

# Financial Memorandum between the TDA and the individual HEI

The model financial memorandum, between the TDA and the individual Higher Education Institution (HEI) we fund, sets out the terms and conditions for payment of TDA grants. The memorandum should be read in conjunction with Part 2 (Operational Manual) which gives conditions specific to the individual HEI, the funds available to the individual HEI and the educational provision the individual HEI has agreed in return for those funds. This document replaces all previous memoranda.

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# FINANCIAL MEMORANDUM BETWEEN THE TDA AND THE INDIVIDUAL HEI

## PART 1

### Introduction

1. The Master in Teaching and Learning (MTL) Provider is a collaborative group of schools and higher education institutions (HEIs) that has been commissioned by the Training and Development Agency for Schools (TDA) to jointly develop and deliver the MTL programme.
2. Contracts exist for the development phase between the TDA and the named 'Banker' HEI on behalf of each MTL Provider. The contract states that the TDA will establish grant funding arrangements with MTL Providers to facilitate funding for the delivery of the programme. Some providers have selected to retain a 'banker' HEI (this may be a different 'Banker' HEI to the one referred to in the development contract) to administer the funds on behalf of the MTL Provider as a whole whereas others have selected for funds to be transferred directly from the TDA to individual HEI members of the MTL Provider.
3. This memorandum sets out the terms and conditions for payment by the TDA to the governing body of the individual HEI which will be receiving and passporting the MTL funding. TDA payments are made out of funds made available by the Secretary of State for Children, Schools and Families.
4. In all respects the individual HEI will be acting within and on behalf of the MTL Provider.

### Collaboration with Schools

5. One of the principles of the MTL programme is that it will be delivered by schools and HEIs working collaboratively, as equal partners with joint responsibility for the delivery and quality of the programme.
6. This means that the individual HEI will have some specific responsibilities under this financial memorandum with respect to the schools it passports funds to.
7. These specific responsibilities are detailed in the relevant sections of this financial memorandum.
8. Because of the collaborative nature of the MTL Programme, agreements must be in place setting out the working relationships and responsibilities between the HEI and the schools and between the MTL Provider and other parties such as Local Authorities with which the MTL Provider works with to deliver the MTL programme.
9. A model collaboration agreement is set out in Annex B of Part 2 of the Financial Memorandum (the Operational Manual).

### Application

10. This memorandum is in two parts. Part 1 (this document) sets out the terms and conditions under which the Agency will pay funds to the individual HEI for the purpose of the activities set out in paragraph 16(a). Part 2 (The Operations Manual) gives any conditions specific to the individual HEI and will be issued separately each academic

year. References to this memorandum embrace both Part 1 and Part 2.

### Compliance with this financial memorandum

11. The responsibility for ensuring that the individual HEI complies with this memorandum and related guidance rests with the governing body of the individual HEI, overseen by the Provider's governing body
12. HEIs must comply with the HEFCE financial memorandum as HEFCE has lead accountability responsibility. The TDA and HEFCE have a memorandum of understanding which sets out a framework by which HEFCE and the TDA share information and provide assurance to each other on a regular basis. In any cases of conflict between this document and the HEFCE financial memorandum, the latter will take precedence.
13. In exercising its powers under this memorandum, the Agency will act reasonably at all times.

### **Responsibilities of the Agency**

14. Payments to the individual HEI by the Agency are for the purposes specifically set out in Part 2: It is to enable participating teachers to become consistently highly effective so that all children and young people realise their potential, regardless of their age, abilities or background. Enabling teachers to develop an open and questioning mindset through an enquiry and practice-based approach which will enable teachers to embrace change, challenge and opportunity. This takes place in the classroom, in school, in real time.<sup>1</sup>
15. Payments are subject to the provisions of the Acts, the Regulations, the terms and conditions set out in this memorandum and such terms and conditions as the Agency may from time to time think fit to impose. The payment of funds will be subject to such terms and conditions as the Agency may impose, including those set out in this memorandum. These terms and conditions will not relate to the application by the individual HEI of any funds not derived from the Agency. In determining what funds to allocate to the individual HEI, the Agency will have regard to the terms of the Acts and in particular to the desirability of not discouraging the individual HEI from maintaining and developing its funding from other sources.
16. The Chief Executive of the Agency is responsible and accountable to Parliament for ensuring that Agency funds received from the Secretary of State are used for the purposes for which they were given and comply with the conditions attached to them. The Chief Executive is also responsible for promoting good value for money through grants paid to providers and associated guidance.
17. For individual HEIs in receipt of Agency funds the Chief Executive of the Agency will seek to rely on the accountability arrangements operated by HEFCE under their Financial Memorandum with HEIs. This is set out in a memorandum of understanding between the TDA and HEFCE by which information is shared and assurance provided on a regular basis.
18. As part of the Agency's commitment to comply with its obligations under the Data Protection Act 1998 the Agency will regularly review the information it holds about the individual HEI to ensure that it is up to date, and to ensure the individual HEI only

