.

130. EEA and eligible overseas dependent territories.

For funding eligibility purposes, this is defined as all member states of the EU and Iceland, Liechtenstein, Switzerland, Norway and all the eligible British overseas territories and EU overseas territories listed in paragraph 131 below.

Although Switzerland is not part of the formally recognised EEA, its nationals are eligible under various international treaties signed by the UK and Swiss Governments.

131. Eligible overseas territories of other British and EU member states. Residents who are nationals of certain British Overseas Territories and of certain European overseas territories are eligible for funding, depending on the three-year rule in residence in the EEA. These are shown in the table below:

Anguilla	Oeno Islands
Bermuda	South Georgia and the South Sandwich Isles
British Antarctic Territory	St Helena and its dependencies
British Indian Ocean Territory	Turks and Caicos Islands
British Virgin Islands	Greenland and Faroe Isles
Cayman Islands	Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten) Aruba)
Falkland Islands	New Caledonia and its dependencies
Henderson Island	French Polynesia
Montserrat	Saint Barthélemy
Pitcairn, Ducie and	The Territory of Wallis and Futuna Islands
	Mayotte
	French Southern and Antarctic Territories

132. The section on eligibility determines how eligibility to be funded can depend on a range of factors, including but not limited to; immigration status and the impact that has on their family's ability to access training.
133. Any resident or relevant family member who has applied for an extension or variation of their current immigration permission in the UK is still treated as if they have that leave. This permission only applies if the application was made before their current permission expired. Their leave continues until the Home Office decides on their immigration application. Their leave will continue where they have appealed or sought an administrative review of their case within the time limits allowed to them for doing so.
134. Therefore, a resident or relevant family member is considered to still have the immigration permission that they held when they made their application for an extension, and their eligibility would be based upon this status.
135. You can find further information on eligibility from the UK Council for International Student Affairs.
136. The resident's immigration permission in the UK may have a 'No recourse to public funds' condition. Public funds do not include education or education

funding, so this does not affect a resident's eligibility, which must be decided under the normal eligibility conditions.

### **Non-EEA citizens**

137. A non-EEA citizen is eligible for funding if they have permission granted by the UK government to live in the UK, which is not for educational purposes, and have been ordinarily resident in the UK for at least the previous three years before the start of learning.

### **Individuals with certain types of immigration status and their family members**

138. Any individual resident in WMCA with any of the statuses listed below is eligible to receive funding and are exempt from the three-year residency requirement rule. You must have seen the resident's immigration permission in these circumstances:

- Refugee Status
- Discretionary Leave to Enter or Remain
- Exceptional Leave to Enter or Remain
- Indefinite Leave to Enter or Remain
- Humanitarian protection
- Leave Outside the Rules
- section 67 of the Immigration Act 2016 leave
- Calais leave to remain
- The husband, wife, civil partner and child of any of the above in subparagraphs

### **Asylum seekers**

139. Asylum seekers are eligible to receive funding if:

- WMCA resident
- they have lived in the UK for six months or longer while their claim is being considered by the Home Office, and no decision on their claim has been made; or,
- are receiving local authority support under section 23C or section 23CA of the Children Act 1989 or section 21 of the National Assistance Act 1948.

140. An individual who has been refused asylum will be eligible if:

- they have appealed against a decision made by the UK government against granting refugee status and no decision has been made within six months of lodging the appeal; or,

- they are granted support for themselves under section 4 of the Immigration and Asylum Act 1999; or,
- they are in the care of a local authority and are receiving local authority support for themselves under section 23C or section 23CA of the Children Act 1989.

### Family members of EU and EEA nationals (WMCA residents)

141. In the explanations below, the 'principal' is the European Union (EU) or EEA national. The 'family' or 'family member' is the resident, and must be the husband, wife, civil partner, child, grandchild, dependent parent or grandparent of the 'principal.'
142. If the resident, who is a family member of an EEA national, has been ordinarily resident in the EEA for the three years prior to the start of their course, they are eligible for funding.
143. Table 1 shows the eligibility for family members if:
- the family member is now ordinarily resident in England, but has not been ordinarily resident in the EEA for at least the previous three years before the start of learning; or,
  - a principal has been resident within the EEA for the last three years.

