



Funding Agreement – Part 4

TEES VALLEY COMBINED AUTHORITY

Adult Education Budget and Level 3 FCFJ

**PROVIDER PERFORMANCE MANAGEMENT FRAMEWORK
2023/24**

July 2023 Version 1

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NOTE: FOR THE PURPOSE OF THIS DOCUMENT, THE TERM 'PROVIDER' MEANS THE PROVIDER AND ANY OTHER ORGANISATION PROVIDING ADULT EDUCATION, TRAINING OR SKILLS PROVISION THAT IS FUNDED BY TVCA.

Purpose

1. The purpose of this document is to set out the TVCA approach to the performance management and monitoring of the Skills Providers in receipt of skills funding including the Adult Education Budget and Level 3 FCFJ Adult Offer funding for the 2023/24 academic year.
2. This policy document will be applied alongside all other policy documents that are part of the provider Contract for Services/Grant Funding Agreements.

Performance Monitoring and Evaluation

3. It is our intention that through working with providers, the performance management framework will implement an approach that:
 - 3.1 is open, consistent, and transparent
 - 3.2 manages the associated provider risks including financial, quality and performance
 - 3.3 is focussed on outputs leading to outcomes supported by improved data from providers
 - 3.4 offers more flexibility and accountability to providers
 - 3.5 is less transactional – moving away from performance management points
 - 3.6 is more focussed on improving the strategic as well as operational relationship with providers continues to use the ILR to monitor actual delivery against planned delivery
4. TVCA will assign a Business Solutions Adviser (BSA) to each of our providers.
5. The role of the BSA is to establish an effective relationship with our delivery providers who will work with the providers to ensure successful implementation of the agreed delivery plans and in line with the associated policies.
6. The Business Solutions Manager (Skills) and the BSA will have on-going strategic conversations with individual skills providers to discuss the successes and challenges they face. The outcomes of these discussions will help inform future policies.
7. The Key functions of your BSA will include:
 - 7.1 developing a close working relationship with you, to support you to develop your skills provision to be more aligned to the skills needs across the Tees Valley

Monthly Performance Monitoring and Reporting

8. The TVCA will undertake monthly desk top reviews and performance monitoring activities which will include, but will not be restricted to:
 - 8.1 your year-to-date earnings against allocation
 - 8.2 your achievements and outcomes to-date

- 8.3 your actual delivery to-date (enrolments) and forecasted delivery (predicted) over the remaining funding period by provision type and sector subject area detailed within your agreed Delivery Plan
 - 8.4 the timeliness and accuracy of your data recording – Data Quality Reports.
 - 8.5 your Data Collection – the quality and accuracy, including progression and outcomes
 - 8.6 we will utilise a range of information and data sources, including the following:
 - 8.6.1 your Individualised Learning Record Return (ILR),
 - 8.6.2 national published data,
 - 8.6.3 your internal reports and analyses, and
 - 8.6.4 reporting from the TVCA AEB Intelligence Tool.
9. Monthly monitoring activities may also include meeting with you to discuss your performance if it is felt necessary. These meetings will be identified through the completion of a risk analysis activity of your progress and performance against your agreed Delivery Plan, and outcome targets at any point in time during the funding agreement period.
10. There will be an annual strategic and performance review which will determine the impact the Provider's skills delivery has had on local learners and businesses. Outcome and progression data will be utilised from the ILR, in addition to any relevant national and Provider data reporting to ascertain impact.
11. Providers must include TVCA funded provision in their own review of their performance over the funding year as part of their annual Self-Assessment Report and Quality Improvement Plan. There should be a section which specifically focuses on their TVCA Devolved provision. TVCA reserve the right to request these documents for review

Delivery Plans

12. The Combined Authority has set out its priorities for funding for the 2023/24 academic year:
- 12.1 Legal Entitlements (LE)
 - 12.2 Foundation Skills (FS)
 - 12.3 Skills (S)
 - 12.4 Bespoke Employer Led Skills Programmes (BELP)
 - 12.5 Learning for Inclusion (LFI)
 - 12.6 Progression into employment / apprenticeships
 - 12.7 Progression to next level learning
 - 12.8 In work progression
13. It is intended that this will be reviewed on an annual basis.
14. It is expected that all Providers will review and manage their performance against the agreed Delivery Plans throughout the year and ensure that they can respond to known and emerging local skills needs.