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<sup>1</sup> Extract from the MTL National Framework

receives information that is relevant to the individual HEI's area of expertise and involvement in the delivery of Agency business objectives.

19. In support of the government agenda on sustainable development, the Agency may decide to contact the individual HEI by e-mail rather than in a paper based format. The Agency will only share data about the individual HEI with other education sector bodies and government departments that are relevant to the individual HEI's role.

## **Responsibilities of the provider**

### Stewardship

20. The governing body of the individual HEI, overseen by the Provider's governing body, is ultimately responsible for the proper stewardship of the funds paid to it by the Agency. Therefore, in respect of these funds, it shall comply with such administrative and financial practices applicable to the expenditure of public funds as are issued by the Agency.

### Designation of a Responsible Officer

21. The governing body shall designate a Responsible Officer to, in particular:
- (a) advise on the discharge of its responsibilities under this memorandum, and provide satisfaction that there is compliance with all the terms and conditions of the memorandum;
  - (b) ensure the efficient, economical and effective management and distribution of funds paid by the Agency to the individual HEI to support it, including capital assets, equipment, and staff;
  - (c) ensure the introduction and maintenance of sound financial controls in respect of funds paid by the Agency to the individual HEI.
  - (d) be responsible for signing returns, ensuring they are properly presented in the format specified by the Agency and;
  - (e) be responsible for the production of audited annual accounts (see paragraph 35).
22. The governing body shall notify the Agency when it designates such a Responsible Officer and of any change to the designation.

### Value for money

23. The individual HEI is responsible for delivering value for money from Agency funds. It should keep under review its arrangements for managing all the resources under its control, taking into account guidance on good practice issued from time to time by the Agency, the NAO or the Public Accounts Committee. Regard should be paid to guidance issued by HEFCE.

### Fraud and money laundering

24. Individual HEIs are required to comply with the HEFCE accountability and audit code of practice.

### Legislative requirements

25. Individual HEIs should have due regard for all legislative requirements placed upon them and their governing bodies. This includes, but is not restricted to the Freedom of Information Act 2000, the Data Protection Act 1998 and the current legislation surrounding gender, disability, age, religion, sexual orientation and other equal opportunities issues.

### Provision of information

26. The individual HEI shall provide the Agency with information on the number of students it has registered and such other information as the Agency may require for the purpose of the exercise of its function. This information shall be presented according to the required standards and shall be provided at the times and in the formats specified by the Agency.

27. The Agency will specify to the governing body in writing such deadlines, formats and other material matters relating to the provision of information that it requires. Specific terms and conditions may be contained (if applicable) in other parts to this memorandum or in a separate letter detailing the requirements.

28. The Agency will act reasonably in its requests for information and will have regard to the costs of providing this information and, where appropriate, to its confidentiality.

### Review of Unit of Funding (UoF)

29. The DCSF expects the Agency to monitor the cost of delivering the MTL programme and to review the Unit of Funding and its division. The first review will be carried out during the initial roll-out.

30. The individual HEI shall provide the Agency with any information it may require for the purpose of such a review. This will include the relevant information from the schools the individual HEI passports the MTL funding to.

31. The provision of information described above, will apply to reviews of UoF.

### Audited Annual Grant Report

32. The individual HEI already submits to the TDA an audited annual audit grant report at the times and in the format specified by the Agency. This report, that will now include MTL participants, provides information on the number of students registered at the institution and on TDA funded courses together with confirmation that the funds provided by the TDA were used only in accordance with the provision of the Education Act 1994 (as amended by the Education Act 2005 Act), the financial memorandum and all other terms and conditions that the TDA has set.

33. The individual HEI is required to collect and include in its audited annual grant report, as described above, identical information from the schools to which it has passported MTL funding to. The individual HEI is required to confirm that these funds from the TDA were used only in accordance with the provision of the Education Act 1994 (as amended by the Education Act 2005 Act), the financial memorandum and all other terms and conditions that the TDA has set.