**Table 1: Eligibility for Family Members**

		Principal ordinarily resident in the EEA for three years		
		EU (including the UK) citizen	Non-EU EEA citizen	Non- EEA Citizen
<b>Family member not ordinarily resident in the EEA for three years</b>	EU (including the UK) citizen	Eligible	Eligible	Not eligible
	Non-EU EEA citizen	Eligible	Not eligible	Not eligible
	Non-EEA citizen	Eligible	Not eligible	Not eligible



## **Children of Turkish workers (WMCA residents)**

144. Under EU law there is a provision that a Turkish worker who has someone over 18 but living under the same roof as parents is eligible if both the following apply:
145. The Turkish worker is currently ordinarily resident in the UK. The Turkish worker is or has been, lawfully employed in the UK
146. The child has been ordinarily resident in the EEA and/or Turkey for the full three-year period before the start of their programme.

## **Persons granted stateless leave (WMCA residents)**

147. A person granted stateless leave is a person who:
- has extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and,
  - has been ordinarily resident in the UK and Islands throughout the period since the person was granted such leave.
148. A stateless person must:
- be ordinarily resident in the UK on the first day of the first academic year of the course; and,
  - have been ordinarily resident in the UK and Islands throughout the three-year period preceding the first day of the first academic year of the course.
149. Certain family members are also eligible under this category:
- the spouse or civil partner of a person granted stateless leave (and who was the spouse or civil partner of that person on the leave application date), who is ordinarily resident in the UK on the first day of the first academic year of the course, and who has been ordinarily resident in the UK and Islands throughout the three-year period preceding the first day of the first academic year of the course; or,
  - the child of a stateless person or of the stateless person's spouse or civil partner (and who was the child of that stateless person or the child of the stateless person's spouse or civil partner on the leave application date), was under 18 on the leave application date, is ordinarily resident in the UK on the first day of the first academic year of the course, and has been ordinarily resident in the UK and Islands Throughout the three-year period preceding the first day of the first academic year of the course.
150. "Leave application date" means the date on which a person granted stateless leave made an application to remain in the UK as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971).

## **Residents in the armed forces**

151. The WMCA will fund armed forces personnel, Ministry of Defence (MoD) personnel or civil and crown servants where they are residents within the WMCA area. The WMCA will class members of the British armed forces on postings outside of the European Union (EU), including their family members, as ordinarily resident in the WMCA area.
152. Members of other nations' armed forces stationed in WMCA, and their family members, aged 19 and over, are eligible for funding if the armed forces individual has been ordinarily resident in England for three years. The WMCA will not fund family members that remain outside of the WMCA area.

## **Individuals who are not eligible for funding**

153. You must not claim funding from the WMCA for individuals who do not meet the eligibility criteria set out above, unless they are eligible under the Fees and Awards Regulations 2007 (as amended). This includes:
  - those who are here without authority or lawful status
  - those who are residents in other authorities outside of the WMCA area unless agreed as part of your funding agreement
  - those who are resident in the WMCA on a Tier 4 (general) student visa unless they are eligible through meeting any other of the categories described above
  - non-EEA citizens who are in the WMCA on holiday, with or without a visa
  - non-EEA citizens who are a family member of a person granted a Tier 4 visa, have been given immigration permission to stay in the WMCA and have not been ordinarily resident in the UK for the previous three years on the first day of learning
  - individuals who are ordinarily resident in the Channel Island or the Isle of Man, unless they are also ordinarily resident within WMCA
  - those whose biometric residence permit or residence permit imposes a study prohibition or restriction on the individual

## **Annex Three - Resident and Learning Support**

### **Learning Support (included in AEB allocation)**

154. Learning support must not be used to deal with everyday difficulties that are not directly associated with a resident's learning on their programme.

You must:

- carry out a thorough assessment to identify the support the resident needs
- agree and record the outcome of your assessment in the resident file
- record all outcomes on the resident file and keep all evidence of the assessment of the needs, planned and actual delivery
- report in the ESFA ILR that a WMCA resident has a learning support need associated with an identified learning aim, by entering code LSF1 in the 'Learning Delivery Funding and Monitoring' field and entering the corresponding dates in the 'Date applies from' and 'Date applies to' fields

155. You can claim learning support at a fixed monthly rate if you report it in the ILR. You must use the WMCA EAS if your costs exceed this monthly rate and you must keep evidence of these costs. You can find details of how to make a claim in the ESFA Funding Claims and Reconciliation Guidance.

156. You can claim learning support if learning continues past the planned end date and the resident needs continued support.

