

Perth College UHI Board of Management

Governance Manual

Section 5 – Financial Memorandum



Financial Memorandum between University of the Highlands and Islands (Regional Strategic Body) and Perth College UHI (Assigned College)

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FINANCIAL MEMORANDUM

Introduction

Purpose of this document

1. This Financial Memorandum (FM) sets out the formal relationship between the University of the Highlands & Islands Regional Strategic Body and Perth College UHI (the College) and the requirements with which the College must comply in return for payment of grant by the Regional Strategic Body.
2. The FM also makes it a term and condition of grant from the Regional Strategic Body that Perth College UHI complies with the requirements of the Scottish Public Finance Manual (SPFM) and sets out the special actions and derogations, which have been agreed with the Scottish Ministers.

Definitions

3. University of the Highlands & Islands (Court) is the Regional Strategic Body, therefore any reference to Regional Strategic Body should be read as the University of the Highlands and Islands. It is noted that the University Court has delegated consideration of further education matters to the UHI FE Regional Board although ultimate accountability rests with the Court.
4. Chief Officer is defined as the Principal and Vice Chancellor of University of the Highlands and Islands.
5. Chief Executive Officer is defined as the College Principal.

Compliance with the Financial Memorandum

6. The responsibility for ensuring that the College complies with this FM rests with the governing body of the College. Questions about the interpretation of the FM may be raised with officers of the Regional Strategic Body.
7. Where the College's interpretation of the FM differs from that of the Regional Strategic Body, the Regional Strategic Body will seek, wherever possible, to reach agreement in a spirit of partnership with the College. However, the Regional Strategic Body's interpretation of this FM shall be final.

Effective date

8. This FM shall take effect from 1st January 2016.

Structure of this document

9. The FM is in four parts:
 - Part 1: defines the relationship between the Regional Strategic Body and the College and the responsibilities of each for the proper stewardship of public funds
 - Part 2: contains the general requirements that apply to the College
 - Part 3: contains additional requirements for incorporated colleges
 - Part 4: contains additional requirements for non-incorporated colleges.

Part 1: The relationship between the Regional Strategic Body and the College

Responsibilities of the Regional Strategic Body

1. The Regional Strategic Body has been established under the Further and Higher Education (Scotland) Act 2005, as amended by the Post-16 Education (Scotland) Act 2013, to support a regional approach to the planning and funding of college provision.
2. A Regional Strategic Body may make grants, loans or other payments to the governing bodies of colleges assigned to it for the provision of further education, higher education, research and related activities.
3. The legislation also confers certain duties and responsibilities on the Regional Strategic Body, including to exercise its functions with a view to securing coherent, high quality further and higher learning provision in the localities of its colleges, and monitoring the performance of its colleges.
4. Under the terms of the 2005 Act, the Regional Strategic Body may attach terms and conditions to the payment of grant made to its colleges. It is a term and condition of grant payment from the Regional Strategic Body that the governing body of the College and its designated officers comply with the requirements set out in this FM.

Accountability

5. The Regional Strategic Body is accountable to the Scottish Funding Council (SFC) for the use of public funds provided to it by SFC under the terms of the relevant legislation.
6. The Chief Officer of the Regional Strategic Body is responsible and accountable to the SFC for ensuring that funds provided to the Body are used for the purposes for which they have been given, and in ways that comply with the conditions attached to them. The Chief Officer has a personal responsibility for the propriety and regularity of the public finances provided to the Regional Strategic Body, and for ensuring that funding is used economically, efficiently and effectively.

Assurance

7. In order to meet his or her responsibilities, the Chief Officer of the Regional Strategic Body must be satisfied that the governing body of the College meets the requirements of this FM as a condition of receiving grant funding from the

Regional Strategic Body. The Regional Strategic Body will therefore seek financial management and other information from the College but, as far as possible, will rely on data and information that the College has produced to meet its own needs. If further information is required, the Regional Strategic Body will make a specific request in the context of its commitment to efficient regulation.

