

Model financial memorandum between the TDA and non-HEI providers

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

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FINANCIAL MEMORANDUM BETWEEN THE TDA AND x

PART 1

Introduction

1. This memorandum sets out the terms and conditions for payment by the Training and Development Agency for Schools (TDA) of funds to the governing body of [x]. TDA payments are made out of funds made available by the Secretary of State for Education.

Application

2. 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 Provider for the purpose of the activities set out in paragraph 5(a). Part 2 gives any conditions specific to the provider and will be issued separately at the start of each financial year. References to this memorandum embrace both Part 1 and Part 2.

Compliance with this financial memorandum

3. The responsibility for ensuring that the provider complies with this memorandum and related guidance rests with the governing body.
4. In exercising its powers under this memorandum, the Agency will act reasonably at all times.

Responsibilities of the Agency

5. Payments to the provider by the Agency are for the purposes specifically set out in Part 2 which should fall within:
 - (a) raising the standards of teaching and other activities carried out by the school workforce
 - promoting careers in the school workforce
 - improving the quality and efficiency of all routes in to the school workforce and
 - securing the involvement of schools in all courses and programmes for the initial training of school teachers
 - (b) the provision of facilities, and the carrying on of other activities which the governing body of the provider consider necessary or desirable to provide or carry on for the purpose of or in connection with activities within paragraph 5(a).
6. 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 provider of any funds not derived from the Agency. In determining what funds to allocate to the provider, the Agency will have regard to the terms of the Acts and in particular to the desirability of not discouraging the provider from maintaining and developing its funding from other sources.
7. 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.

8. As Lead Accounting Officer for non-HEIs the Chief Executive is also responsible for the regularity and propriety of expenditure from those funds. As part of these responsibilities the Chief Executive of the Agency is required to be satisfied that the governing body of the provider has appropriate arrangements for financial management and accounting in respect of the funds it receives from the Agency and that the uses to which the Agency's funds are put are consistent with the purpose for which they were given.
9. 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 provider to ensure that it is up to date, and to ensure the provider only receives information that is relevant to the provider's area of expertise and involvement in the delivery of Agency business objectives.
10. In support of the government agenda on sustainable development, the Agency may decide to contact the provider by e-mail rather than in a paper based format. The Agency will only share data about the provider with other education sector bodies and government departments that are relevant to the provider's role.

Responsibilities of the provider

Stewardship

11. The governing body of the provider shall be responsible for ensuring that funds from the Agency are used only for the purpose given and in accordance with the provisions of the Acts, this memorandum and any other terms and conditions that the Agency may from time to time prescribe.
12. The 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

13. 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 provider 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 provider;
 - (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 45).

14. The governing body shall notify the Agency when it designates such a Responsible Officer and of any change to the designation.

Financial management

15. The provider shall ensure that arrangements exist by establishing and maintaining a proper account with a UK clearing bank into which all funds received from the Agency must be paid, and from which all expenditure must be paid - whereby all the income and expenditure can be adequately documented.

Value for money

16. The provider 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.

Fraud and money laundering

17. Providers shall develop and maintain effective controls to prevent fraud and to ensure that if it does occur, it carries out a vigorous and prompt investigation. The governing body should take the appropriate legal and/or disciplinary action in all cases where that would be justified; and should make any necessary changes to systems and procedures to ensure that similar frauds will not happen again.

18. Any significant fraudulent use of Agency funds or attempted fraudulent use of Agency funds should be reported to the Agency at the earliest opportunity. Significant fraud is usually where one or more of the following apply:

- the sums of money involved are, or potentially are, in excess of £20,000
- the particulars of the fraud or irregularity are novel, unusual or complex
- there is likely to be public interest because of the nature of the fraud or irregularity, or the people involved.

Legislative requirements

19. Providers 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

20. The provider 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.

21. The provider as part of its monitoring and evaluation procedures, shall keep accurate and up to date records at all times. The Agency will be provided with information from these records and such other information as the Agency may require for the purpose of the

exercise of its functions.

22. 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.
23. 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.
24. The governing body shall notify, giving reasonable notice to, the Agency in writing of proposed major changes taking place which may impact on the provider's financial control systems.

Insurance

25. 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.
26. The policies should include professional indemnity and public liability insurance.

Allocation and payment of funds

Allocation

27. The Agency will determine the amount of funds to be allocated to the provider in any year and agree with the provider any variations to the amount of funds.
28. 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. The allocation letter will show a profile of payments. Where payment is due, it will be made within the first week of each month.
29. The provider shall use any funds which have been provided for specific purposes solely for those purposes.
30. If any Agency funds which were provided for specific purposes are used for other purposes, the provider must report such use as soon as it becomes aware of it.
31. The Agency will make payments to the provider by BACS transfer only.

Repayment and withholding of payments

32. If the provider fails to comply with any conditions attached by the Agency to the payment of funds, the Agency reserves the right to require the provider to repay all or part of those funds in line with the level of non-compliance.
33. 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.
34. Without prejudice, the Agency reserves the right to impose financial sanctions and/or

withdraw funding from a provider who is in breach of the terms and conditions of this memorandum.