### **Resident Support (included in AEB allocation)**

157. Resident support is available to provide financial support for residents with a specific financial hardship preventing them from taking part / continuing in learning. Before you award support to a resident, in addition to identify their needs within the following categories:

158. Hardship funding – general financial support for vulnerable and financially disadvantaged residents to support participation

159. 20+ childcare funding – for residents aged 20 or older on the first day of learning who are at risk of not starting or continuing learning because of childcare costs

160. Residential Access funding – to support WMCA funded AEB residents (set out in paragraph 43) where they need to live away from home

161. You must:

- have criteria for how you will administer and distribute your funds; these must reflect the principles of equality and diversity and be available to residents and to us on request
- assess and record the resident's needs, demonstrating the need for support

- report the appropriate Resident Support Reason codes in the 'Resident Funding and Monitoring' fields in the ILR
- complete monthly EAS claims and a final claim
- consider the availability of other support for residents, for example from Jobcentre Plus
- make it clear to residents it is their responsibility to tell the Department for Work and Pensions about any resident support they are receiving from you, as resident support payments may affect their eligibility for state benefits

162. You must not use resident support funds for any of the following:

- Essential equipment or facilities if the resident is eligible to full funding. However, these residents can get support funding for childcare, transport and residential costs
- A resident in custody or released on temporary licence
- A resident carrying out a higher education course or learning aims fully funded from other sources
- To pay weekly attendance allowances or achievement and attendance bonuses

## Hardship

163. You can use hardship funds for any of the following:

- Course-related costs, including course trips, books and equipment (where costs are not included in the funding rate), domestic emergencies and emergency accommodation
- Transport costs (but not make a block contribution to post-16 transport partnerships or routinely fund transport costs covered in the Local Authority's legal duty for residents of sixth-form age)
- Examination fees
- Accreditation fees, professional membership fees and any fees or charges due to external bodies
- Your exam registration fees
- Support provided by others, or by providing items, services or cash direct to the resident. This can be a grant or a repayable loan

164. In exceptional circumstances, you can use hardship funds with course fees for residents who need financial support to start or stay in learning

165. If an asylum seeker is eligible for provision, you may provide resident support in the form of course-related books, equipment or a travel pass. You must not give a resident who is an asylum seeker support in the form of cash

## **20+ childcare**

166. You can only use childcare funding to pay for childcare with a childminder, provider or childminder agency, registered with Ofsted.
167. You must not use childcare funding to:
- fund informal childcare, such as that provided by a relative
  - set up childcare places or to make a financial contribution to the costs of a crèche
  - fund childcare for residents aged under 20 on the first day of learning; instead you must direct them to the ESFA's 'Care to Learn' programme
168. You must not use childcare for those aged 20 years or older to top up childcare payments for those receiving 'Care to Learn' payments.

## **Annex Four Community Learning**

169. Community Learning Courses are delivered and reported on the ILR under the following four delivery strands:
170. Personal and Community Development Learning - learning for personal and community development, cultural enrichment, intellectual or creative stimulation and for enjoyment (in most cases not leading to a formal qualification)
171. 'Family English, Maths and Language' - learning to improve the English, language and maths skills of parents, carers or guardians and their ability to help their children
172. Wider Family Learning - learning to help different generations of family members to learn together how to support their children's learning
173. Neighbourhood Learning in Deprived Communities - supports local voluntary and other third sector organisations to develop their capacity to deliver learning opportunities for the residents of disadvantaged neighbourhoods
174. Please note, non-formula Community Learning funding follows funding model 10.

### **Non-formula community learning funding**

175. Where applicable, your ESFA-funded AEB allocation will include an amount of non-formula community learning funding. We state this value in appendix 1 of your contract. You must deliver non-formula funded community learning provision in line with the existing community learning objectives set out in Appendix A, up to this maximum amount.
176. Non-formula community learning funding is paid on a monthly profile. You must 'attribute costs' for eligible residents, up to the value of your non-formula community learning allocation. This should include the cost of delivering learning and any support costs, in line with resident and learning support, paragraphs 154 to 168. You must record these costs in the resident's learning plan.
177. If we fund you through a grant or financial memorandum, you have the flexibility to use all, or some, of your non-formula community learning funding in line with the AEB formula-funded methodology (funding model 35), to meet local demand.
178. If you use all, or some of your non-formula community learning funding (stated in your appendix 1) to deliver formula funded non-regulated provision that may be similar to community learning, you must:
  - follow the ESFA funded AEB formula-funded methodology and submit ILR data under funding model 35

- enrol residents following ESFA funded AEB eligibility requirements set out on page 15 and paragraphs 45 - 58, you must not use your non-formula community learning local fee remission policy.