8. The Chief Executive Officer of the College shall provide a letter of representation (template will be provided) to the Chief Officer of the Regional Strategic Body on 30th April each year confirming that all requirements of the financial memorandum have been met. If any requirements cannot be confirmed, the reasons for non-compliance should be explained in writing by the Chief Executive Officer and actions to rectify the position agreed with the Chief Officer of the Regional Strategic Body.
9. Where the Regional Strategic Body has concerns or insufficient information to provide the assurance required, it will, in the first instance, seek to resolve matters with the Chief Executive Officer of the College. Where this has not proved possible, or in the case of significant concerns, the Chief Officer of the Regional Strategic Body will inform the Chair of the College governing body and the College's Chief Executive Officer in writing – and without delay – and will specify what action is required to address these concerns.
10. Where circumstances warrant it, the Regional Strategic Body's Chief Officer may suspend the payment of any or all grants to the College. The Regional Strategic Body may also use its powers to attend and address a meeting of the College governing body.

What the College can expect from the Regional Strategic Body

11. The Regional Strategic Body will conduct its affairs to high standards of corporate governance and public administration. It will maintain a complaints procedure and a separate appeals process for funding decisions.
12. The Regional Strategic Body will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with the College, and with other stakeholders, and will give or be prepared to give a public justification of its decisions.
13. In discharging its responsibilities, the Regional Strategic Body will seek to make regulation efficient and effective.

14. The Regional Strategic Body will seek at all times to work in a spirit of partnership with the College, including maintaining regular dialogue with the College and, where appropriate, its representative bodies. The shared aim of that partnership will be to work collaboratively to support the College deliver its strategic priorities and commitments in terms of the Regional Outcome Agreement with SFC, and to ensure that the Regional Strategic Body can deliver its regional priorities and undertake its statutory and other functions. The Regional Strategic Body recognises that the College may also undertake activities, and have to comply with legislation and regulation, which may fall outside the scope of this partnership.
15. The Regional Strategic Body will allocate and pay grant to the College in accordance with its current policies and procedures. The College will be consulted in advance and given reasonable notice of any significant change to these policies and procedures and of significant changes in overall funding levels.

The Regional Strategic Body's governance requirements of the College

16. The Regional Strategic Body must be able to rely on the whole system of governance, management and conduct of the College to safeguard all funds of the College deriving from the Regional Strategic Body and achieve the purposes for which those funds are provided.
17. The Regional Strategic Body requires the governing body of the College to comply with the principles of good governance set out in the Code of Good Governance for Scotland's Colleges. The Regional Strategic Body also requires the governing body of the College to ensure that:
 - Public funds are used in accordance with relevant legislation, the requirements of this FM and only for the purpose(s) for which they were given. Strategic, Capital or other grant funding must only be used for the purpose for which it is provided by the Regional Strategic Body
 - Subject to any legal requirement to observe confidentiality, the College will be open and transparent with the Regional Strategic Body and other stakeholders, and will give, or be prepared to give, a public justification of its decisions in relation to the use of public funds
 - The College strives to achieve value-for-money and is economical, efficient and effective in its use of public funding

- There is effective planning and delivery of the College's activities in accordance with its mission and its commitments to the Regional Outcome Agreement agreed with SFC
 - The College plans and manages its activities to remain sustainable and financially viable. A College is being managed on a sustainable basis if, year on year, it generates sufficient income to cover its costs and allow for maintenance of and investment in its infrastructure (physical, human and intellectual) at a level which enables it to maintain adaptive capacity necessary to meet future demands
 - The College has a sound system of internal management and control, including an audit committee, an effective internal audit service, and adequate procedures to prevent fraud or bribery
 - The College has an effective policy of risk management and risk management arrangements. The College complies with the Regional Strategic Body policy on risk management and risk management arrangements and shares information with the Regional Strategic Body in line with agreed protocol
 - The College has regular, timely, accurate and adequate information to monitor performance and account for the use of public funds. Such information will be made available to the Regional Strategic Body on request, as necessary, for the exercise of its functions and to gain assurance
 - The College is engaged actively in continuously enhancing the quality of its activities and involves the Regional Strategic Body, students and other stakeholders in these processes
 - The Regional Strategic Body Internal Audit Service has rights of access to all the College's premises, staff, records information and assets which it considers necessary to fulfill its role and responsibilities. Access will be arranged by prior agreement where possible
 - As well as being accountable directly to the governing body of the College for the proper conduct of the College's affairs, the Chief Executive Officer of the College is also accountable directly to the Regional Strategic Body's Chief Officer for the College's proper use of funds deriving from the Regional Strategic Body and its compliance with the requirements of this FM.
18. The Chief Executive Officer of the College must inform the Regional Strategic Body's Chief Officer without delay of any circumstance that is having, or is