35. 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 provider 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 provider to remedy such breach. In this paragraph such a breach is referred to as a breach of an Information Obligation.
36. Where the provider is in breach of an Information Obligation (see above) the following will apply:
- (a) The Agency will notify this breach to the provider in writing. The Agency shall consult with the provider and shall then notify the provider in writing of the steps which the Agency requires it to take to remedy the breach. A notification will normally include a timetable to be followed in remedying the breach.
 - (b) The Agency may carry out such investigations as it considers necessary and be entitled to recover the cost of such investigations by way of repayment to the Agency.
 - (c) The Agency may use its own reasonable estimates of data which it requires for the exercise of its functions. If the provider is overpaid in consequence of the Agency's use of estimates of data, the Agency shall be entitled to receive repayment of any excess grant paid plus interest on the excess sum.
37. If the provider 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 provider'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 53.
38. The Agency 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.

Exchequer interests

Fixed assets

39. The provider shall notify the Agency if it proposes to dispose of, or change the use of, any land, building or asset exceeding £2,000 in value which has been purchased wholly or in part with the funds, or which has been substantially improved by the use of such funds. Any proceeds exceeding £1,000 from the disposal of such an asset (or the appropriate portion thereof) shall be surrendered to the Agency. If it is proposed to change the use of an asset, the value of that asset in excess of £1,000, or the appropriate proportion thereof, shall be surrendered to the Agency. Unless otherwise agreed in writing by the Agency, the price shall reflect the current market value of the asset.
40. The provider shall ensure that all of the participating schools shall notify it of any proposals which fall within paragraph 39; and shall ensure that all such schools comply

with the provisions of that paragraph.

41. The Secretary of State has directed the Agency to be his/her agent in enforcing conditions similar to those above in relation to the disposal or change of use of assets acquired with grants paid by him/or her in relation to the provider.

Gifts, losses and ex gratia payments

42. The provider shall obtain the written consent of the Agency before taking such action as writing off losses or making or sanctioning gifts and ex gratia payments of a value of £200 or more in any one case from Agency funds.
43. The Responsible Officer shall obtain the written consent of the governing body before writing off losses or sanctioning gifts and ex gratia payments where the value in any one case is more than £200. The governing body shall keep a record of all losses and special payments and all gifts both received and given. The governing body shall notify the Agency, through its audited accounts, of the value of write-offs, gifts and ex gratia payments made or sanctioned during the financial year to which those accounts relate.

Resource management

44. The provider shall plan and conduct its financial affairs so that, taking one accounting period with another, its total expenditure is not greater than its income. In addition, the provider's bank account may not have an overdrawn balance; and borrowings or guarantees given by or for the provider against any Agency funding are prohibited, as are indemnities or charges upon assets bought wholly or partly with Agency funds.

Assurance and monitoring

Audited annual accounts

45. The provider shall keep proper accounting records in relation to Agency funds and shall prepare annual accounts in line with the academic year.
46. The Agency from time to time may make such requirements as it thinks fit, provided such requirements are in accordance with GAAP, as to the information to be contained in the accounts, the manner in which they are to be presented and the methods and principles according to which they are to be prepared.

Auditors

47. The provider must appoint external auditors to report to them on the accounts at the end of each financial year.
48. Any reports received from the auditors in relation to Agency funds either at year end or at any other time, shall also be copied to the Agency. Such reports may be management letters or systems recommendations.

Access

49. The Agency may carry out audits (whether financial or otherwise) of information relevant to its functions. When it does so the provider 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 provider 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.

50. The books and records of the provider, except where that provider is a school and maintained by a local authority, shall also be open to inspection by the NAO's Comptroller and Auditor General.
51. The Agency may carry out reviews designed to improve economy, efficiency, and effectiveness in the management of TDA funds or operation of the provider 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 provider.
52. The provider 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

53. Before requiring repayment of funds pursuant to paragraph 32 of these terms and conditions, the Agency will issue to the provider 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 provider, the provider is required to [set out relevant provision or provisions].
 - (b) [Details of conduct constituting breach.]
 - (c) By reason of the conduct described at paragraph (b) of this Notice the provider is in breach of [the provision in paragraph (a) of this Notice.]
 - (d) The Agency hereby gives notice to the provider that it is in breach of the terms and conditions of its funding and requires the provider to comply with the [provision or provisions] specified at paragraph (a) of this Notice.
 - (e) The Agency further gives notice that unless the provider 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 provider when received by fax at the fax number by which the Agency normally communicates with the provider's designated Responsible Officer. It will also be sent by first class post.

Revision

54. 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 provider 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

- 55. 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.
- 56. 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 providers as the Agency considers appropriate.
- 57. Repayments shall not be limited to payments received by the provider from the Agency in the financial year in respect of which a demand for repayment is made. If the Agency demands repayment, repayment shall be made within seven working days after such demand has been received by the governing body. In these terms and conditions, the words repay and cognate expressions shall be construed in accordance with this paragraph.

Effective date

- 58. This memorandum shall take effect from [xx]

Signature of the Responsible Officer of the provider.

- 59. The Responsible Officer of the provider should signify below their receipt of this financial memorandum, which sets out the terms and conditions for the payment by the Agency of funds to the provider out of funds made available by the Secretary of State for Education.

.....
Signature

.....
Name (block capital please)

.....
Date

The Responsible Officer must return **one** signed copy of this memorandum to the Finance Department, Training and Development Agency for Schools, Piccadilly Gate, Store Street, Manchester, M1 2WD.

Definitions

60. 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

DfES:

Department for Education and Skills

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 DfES as non-higher educational institutions, except where the DfES has assigned the lead accountability role to HEFCE.

LSC:

Learning and Skills Council

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