179. If we fund your organisation through a contract for services, you do not have this flexibility, and we will reclaim unspent non-formula community learning funding at year-end.
180. You can support residents aged under 19 if they meet both of the following. They are:
- a parent, carer or guardian attending a wider family learning or family, English, maths or language course
  - funded through non-formula community learning using funding model 10 in the funding model field (refer to ILR guidance for more information)
181. You must not use non-formula community learning funding for learning that is eligible for funding through an advanced resident loan.

### **Pound Plus and local fee remission policy**

182. Pound Plus - the 'Pound' represents the public pound, the 'Plus' is everything else that you can generate in addition to your non-formula community learning funding allocation, such as fee income, funding from other sources, resources in kind and other sources of revenue / sponsorship / volunteering.
183. You must have in place a 'Pound Plus' policy. You must invest Pound Plus fee income / savings for the people who most need, and can least afford, community learning provision.
184. Local fee remission policy - you must have in place and operate a fair and transparent community learning local fee remission policy that requires individuals to pay a course / tuition / joining fee, but also sets out clear eligibility criteria for those individuals who, due to their circumstances, qualify for either partial or total fee remission.
185. Your Pound Plus and Local Fee remission policies must be available on your website and/or in the venues you deliver community learning to eligible residents.

### **Partnership working**

186. Partnership working underpins the community learning objectives and is critical to developing and delivering an effective community learning offer in a given locality.
187. You must engage and work closely with a wide range of relevant partners and stakeholders in your local area to help shape your community learning offer to engage specific groups. These could include specialist partners, such as health, Jobcentre Plus and schools, and voluntary and community sector (VCS) organisations.

188. We expect you to work with other providers in your local area, who may be in receipt of non-formula community funding. We expect you to develop a strategic, efficient community learning offer to reduce duplication of courses in a locality, and signpost residents to other partners as and when appropriate.

## **Community Learning Objectives**

189. The ESFA has recently published the list below which the WMCA also supports.
190. Focus public funding on people who are disadvantaged and least likely to participate, including in rural areas and people on low incomes with low skills
191. Collect fee income from people who can afford to pay, and use where possible to extend provision to those who cannot
192. Widen participation and transform people's destinies by supporting progression relevant to personal circumstances, e.g.
- improved confidence and willingness to engage in learning
  - acquisition of skills preparing people for training, employment or self-employment
  - improved digital, financial literacy and/or communication skills
  - parents/carers better equipped to support and encourage their children's learning
  - improved/maintained health and/or social well-being
193. Develop stronger communities, with more self-sufficient, connected and proactive citizens, leading to:
- increased volunteering, civic engagement and social integration
  - reduced costs on welfare, health and anti-social behaviour
  - increased online learning and self-organised learning
  - the lives of our most troubled families being turned around
194. Commission, deliver and support learning in ways that contribute directly to these objectives, including:
- bringing together people from different backgrounds, cultures and income groups, including people who can/cannot afford to pay
  - using effective local partnerships to bring together key providers and relevant local agencies and services
  - devolving planning and accountability to neighbourhood/parish level, with local people involved in decisions about the learning offer
  - involving volunteers and Voluntary and Community Sector groups, shifting long term, 'blocked' classes into learning clubs, growing self-organised learning groups, and encouraging employers to support informal learning in the workplace



- supporting the wide use of online information and learning resources
- minimising overheads, bureaucracy and administration

## Annex Five Subcontracting

195. The decision to enable you to subcontract will have been confirmed as part of agreeing your funding agreement and Delivery Plan. If you do not have an agreement in place at the beginning of the funding year, you cannot enter into a subcontracting relationship without the express agreement of the WMCA.

### Subcontracting Definition

The WMCA considers the term 'subcontracting' to encompass all third party arrangements you have with other providers where you the provider is managing and delivering a proportion of your WMCA delivery plan through a subcontractor.

The WMCA defines a delivery subcontractor as a separate legal entity that has an agreement with you to deliver any provision that the WMCA funds for WMCA residents. A separate legal entity includes any training provider with a UKPRN including those in your group and other associated companies.

The term 'subcontractor' will also apply to any partnership, associate, third party working relationships you have where your staff and/or provision is managed by another partner/ institution.

WMCA will consider all the above as a subcontracting arrangement and as such will require all relevant detail on your 2019/20 Delivery Plan for appraisal by the WMCA.

These arrangements must also be identified when completing the ILR using the Partner UKPRN Field. This type of partnership working and its contribution to your Delivery Plan will be reviewed at the relevant Provider Performance Meetings.