likely to have, a significant adverse effect on the ability of the College to deliver its education programs, and other related activity, including delivery of its commitment to the Regional Outcome Agreement with SFC. He or she must also notify the Regional Strategic Body's Chief Officer of any serious weakness, such as a significant and immediate threat to the College's financial position, significant fraud or major accounting breakdown or any material non-compliance with any requirement of this FM.

19. The Regional Strategic Body reserves the right to investigate any of the matters notified above in order to establish the facts and to determine whether appropriate actions have been or are being taken to mitigate the risk of reoccurrence.

Revisions to the Financial Memorandum

20. The Regional Strategic Body will make changes to the requirements of this FM only after consulting the SFC, the College, its representative bodies and other relevant stakeholders.

Part 2: General requirements

1. Unless otherwise stated, the following general requirements apply to the College.

Financial Memorandum

2. It is a term and condition of grant payment from the Regional Strategic Body that the governing body of the College and its designated officers comply with the requirements set out in this FM.

Post-16 Education Body criteria

3. In undertaking its functions, the governing body of the College must keep under review and have in place satisfactory provision in relation to the list of matters set out in section 7 (2) of the 2005 Act, as amended by the Post-16 Education (Scotland) Act 2013.

Outcome Agreement

4. The College must deliver its commitment to the Regional Outcome Agreement with SFC as agreed with the Regional Strategic Body.

Payment of Strategic, Capital or other Grants

5. Where the Regional Strategic Body makes a payment to the College of a Strategic, Capital or other grant, the College will be required to comply with any additional requirements attached to the grant, as well as with this FM.

Changes to grant payments

6. If the SFC revises its payment of grant to the Regional Strategic Body, then the Regional Strategic Body reserves the right to make adjustments to its payment of grant to the College.

Repayment of grant

7. If the College fails to comply with the requirements of this FM, and any other specific terms and conditions attached to the payment of grant from the Regional Strategic Body, it may be required to repay the Regional Strategic Body any sums received from it and may be required to pay interest in respect of any period during which a sum due to the Regional Strategic Body in accordance with this or any other condition remains unpaid.
8. If, in the reasonable opinion of the Regional Strategic Body, any provision set out in this FM is not observed by the College, the Regional Strategic Body will be entitled, in respect of the payment of grant from the Regional Strategic Body:
 - In the case of funding by way of grant: to require immediate repayment of any and all grants or any part or parts of any grants at any time after the Regional Strategic Body becomes aware of such failure to observe (without prejudice to further demands until the whole of all sums made available by way of grant shall have been paid in full)
 - In the case of funding by way of loan (notwithstanding the terms of any agreement attached to the same): to require immediate repayment of the whole or part of each such loan at any time after the Regional Strategic Body becomes aware of such failure to observe (without prejudice to further demands until the whole of all sums made available by way of loan shall have been repaid in full).

Public sector pay policy

9. The College must have regard to public sector pay policy set by the Scottish Ministers.

Tuition fees

10. Where applicable, the College must charge student tuition fees at the levels set by the Scottish Ministers under either the Student Fees (Specification) (Scotland) Order 2006 or the Student Fees (Specification) (Scotland) Order 2011, whichever is applicable.¹ However:
- the tuition fee levels set by the Scottish Ministers under the student Fees (Specification) (Scotland) Order 2006 do not apply to students who do not have a relevant connection with the United Kingdom and Islands or are not excepted students within the meaning of the Education (Fees and Awards) (Scotland) Regulations 2007; and
 - The tuition fee levels set by the Scottish Ministers under the Student Fees (Specification) (Scotland) Order 2011 do not apply to students who do not have a relevant connection with Scotland or are not excepted students within the meaning of the Education (Fees) (Scotland) Regulations 2011, but any tuition fees charged to students from the rest of the United Kingdom must not exceed £9,000 per year².