Changes to Delivery Plans

15. TVCA aims to give Providers as much flexibility within their agreed Delivery Plans so that you can respond to local employer skills needs.
16. Providers can adjust the volumes within the agreed priority sector subject areas, and within the overall maximum funding value that has been agreed for this Delivery Plan
17. Providers must discuss and agree any changes to their Delivery Plan with their BSA, particularly where you are seeking to:

- 17.1 Increase volumes to an existing and/or proposing to add any new Bespoke Employer Led Programme
- 17.2 make significant changes to their Deliver Plan allocations, including subcontracting.
- 17.3 increase/reduce/adjust provision types.
- 17.4 seeking to introduce a new sub-contractor or remove a sub-contractor.

18. If a Provider is unsure on any of the above, then they can seek clarification from their PRPO.

Delivery Assurance Plans

- 19. It is our intention to continue to develop effective working relationships with our delivery providers and we will aim to work with the providers to ensure successful implementation of the agreed delivery plans.
- 20. The Delivery Assurance Plan is an intervention tool that may be implemented with a Provider where TVCA has any concerns about a Providers performance and/or quality of provision.
- 21. The purpose of this Delivery Assurance Plan is to provide an opportunity for the Provider to present to TVCA a series of actions/interventions against a timescale that they will implement to improve the performance and/or quality of the provision.
- 22. The Delivery Assurance Plan will be agreed with TVCA and will form part of the on-going monitoring and performance activity between TVCA and the Provider.
- 23. Delivery Assurance Plan Process:
 - 23.1 TVCA identifies issues and raises these with TVCA Business Solutions Manager (Skills)
 - 23.2 TVCA approves Delivery Assurance Plan process to be implemented.
 - 23.3 Monthly reviews of the plan to be completed and updates provided to the Business Solutions Manager (Skills)
 - 23.4 Monthly review of performance would inform a decision to continue or suspend a Delivery Assurance Plan

Additional Skills Funding

- 24. It is expected that all Providers will review and manage their performance against the agreed Delivery Plans throughout the year and ensure that they can respond to known and emerging local skills needs.
- 25. TVCA will consider awarding additional skills funding to providers subject to:
 - 25.1 available funding
 - 25.2 provider performance and quality
 - 25.3 provider funding remaining to 31 July (including maximum achievement)
 - 25.4 evidence of skills needs
 - 25.5 evidence of outcomes to-date (employment and progression including in work progression)
- 26. Requests for additional funding will be considered in line with the criteria set out above and will be subject to an approval process which will include a final sign off by TVCA Chief Executive and Group Finance Director.
- 27. Providers who over deliver without prior agreement, do so at risk.

28. Where additional funding is approved, Providers will be issued with a variation to their funding agreement and all policies will apply to this funding including performance management and end of year reconciliation.

Payment and Reconciliation

29. TVCA will utilise the current ESFA Individualised Learning Record (ILR) to calculate and monitor a Provider's AEB and Level 3 FCFJ earnings against their Tees Valley allocations.
30. Payments from TVCA to the Provider will be made in line with the payment model policies set out below:

Payment Model 2023/24 academic year

31. All providers will continue to receive a monthly profile payment of 8% of allocation for August 2023 and September 2023, in advance of your delivery
32. We will move to actual payments October 2023
33. Payments from October onwards will be reconciled on a month-to-month basis, so payments will only be made if the August and September upfront payments have been earned
34. Payments will continue to the end of the academic year on the last working day of the month.
35. Additional payments to providers will also be made following your R13 mandatory ILR data return and a final payment based on your R14 mandatory ILR data.