196. When appointing delivery subcontractors, you must avoid conflicts of interest and you must:
- write to your Compliance Officer about any circumstances (for example, where you and your proposed subcontractor have common directors or ownership) which might lead to an actual or perceived conflict of interest
  - not award the contract without prior agreement from the WMCA
197. You must carry out your own due diligence including financial checks when appointing delivery subcontractors and have both the process and the results available for inspection by your Compliance Officer.
198. You must not enter into any new subcontracting arrangements or increase the value of your existing arrangements prior to review and approval by the WMCA and if any of the following circumstances apply. These conditions will continue

until WMCA are satisfied that the concerns have been addressed and the circumstances below no longer apply:

- if Ofsted has rated your leadership and management as inadequate
- if you do not meet the ESFA Minimum Standards
- if the outcome of your annual financial health assessment, completed by ESFA is deemed inadequate, unless the WMCA has provided written permission in advance

199. You must take your own legal advice about the impact of Public Contracts Regulations 2015 on your recruitment of delivery subcontractors and have this advice available for inspection by us on request.
200. Your Governing Body or Board of Directors and your accounting officer (senior responsible person) must be satisfied that all your delivery subcontracting meets your strategic aims and enhances the quality of your resident offer. You must set out the reasons for subcontracting in your published supply chain fees and charges policy to reflect your strategic aims. You must be able to evidence this, such as minutes of meetings and written sign-off.
201. You must not subcontract to meet short-term funding objectives.
202. You must only use delivery subcontractors:
- if you have the knowledge, skills and experience within your organisation to successfully procure, contract with and manage those subcontractors and can evidence this with the CVs of relevant staff
  - who your governing body/board of directors and your accounting officer (senior responsible person) determine as being of high quality and low risk, and provide written evidence confirming this
  - if you have robust procedures to ensure subcontracting does not lead to the inadvertent funding of extremist organisations
203. You are responsible for all the actions of your delivery subcontractors and partners connected to, or arising out of, the delivery of the services, which you subcontract.

## **Awarding a contract**

204. If you have not previously subcontracted AEB provision, you must get the WMCA's written approval before awarding a contract to a delivery subcontractor and retain evidence of this. You must also gain written agreement if this subcontracting contract was not agreed at the beginning of the funding year as part of your Delivery Plan.

## **Entering into a subcontract**

205. You must only award contracts for delivering provision funded by WMCA AEB to legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database.

206. You must not award a subcontract to any organisation if it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed.
207. You must make sure that residents supported through subcontracting arrangements know about you and your delivery subcontractor's roles and responsibilities in providing the learning.
208. You must have a legally binding contract with each delivery subcontractor that includes all the terms set out in paragraphs 212, 213 and 214.
209. You must have a contingency plan in place for residents in the event that:
- you need to withdraw from a subcontract arrangement
  - a delivery subcontractor withdraws from the arrangement
  - a delivery subcontractor goes into liquidation or administration

You must make sure that the terms of your subcontracts allow you to:

- monitor the delivery subcontractor's activity
  - have control over your delivery subcontractors
  - monitor the quality of education and training provided by all delivery subcontractors
210. You must obtain an annual report from an external auditor if the AEB contract with your delivery subcontractors will exceed £100,000 in any one funding year. The report must:
- provide assurance on the arrangements to manage and control your delivery subcontractors
  - comply with any guidance issued by us
211. You must supply us with a certificate signed by the external auditor and an authorised signatory to confirm you have received a report that provides satisfactory assurance. The WMCA may ask you to provide a copy of the full report prior to any award of a WMCA funding agreement.

### **Terms that you must include in your contracts with delivery of subcontractors**

212. You must make sure your delivery subcontractors:
- meet the requirements set out in our funding rules
  - provide you with ILR data so your data returns to ESFA, and then subsequently forwarded to WMCA for WMCA residents, accurately reflect your subcontractor's delivery information
  - give us, and any other person nominated by us, access to their premises and all documents relating to provision funded by the WMCA AEB

And give you sufficient evidence to allow you to:

- assess their performance against Ofsted's Common Inspection Framework
- incorporate the evidence they provide into your self-assessment report
- guide the judgements and grades within your self-assessment report
- always have suitably-qualified staff available to provide the education and training the WMCA funds through the AEB
- co-operate with you to make sure there is continuity of learning if the subcontract ends for any reason

213. Tell you if evidence of any irregular financial or delivery activity arises; irregular activity could include, but is not limited to:

- non-delivery of training when funds have been paid
- sanctions imposed on the delivery subcontractor by an awarding organisation
- an inadequate Ofsted grade
- complaints or allegations by residents, people working for the delivery subcontractor or other relevant parties
- allegations of fraud

214. Do not use WMCA AEB funding or any other WMCA funding sources to make bids for, or claims from, any European funding on their own behalf without the explicit consent of the WMCA.