¹ The level of tuition fees in 2014-15 for full-time undergraduate first degree students is £1,820. The same fee applies for PGDE and PGDipCE courses. A higher medical fee £2,895 applies only to continuing students. For full-time higher education courses at sub-degree level, a fee of £1,285 should be charged.

² At the moment, this £9,000 limit is not set by legislation but will be once an order is made under section 9D of the Further and Higher Education (Scotland) Act 2005 (as inserted by the Post-16 Education (Scotland) Act 2013.).

Disposal of exchequer funded assets

11. In disposing of exchequer funded assets, the College must in the first instance notify the Regional Strategic Body and follow the guidance in the relevant procedure notes on the SFC website as amended from time-to-time.

Student activity

12. Where appropriate, the College must provide data returns requested by the SFC to the standards specified and by the deadline set by the Regional Strategic Body. For further education activity the SFC's Student Activity Data Guidance for Colleges can be found on the SFC website.

Student support guidance

13. Where appropriate, the College's must follow SFC's Student Support Guidance.

European Social Funds

14. Where the College is in receipt of European Social Fund funding, it must follow SFC's ESF guidance and the Regional Strategic Body protocol.

Audit and accounting

15. The governing body must appoint and have in place an effective audit committee and ensure the establishment and maintenance of effective arrangements for the provision of internal and external audit. For incorporated colleges, Audit Scotland will appoint external auditors.
16. The Audit Committee must produce an annual report to the governing body of the College

Accounts direction

17. The College must follow the SFC's current Accounts Direction in the preparation of its annual financial statements and comply with the Regional Strategic Body requirements to facilitate the production of consolidated statutory accounts if required.

Internal audit

18. The College must have in place an effective internal audit service. The operation and conduct of the internal audit service should conform to the professional standards of the Chartered Institute of Internal Auditors. For

incorporated colleges, the operation and conduct of internal audit must comply with Public Sector Internal Audit Standards and, where relevant the SPFM.

19. The College must inform the Regional Strategic Body when an internal auditor is appointed and must inform the Regional Strategic Body immediately if the internal auditor is removed or departs before the end of their term of office.
20. The internal audit service must provide the governing body and senior management of the College with an objective assessment of adequacy and effectiveness of risk management, internal control, governance, and value-for-money.
21. The internal audit service must extend its review over all the financial and other management control systems, identified by the audit needs assessment process. It must cover all activities in which the College has a financial interest, including those not funded by the Regional Strategic Body. It must include review of controls – including investment procedures – that protect the College in its dealings with organisations, such as subsidiaries or associated companies, Arms-Length Foundations, students’ associations, and collaborative ventures or joint ventures with third parties.
22. The internal audit service will work with the Regional Strategic Body Internal Audit Service to coordinate audit planning and auditing activities in an effort to optimise audit assurance and minimise duplication.
23. The internal audit service where required by the Regional Strategic Body Internal Audit Service shall carry out audits of, but not limited to, Student statistical returns, Education Maintenance Allowances, Student Support Funds in accordance with the relevant guidance and report the findings and provide appropriate audit certificates to the Regional Strategic Body Internal Audit Service.
24. The internal auditor must produce an annual report for the governing body of the College on its activities during the year. The report must include an opinion on the adequacy and effectiveness of the College’s risk management, internal control, and governance. The report must be presented to the College’s audit committee and a copy sent to the Regional Strategic Body.
25. The College must not in any way limit the Regional Strategic Body access to assurance information and reports from the College’s Internal Audit Service.

Value for money

26. The College must have a strategy for reviewing systematically management's arrangements for securing value for money.
27. As part of its internal audit arrangements, the College must obtain a comprehensive appraisal of management's arrangements for achieving value for money. A copy of this appraisal should be included in the College's Internal Auditors Annual Report.

External Audit

28. The external auditor must be entitled to receive all notices of and other communications relating to any meeting of the governing body of the College which any member of the governing body is entitled to receive. They must also be entitled to attend any such meeting and to be heard at any meeting which they attend, on any part of the business which concerns them as auditors.
29. The external auditor must also be entitled to attend the meeting of the governing body of the College or other appropriate committee at which the College's annual report and financial statements are presented.