Level 3 Free Courses for Jobs (FCFJ) Adult Offer

36. The Grant Funding to TVCA for the delivery of the Level 3 FCFJ Adult Offer is a ring-fenced budget from the Department of Education and is therefore subject to reconciliation conditions.
37. Any underspend of this ring-fenced budget will be reclaimed by DfE from TVCA. Therefore, in order to maximise this ring-fenced funding TVCA will utilise the current ESFA Individualised Learning Record (ILR) to calculate and monitor a Provider's Level 3 FCFJ earnings against their Tees Valley allocation. Payments from TVCA to the Provider will be made monthly, based on the ILR actuals and in arrears.
38. TVCA will not guarantee payment to a Provider for over delivery of their TVCA funding allocation unless this is agreed and approved during the funding agreement period. Providers must notify their designated BSA immediately if there is any possibility of a Provider earning either in excess or below the total TVCA AEB funding allocation.

Risk Management

39. TVCA will implement a risk based management process and will undertake and implement appropriate actions where deemed necessary.
40. TVCA will conduct risk assessments of Providers to include the following but not restricted to:
 - 40.1 Financial
 - 40.2 Quality - Ofsted, NTI, Minimum standards
 - 40.3 Performance
 - 40.4 Contract Compliance
 - 40.5 Audit and Assurance
 - 40.6 Sub-Contracting Management and Performance
 - 40.7 Health and Safety
 - 40.8 Safeguarding / Prevent/Equality and Diversity
 - 40.9 Complaints

- 40.10 Data quality and timely and accurate submissions.
- 40.11 Education Skills Funding Agency and Further Education Commissioner intervention

ILR and Data Collection

- 41. All Providers are required to return their AEB and Level 3 FCFJ ILR from August R01. Further detail are defined in the provider funding/contract agreement.
- 42. All Providers are required to submit their ILR on the 4 working day of the month as set out by the ESFA.
- 43. TVCA will receive the data in relation to the Provider submission by the 6 working day of the month from ESFA.
- 44. The TVCA will use the validated ILR data that it receives from the ESFA for each individual Provider that is funded to deliver AEB and Level 3 FCFJ provision.
- 45. The Provider must ensure that the appropriate deadlines are met and that the ILR returns are in line with the ILR specification.
- 46. The TVCA will provide a monthly ILR Data Quality Report (DQR) for each Provider which will identify any data inaccuracies/queries arising from the Provider ILR return.
- 47. The Provider must ensure that any inaccuracies/queries are corrected prior to the next Provider ILR submission date.
- 48. The Provider ILR DQRs will be used to inform the TVCA Provider risk assessment process and Provider performance.
- 49. In addition to the ILR, and where the ILR does not provide sufficient information, TVCA will require all Providers to submit additional data returns in line with the Provider Monitoring Cycle.
- 50. The Provider can now submit a Learner Support claim form on a monthly basis. All Providers are required to submit their claim form by the 4 working day of the month.
- 51. The TVCA will review all of the data submitted through this route and will provide feedback to the Providers at the appropriate Provider review meetings. The data returns are mandatory and where Providers fail to submit returns and/or the quality of the returns is not adequate this may result in a Delivery Assurance Plan being implemented with the Provider and risk to funding.
- 52. Providers will be required to submit their additional Outcome Data (*Job Outcomes/Progression/In Work Progression*), on the templates provided, to TVCA as follows:
 - December
 - April
 - October
- 53. It is expected that providers will continue to track and monitor their learner destination and outcome data throughout the academic year.
- 54. Where providers are seeking in year additional funding, you will be required to submit interim outcome data to support your request.
- 55. Providers should ensure the quality and accuracy of the data submitted as this will be used to inform how well the provider is achieving positive outcomes for Tees Valley learners.
- 56. Providers will be required to submit their Learner Support and Learning Support data, on the templates provided, to TVCA on a monthly basis from October 2023 to support their payment on actuals, with a final submission at R14.