## Insurance

34. The governing body shall be responsible for ensuring that all agreements with participating schools provide an obligation for that school to have adequate insurance cover.

## **Allocation and payment of funds**

### Allocation

35. The Agency will determine the amount of funds to be allocated to the individual HEI in any year and agree with the provider any variations to the amount of funds.
36. The Agency will notify the governing body, in writing, of the allocation of funds as soon as possible in advance of the academic year to which it relates. Details of the funding principles and processes can be found in the Financial Memorandum Part Two (the Operational Model).
37. The individual HEI will passport to the school(s), whose participants are enrolled with the individual HEI the amount of the funding that has been ring fenced for schools.
38. The individual HEI shall use any funds which have been provided for specific purposes solely for those purposes.
39. If any Agency funds which were provided for specific purposes are used for other purposes, the individual HEI must report such use as soon as it becomes aware of it.
40. The Agency will make payments to the individual HEI by BACS transfer only.

### Repayment and withholding of payments

41. If the individual HEI fails to comply with any conditions attached by the Agency to the payment of funds, the Agency reserves the right to require the individual HEI to repay all or part of those funds in line with the level of non-compliance.
42. The Chief Executive may suspend the payment of grant, either in whole or in part and for any appropriate period if, in his/her opinion, it is appropriate and reasonable to do so in order to safeguard public funds. Any suspension of a grant would be carried out in consultation with HEFCE.
43. Without prejudice, the Agency reserves the right to impose financial sanctions and/or withdraw funding from an individual HEI who is in breach of the terms and conditions of this memorandum.
44. Where information provided to the Agency is not provided to a specified deadline, is not in the reasonable opinion of the Agency of a satisfactory quality or is not in a specified format, the individual HEI shall be in breach of these terms and conditions. The Agency shall be entitled, in accordance with the terms of this paragraph, to require the individual HEI to remedy such breach. In this paragraph such a breach is referred to as a breach of an Information Obligation.
45. Action to address a breach of an Information Obligation will be carried out in consultation with HEFCE.
46. If the individual HEI fails to take the required steps (and in accordance with any

timetable) notified to it, the Agency shall be entitled to repayment of a sum not exceeding 1 per cent of the individual HEI's total grant from the Agency in respect of any given academic year in relation to each notified breach. The Agency shall not seek to invoke this right to repayment before issuing to the provider a Default Notice substantially in the form set out at paragraph 55.

47. The individual HEI may require the payment of interest, at 2 per cent over the Base Rate (or equivalent) specified from time to time by the Bank of England, and in respect of any period during which a sum due and payable to the Agency in accordance with these terms and conditions remains outstanding.

## **Assurance and monitoring**

### The HEFCE/TDA relationship

48. A memorandum of understanding exists between HEFCE and the Agency which sets out the relationship between the two bodies in terms of sharing information and providing assurance to each other. HEFCE has lead accountability for all HEIs and monitors their institutional and financial health as part of the overall accountability framework set out in the code of practice with HEIs. The results of the monitoring are shared with the Agency in accordance with the MOU.

### Audited annual accounts

49. The individual HEI shall keep proper accounting records in relation to Agency funds and shall prepare annual accounts in line with the academic year.
50. The individual HEI shall submit to the TDA audited annual accounts at the times and in the formats specified by the Agency.

### Access

51. The Agency may carry out audits (whether financial or otherwise) of information relevant to its functions. When it does so the individual HEI shall provide the Agency with access to all documents, books, records, files, notes, publications, assets and similar materials including such materials relevant to the provision of information. The Agency shall be entitled to require any member of the individual HEI to give an explanation of such materials when the Agency considers this necessary to enable the Agency and its agents to fulfil their financial and other functions and responsibilities.
52. Audits will only be carried out in consultation with HEFCE.
53. The Agency may carry out reviews designed to improve economy, efficiency, and effectiveness in the management of TDA funds or operation of the individual HEI in respect of TDA funds, including value for money studies. The Comptroller and Auditor General may also carry out value for money studies of the individual HEI..
54. The individual HEI shall ensure that any partners/schools allow the Agency and the NAO's Comptroller and Auditor General to inspect and carry out studies.

## **Other matters**

### Default notice

55. Before requiring repayment of funds pursuant to paragraph 27 of these terms and conditions, the Agency will issue to the individual HEI a Default Notice in a form which substantially conforms with the Default Notice below.