The external auditor is expected to attend, as a minimum, any meetings of the audit committee of the College where relevant matters are being considered, such as planned audit coverage, the audit report on the financial statements and the audit management letter. It is the responsibility of the secretary to the College audit committee to notify the external auditor of such meetings.

30. The external auditors, notwithstanding responsibilities to their clients, are expected to co-operate fully with any enquiries or routine monitoring that the Regional Strategic Body undertakes.
31. The College must not in any way limit the Regional Strategic Body's access to the College's external auditors.

Part 3: Additional requirements for incorporated colleges

1. The following additional requirements apply to incorporated colleges.

Scottish Public Finance Manual

2. The College must follow the requirements of the Scottish Public Finance Manual (SPFM) except where any special actions or derogations have been agreed with the Scottish Ministers.
3. The derogations and actions in the following paragraphs have been agreed with the Scottish Ministers and must be read in conjunction with the SPFM. Where reference is made to the SPFM, please refer to the relevant section for the detailed requirements.
4. In cases where the SPFM requires bodies to notify or request prior approval from the Scottish Government or SFC, the College must, in the first instance, contact the Regional Strategic Body.

Borrowing

5. All borrowing by the College will require the approval of the Scottish Ministers. Requests to borrow must be submitted, through the Regional Strategic Body, to the SFC in the first instance.

Cash management and banking

6. Grant payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year must be kept to the minimum level consistent with the efficient operation of the College and the level of funds required to meet any relevant liabilities at the year-end. Grant-in-aid not drawn down by the end of the financial year (31 March) shall lapse. Grant-in-aid must not be paid into any restricted reserve held by the College.
7. The Regional Strategic Body will work with individual incorporated colleges to ensure that there is an internal partnership solution so that it is not necessary for the College to use arms' length foundations to keep the funding available for use within the partnership.
8. Banking arrangements must ensure they offer best value and comply with the Banking section of the SPFM. The Scottish Ministers have approved a

derogation which delays the move to the Government Banking Service (GBS) to 2016-17 at the earliest.

9. The College may extend existing banking arrangements, provided they are not extended beyond Financial Year 2016-17. Any extension beyond Financial Year 2016-17 requires the agreement of the Scottish Ministers.
10. The College can operate bank overdraft facilities to assist it in managing the timing of income and expenditure through its bank account. Overdrafts should not be used as a means of increasing borrowing.

Contingent commitments

11. The College must seek, through the Regional Strategic Body, SFC's prior written consent if it intends to lend or give a guarantee, indemnity or letter of comfort. The value of the guarantee should be equal to the total contingent liability over the term of the guarantee. In all cases, the College must take steps to restrict the contingent liability to a minimum and should undertake a careful appraisal of the risks before accepting any contingent liability.
12. The College must also provide assurance that, in the event of the contingent liability arising, it can be met from within the College's own resource, or that appropriate insurance cover has been arranged.
13. However, SFC's written consent is not required for such arrangements if the indemnity is of a standard type contained in contracts and agreements for 'day-to-day' procurement of goods and services in the normal course of business.

Delegated financial limits and annual reporting requirements

14. The College's specific delegated financial limits are set out in **Appendix A**. The College must obtain, through the Regional Strategic Body, SFC's prior written approval before entering into any undertaking to incur any expenditure that falls outwith these delegations.
15. Prior SFC approval, through the Regional Strategic Body, must always be obtained before incurring expenditure for any purpose that is, or might be considered, novel, contentious or repercussive or which has or could have significant future cost implications.

16. What might be regarded as novel or contentious inevitably involves a degree of judgement. Novel would include proposed expenditure or financial arrangements of a sort not undertaken previously or which is not standard practice. Contentious would include proposed expenditure or financial arrangements where there was any doubt as to its regularity – for example, its compliance with relevant legislation or guidance – or its propriety – for example, compliance with the standards expected of publicly funded bodies or their officials. Proposed expenditure or financial arrangements that might be considered to be sensitive politically would also be regarded as contentious.
17. In addition, any frauds that are detected must be reported, through the Regional Strategic Body, to SFC as and when they occur.
18. The College must establish appropriate documented internal delegated authority arrangements consistent with the Delegated Authority section of the SPFM and this FM.
19. Appendix A also sets out the levels for certain categories of expenditure above which the College should report annually through the Regional Strategic Body to SFC. The report should describe the number of instances and total cost, by category of expenditure.