Minimum Quality Standards for AEB Delivery

57. During 2023/24, TVCA will continue to use the ESFA overall qualification achievement rate (QAR) methodology to review Provider standards for adult provision.
58. TVCA will review ESFA published thresholds and tolerance levels annually to assess a Provider's effectiveness in delivery.
59. In addition to minimum standards, TVCA will also consider the following Minimum Quality Thresholds:
 - 59.1 an Ofsted inspection resulting in a *requires improvement* grade or *inadequate* grade for a Provider's leadership and management, teaching and learning and adult learning provision.
 - 59.2 learner survey outcomes which evidence poor levels of adult satisfaction levels
 - 59.3 FE Commissioner intervention due to poor financial health or quality performance and consequent notice to improve.
 - 59.3.1 Instigation of the Insolvency Regime.
 - 59.3.2 Instigation of a college or FE Commissioner led Structure and Prospects Appraisal (SPA).
 - 59.3.3 Fraud Investigation specifically related to adult learning.
 - 59.3.4 ESFA poor financial health reporting.
60. If any of the above are instigated during the funding agreement period either against the Provider or their subcontractor(s), TVCA will immediately review the Provider's funding agreement and may take one of the following actions:
61. Request a copy of the following documents (not an exhaustive list):
 - 61.1 Post Inspection Action Plan and progress updates
 - 61.2 Ofsted Monitoring Visit Feedback
 - 61.3 Quality Improvement Plan
 - 61.4 Delivery Assurance Plan
 - 61.5 Require the Provider to suspend the recruitment of adult learners funded through the TVCA AEB and/or cap any growth in the adult learning provision
 - 61.6 Reduce, cease, or recover payments to the Provider.

TVCA Intervention Process and Activities with External Partners

62. TVCA is committed to ensuring all Providers are delivering high quality provision for adults across Tees Valley and as part of the devolution deal TVCA will support and work in conjunction with the FE Commissioner, Ofsted and ESFA to deliver early intervention activities, to support Providers achieve positive outcomes for adult learners.
63. TVCA, in conjunction with the FE Commissioner, Ofsted and ESFA will jointly consider a series of risk indicators that result in 'targeted support' that will bring the Provider into scope for a diagnostic assessment.

Complaints, Whistleblowing, and Investigations Process

- 64. TVCA has a complaints and whistleblowing policy and process, and this is applicable to any adult learner, aged 19+, undertaking either an accredited or an unaccredited qualification funded by TVCA.
- 65. Before instigating the TVCA complaints or whistleblowing process, the learner must have fully exhausted the Provider's complaints and whistleblowing procedure.
- 66. TVCA will not re-investigate the original complaint or whistleblowing report about the Provider. TVCA will review whether the Provider has satisfactorily investigated the original complaint or whistleblowing report in line with its procedures.
- 67. TVCA will investigate complaints about:
 - 67.1 the quality, management or learner experience of education and training
 - 67.2 undue delay or non-compliance with published procedures
 - 67.3 poor administration by the Provider
 - 67.4 equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter through the court, tribunals, or other organisations).
 - 67.5 concerns about safeguarding will be escalated to the Provider's PRPO.
- 68. TVCA will **not** investigate complaints about:
 - 68.1 examination results or curriculum content
 - 68.2 individual employment issues including potential employment (such as recruitment) at colleges and Providers, which are a matter for the employer and the employee, where employment law provides appropriate remedies
 - 68.3 contractual disputes that arise from a contractual agreement between a Provider and a party providing services to the Provider or from someone who is not a learner
 - 68.4 matters that are the subject of legal action.

Funding and Policy Compliance

- 69. Throughout the year TVCA may conduct funding and compliance visits with providers which will be scheduled in advance and within a reasonable timeframe. The information gathered from these visits will be used to further inform the quality of delivery and measure the impact of your TVCA adult skills provision and funding on Tees Valley learners, and communities.
- 70. We may ask to see evidence related to:
 - 70.1 systems and mechanisms to ensure the health, safety and well-being of learners funded by TVCA
 - 70.2 documentation including learner evidence pack; learner survey outcomes and feedback; as well as relevant compliments and complaints for both you and your sub-contractors (for more details regarding subcontractor management, please see the TVCA 2023/24 Funding and Performance Management Rules).
 - 70.3 examples of other documentation we may undertake to review are:

- 70.3.1 your annual self-assessment report
- 70.3.2 external verifier reports
- 70.3.3 inspection outcomes including post inspection action plans, if appropriate
- 70.3.4 adult learner complaints you or TVCA have received if applicable

70.4 in addition to the above, TVCA may also request that you provide us with any additional internal reporting and data distributed to governors and senior managers. This will help inform us of your in-year performance against learner target outcomes and key organisational performance measures