- (a) Under the terms and conditions of funding between the Agency and the individual HEI, the individual HEI is required to [set out relevant provision or provisions].
- (b) [Details of conduct constituting breach.]
- (c) By reason of the conduct described at paragraph 2 of this Notice the individual HEI is in breach of [the provision in paragraph 1 of this Notice.]
- (d) The Agency hereby gives notice to the individual HEI that it is in breach of the terms and conditions of its funding and requires the individual HEI to comply with the [provision or provisions] specified at paragraph 1 of this Notice.
- (e) The Agency further gives notice that unless the individual HEI complies with the relevant provision or provisions within 7 days of the date of this notice, the Agency will seek repayment of funds in accordance with the relevant terms and conditions of funding.
- (f) This notice is deemed served on the individual HEI when received by fax at the fax number by which the Agency normally communicates with the individual HEI's designated Responsible Officer. It will also be sent by first class post.

56. HEFCE will be informed of the default notice under the MoU.

### Revision

57. After consultation with providers and such bodies including HEFCE as the Agency considers appropriate, the Agency may from time to time revise, revoke or add to any of the terms or conditions in this memorandum. The individual HEI may itself make proposals to the Agency for revision, revocation or addition. The Agency may consult providers and such bodies as it considers appropriate if it intends to amend this memorandum.

### Interpretation

58. The rights, powers and remedies reserved to the Agency in this memorandum are in addition to any other rights, powers and remedies which it may have now or at any time in the future. No failure to exercise or delay in exercising, on the part of the Agency any of its rights, powers and remedies shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further or other exercise of the same or any other right, power or remedy.

59. Questions arising on the meaning of any provision in these terms and conditions shall be resolved by the Agency after such consultation as the Agency considers appropriate with individual HEIs as the Agency considers appropriate.



## **Definitions**

In his memorandum, the following definitions apply.

**academic year:**

the twelve months from 1 August to 31 July

**accounting period:**

that period covered by the provider's audited accounts, usually the twelve months from 1 August to 31 July

**Act:**

the Education Acts

1994 - establishing the Agency and setting out the Agency's remit

2005 – giving the Agency additional powers needed to tackle new responsibilities for the training and development of all who work in schools

**Agency:**

the Training and Development Agency for Schools and agents formally appointed and acting on the Agency's behalf

**BACS:**

bank automated clearing system

**capital expenditure:**

expenditure used to create or purchase a new asset, replace an existing asset, or refurbish or remodel an existing asset

**DCSF:**

Department for Children, Schools and Families.

**Exchequer funds:**

Government grant or grant-in-aid

**Exchequer interests:**

the contingent interest in the provider held by the Agency, arising in accordance with Agency guidance from the use of exchequer funds in the form of specific capital funds. Such interest may create an obligation upon the provider to repay grant, or recognise a liability, on the occurrence of certain exceptional circumstances.

**Fraud:** the term used to describe acts such as deception, corruption, bribery, forgery, concealment of facts, embezzlement, misappropriation, false representation and collusion.

**GAAP:**

general accepted accounting principles

**governing body:**

the university council, board of governors, lead school or other body ultimately responsible for the management and administration of the Provider's revenue and property, and the conduct of its affairs

**HEFCE:**

Higher Education Funding Council for England

**HEI:**

Higher Education Institution

**Institutional financial health:**

the HEI's financial health as assessed by HEFCE

**lead accountability:**

refers to lead accountability in all providers designated by the DCSF as non-higher educational institutions, except where the DCSF has assigned the lead accountability role to HEFCE.

**LSC:**

Learning and Skills Council

**MTL:**

Masters in Teaching and Learning

**month:**

calendar month

**MOU:**

Memorandum of understanding

**NAO:**

National Audit Office

**Non-HEI:**

an organisation which is not an HEI or not led by an HEI

**provider:**

an institution in receipt of a TDA grant

**Regulations:**

Statutory Instrument 2002 No. 508 The Education (Teacher Training Bursaries) (England) Regulations 2002

**Repayment:**

Either the withholding of Agency grant which would otherwise be due to the provider, or the repayment by the provider of an amount already received from the Agency, or a combination of the two.

**Responsible Officer:**

an individual, designated by the governing body, who has financial responsibility and accountability for the funds paid by the Agency

**Secretary of State:**

the Secretary of State for Education and Skills

TDA: the Training and Development Agency for Schools and agents formally appointed and acting on the Agency's behalf

**TDA:**

Training and Development Agency for Schools