Duties to provide information on certain expenditure as required by The Public Services Reform (Scotland) Act 2010

20. As soon as is reasonably practicable after the end of each financial year, the College must publish a statement of any expenditure that it has incurred during that financial year on or in connection with the matters described below.
 - Public relations
 - Overseas travel,
 - Hospitality and entertainment,
 - External consultancy.
21. As soon as is reasonably practicable after the end of each financial year, the College must publish a statement specifying the amount, date, payee and subject-matter of any payment, relating to any of the matters listed above, made during that financial year which has a value in excess of £25,000.

Early departures of staff

22. The College must follow the requirements of the SPFM in determining settlement agreements, severance, early retirement and redundancy arrangements and payments. In addition, the College must have regard to the principles of good practice in managing early departures of staff contained in Audit Scotland's May 2013 report: Managing early departures from the Scottish public sector.
23. In line with the requirements of the SPFM, the College's severance scheme must be approved, through the Regional Strategic Body, by SFC. Provided a severance payment is within the parameters of a scheme, which has been approved by the SFC, there will be no need for the College to seek approval to the individual payment from SFC.
24. However, special severance payments in excess of £1,000 must be approved, through the Regional Strategic Body, by SFC, except where provision for such payments has been included in a severance scheme approved by SFC. (See Appendix A).

External business and management consultancy contracts

25. Any external consultancy contracts with a value of more than £100,000 must be approved in advance, through the Regional Strategic Body, by the SFC.

Impairments, provisions and write-offs

26. Assets must be recorded in the Balance Sheet at Depreciated Replacement Cost for Land and Buildings and at Historic Cost less depreciation for Equipment in accordance with the Financial Reporting Manual (FReM). Where an asset, including investments, suffers impairment, it is important that the prospective impairment and background is communicated, through the Regional Strategic Body, to the SFC at the earliest possible point in the financial year to determine the budget implications. Any significant movement in existing provisions or the creation of new provisions must be discussed, through the Regional Strategic Body, with the SFC.
27. Write-off of bad debt and/or losses score against resource Departmental Expenditure Limits (DEL).

Income generation

28. The College will be able to retain all commercial income, gifts, bequests or donations received. These funds will be in addition to any grant or funding the College receives from the Regional Strategic Body.

Insurance

29. The Scottish Ministers have agreed a derogation whereby colleges can extend their current commercial insurance arrangements for three years to 31 July 2018.

Investments

30. The College must not make any investments of a speculative nature without the prior written approval, through the Regional Strategic Body, of SFC.

Procurement and payment

31. The College's procurement processes must reflect the relevant guidance contained in the Advanced Procurement for Universities and Colleges, and relevant policy and advice issued by the Scottish Procurement Directorate. Procurement must be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the College's objectives consistent with the principles of Best Value, the highest professional standards and any legal requirement.
32. Any proposal to award a contract without competition (non-competitive action) must be approved, through the Regional Strategic Body, in advance by SFC. Specific delegated authority is given to award a contract without competition for £25,000 or less without advance approval. (See Appendix A)

Transfer of surplus funds to arms-length foundations

33. The Regional Strategic Body will exercise strategic management of resources across the region to ensure regional priorities are identified and supported. Transfers to arms' length foundations would therefore normally be allowed by the Regional Strategic Body. However, in exceptional circumstances, the College and the Regional Strategic Body may agree to an alternative arrangement.

Delegated financial limits and annual reporting requirements for incorporated colleges

Delegated financial limits

External Business and management consultancies	£100,000
Special severance payments	£1,000
Operating leases-non property	£250,000
Procurement non-competitive action	£25,000

Annual reporting requirements

Extra contractual payments	£5,000
Compensation payments	£5,000
Ex-gratia payments	£1,000
Claims waived or abandoned	£3,000
Write-off of bad debt	£3,000
Losses	£3,000
Overseas student irrecoverable loss	£6,000
Fraud loss	£5,000