Audit and Assurance

71. TVCA will procure the services of an external audit organisation to undertake funding assurance reviews on its behalf on an annual basis. The completion of the planned funding assurance reviews will provide TVCA with annual assurance over the proper use of public funding. Such planned funding assurance reviews are a component part of TVCA's overall assurance framework and are therefore a priority area of work.
72. TVCA contracted Auditor will agree the scope of the audit and assurance visit in advance and this may include AEB and Level 3 FCFJ. Where a provider is in receipt of additional skills funding from TVCA such as Skills Bootcamps, then this may also come into scope of the audit visit.
73. Funding assurance reviews will consist of, but will not be restricted to, the following core components:
 - 73.1 ILR Sample selection
 - 73.2 Producing PDSATs, review of reports and potential additional sample testing – including GLH delivered
 - 73.3 Learner level substantive testing
 - 73.4 Other Provider level testing i.e., subcontractors funding
 - 73.5 Completeness Testing
 - 73.6 Error categorisation and treatment of errors
 - 73.7 Checking the amendment of the ILR to correct errors
 - 73.8 Calculating the value of errors
 - 73.9 Reconciliation of reviewed ILR to final ILR.
74. If Auditors acting on behalf of TVCA identify any errors which they deem to be material, TVCA reserves the right at its absolute discretion to require the Provider to carry out a 100% audit of all or part of the Funded Activity and/or recover from the Provider an amount based on the error rate identified. The decision as to the amount of recovery under this Clause is final.
75. TVCA reserves the right to conduct any audit of activity carried out by the Provider directly or indirectly relating to its Funded Activity, including review of accounts and any related documentation.

76. The Provider must be aware of, and comply with, any audit or assurance framework issued by DfE [Post-16 audit code of practice FINAL DRAFT 26.02.19 \(publishing.service.gov.uk\)](#) as notified to it by TVCA.
77. Provider shall keep all Learner Records and all other documents relating to Funded Activity, including but not restricted to: -
- 77.1 Evidence of IAG
 - 77.2 Evidence of Initial Assessment
 - 77.3 Individual Learning Plan and any other associated learner documentation
 - 77.4 Evidence of learning (GLH)
 - 77.5 Evidence of learner outcomes and achievement
 - 77.6 Invoices
 - 77.7 Receipts
 - 77.8 Accounts and any other relevant documents relating to the expenditure of the funding for a period of at least six years following receipt of any monies to which they relate.
78. TVCA shall have the right to review, at TVCA's reasonable request, Providers accounts and records that relate to the expenditure of the funding and shall have the right to take copies of such accounts and records.
79. Providers shall provide TVCA with a copy of their annual accounts within six months (or such lesser period as TVCA may reasonably require) of the end of the relevant Financial Year in respect of each year in which funding is paid.
80. Providers shall comply with and facilitate TVCA's compliance with all statutory requirements regarding accounts, audit or examination of accounts, annual reports, and annual returns applicable to itself and TVCA.

Appendix 1: Performance Management Cycle

Funding Model	R01	R02	R03	R04	R05	R06	R07	R08	R09	R10	R11	R12	R13		R14		
Activity	Aug 23	Sept 23	Oct 23	Nov 23	Dec 23	Jan 24	Feb 24	Mar 24	Apr 24	May 24	Jun 24	July 24	Aug 24	Sept 24	Oct 24	Nov 24	Dec 24
Monthly Monitoring Activity		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
ILR Return Mandatory		R01 ILR Return	R02 ILR Return	R03 ILR Return	R04 ILR Return	R05 ILR Return	R06 ILR Return	R07 ILR Return	R08 ILR Return	R09 ILR Return	R10 ILR Return	R11 ILR Return	R12 ILR Return	R13 ILR Return	R14 ILR Return		
Reconciliation Activity			Payment Model Reconciliation												End of Year Reconciliation		
TVCA Payment to Provider	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
TVCA AEB Monthly Payment Profile (where applicable)	8%	8%	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actual	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals			
TVCA Cumulative Payment Profile (where applicable)	8%	16%	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals	Payment on Actuals			
Learner/Learning Support Claims		Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly	Monthly			

Outcome Data Collection Submissions					Submissio n for current academic year				Submission for current academic year				Submission for Previous Academic Year		Submissio n for Previous Academic Year		
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