### **Monitoring of subcontracted provision**

215. You must manage and monitor all your delivery subcontractors to ensure that high-quality delivery is taking place that meets WMCA funding rules. Also, provide evidence as part of the performance reviews of their contribution to your Delivery Plan.

216. You must carry out a regular and substantial programme of quality-assurance checks on the adult education and training provided by delivery subcontractors, including visits at short notice and face-to-face interviews with staff and residents. The programme must:

- include whether the residents exist and are eligible
- involve direct observation of initial guidance, assessment, and delivery of learning programmes

217. The findings of your assurance checks must be consistent with your expectations and the delivery subcontractor's records.

218. Provider reports detailing the quality and outcomes of any subcontracted activity may be requested by the WMCA at any time and must be provided to the WMCA at all relevant WMCA Provider Performance Meetings for review.

219. The WMCA will monitor your subcontracting provision, and the quality of outcomes reviewed at:
- each in-year Provider Performance Review Meeting
  - end of year Annual Performance Review
220. WMCA will utilise the destination/outcome fields of the ILR and provider reports relating to the quality of all subcontracting provision, to assess the quality of both direct delivery and all subcontracted delivery.
221. It is a condition of funding that all outcomes for WMCA residents, either directly delivered by you or your subcontractors, are recorded on the ILR.

## **Second-level subcontracting**

222. You must not agree the use of any delivery subcontractor where this would require you to subcontract adult education and training to a second level. All your delivery subcontractors must be contracted directly by you and approved by the WMCA.

## **Reporting subcontracting arrangements**

223. WMCA Delivery Plans will contain details of your subcontractors and WMCA will use this information to create a list of subcontractors on your behalf.
224. The WMCA will publish annually a summary of provider subcontracting activity and information, including the names of subcontractors and the value of the WMCA adult resident subcontracted provision.
225. These details will be confirmed with at your WMCA performance monitoring meetings.

## **Subcontracting Fees and Charges**

226. The WMCA recognises that there is a need for WMCA-funded providers to charge a management fee for managing locally-based subcontracting arrangements. The fee structure established must protect high quality provision and positive outcomes for residents.

## **Distributing income between you and your delivery subcontractors**

227. You must regularly review your delivery subcontracting fees and your governing body or board of directors and your accounting officer must sign a charges policy for this.
228. You must publish your delivery subcontracting fees and charges policy on your website before entering into any subcontracting agreements for the 2019 to 2020 funding year.
229. As a minimum, you must include the following in your delivery subcontracting fees and charges policy:
- Your reason for subcontracting

- Your contribution to improving your and your delivery subcontractor's quality of teaching and learning
  - The typical percentage range of fees you retain to manage delivery subcontractors, and how you calculate this range
  - The support delivery subcontractors will receive in return for the fee you charge
  - If appropriate, the reason for any differences in fees or support provided to different delivery subcontractors
  - Payment terms between you and your delivery subcontractors, the timing of payments in relation to delivery and timescale for paying invoices and claims for funding received
  - How and when you communicate and discuss your policy with current and potential delivery subcontractors
  - Timing for policy review
  - Where you publish your policy
230. You must tell us the proposed level of funding for each of your subcontractors within your Delivery Plan.
231. All subcontracting activity must be approved by the WMCA prior to any delivery of any subcontracting provision.
232. Any changes to your subcontracting partners or increases in subcontract values must be agreed and approved in writing by the WMCA via your Compliance Officer.
233. The actual level of funding paid and retained for each of your delivery subcontractors in 2019/20 will be reviewed in-year at your Provider Performance Meetings and at your Annual Performance Review.
234. You must include the following in your published AEB delivery subcontractor fees and charges:
- Name of each delivery subcontractor
  - The UK Provider Reference Number of each delivery subcontractor
  - Contract start and end date for each delivery subcontractor
  - Funding WMCA have paid to you for AEB delivery for WMCA residents by each delivery subcontractor in that funding year
  - Funding you have paid to each delivery subcontractor for AEB delivery in that funding year
  - Funding you have retained in relation to each delivery subcontractor's AEB delivery for that funding year

- If appropriate, funding each delivery subcontractor has paid to you for services or support you have provided in connection with the subcontracted delivery