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Report

Higher education in further education colleges

Indirectly funded partnerships: codes of practice for franchise and consortia arrangements

HIGHER EDUCATION FUNDING COUNCIL FOR ENGLAND

Higher education in further education colleges

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Higher education in further education colleges

Indirectly funded partnerships: codes of practice for franchise and consortia arrangements

To	Heads of HEFCE-funded further education sector colleges Heads of HEFCE-funded higher education institutions
Of interest to those responsible for	Finance, funding of HE programmes, strategic planning
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Executive summary

Purpose

1. This document provides codes of practice for the two types of indirectly funded partnership entered into by higher education institutions (HEIs) and further education sector colleges (FECs): franchises and consortia.

Key points

2. The codes of practice set out guidance on the principles that should be reflected in the franchise and consortia agreements that underpin indirectly funded partnerships, together with introductory commentaries on their application. Institutions should reflect the relevant code in any new partnership arrangements that they are establishing.

3. Institutions wishing to establish a consortium for the purpose of distributing HEFCE funding require the agreement of HEFCE so that the funding arrangements can be implemented. Institutions remain free, of course, to establish whatever partnerships they wish for other purposes.

4. Institutions should also use the code of practice on franchising to review existing franchise arrangements.

5. We previously published the code of practice on franchise arrangements in November 1999 (HEFCE 99/63). The principles and guidance contained in that code are reprinted here to bring together in one document the codes of practice for both types of indirectly funded partnership.

6. Our web-site already includes examples of existing franchise agreements to illustrate the variety of good practice that partners have already established (www.hefce.ac.uk under 'Good Practice'). We will add examples of consortium agreements to the site.

Action required

7. Institutions should review existing indirectly funded franchise agreements to see how far they meet the principles of the franchise code. We will undertake a survey of consortia agreements and some franchise agreements in 2001-02.

Part 1: Introduction

8. These codes are intended to provide guidance to HEIs and FECs but are not intended to be either exhaustive or prescriptive. The circumstances of individual partnerships vary. So long as the end result is high-quality teaching and learning for students, it is for the partners to determine the precise arrangements that will best suit them. The arrangements must ensure that there are clear lines of accountability for the programmes and that they are financially viable. There exists a range of partnership and sub-contractual arrangements within the sector. Many of these do not concern funding or student numbers; such arrangements are not dealt with in this guidance. Those partnerships which do concern funding can be split into two broad types:

a. Franchises. The great majority of existing partnership arrangements are franchises, including many that institutions may refer to as consortia, such as those for the delivery of foundation degrees.

b. HEFCE-recognised funding consortia.

9. This document sets out the codes of practice for both types of arrangement and the features of each are described below. Broadly speaking, the distinction lies in who retains responsibility for the students. For franchise arrangements this responsibility remains with the institution receiving the HEFCE funding, whereas in an HEFCE-recognised funded consortium the responsibility rests with the institution delivering the provision. Institutions must have our explicit approval before entering into an HEFCE-recognised funding consortium. This is not the case with a franchise. For brevity, throughout this document we refer to HEFCE-recognised funding consortia as consortia, and to all other sub-contractual funding arrangements as franchises. We refer to consortia and franchises together as indirectly funded partnerships.

10. All indirectly funded partnerships should reflect the principles stated in the relevant codes in this document, although their implementation may vary. However, to maintain principles of accountability and transparency, there are certain points relating to the distribution of funds and the collection of data which we will insist upon before agreeing to fund a consortium.

11. From 1999-2000, the HEFCE has been responsible for funding all HNCs, HNDs, degree-level and postgraduate provision, whether delivered in HEIs or FECs. Some provision delivered in FECs is funded directly; some is funded indirectly. Indirect funding can be provided either through franchise partnerships with HEIs or through consortia arrangements with other FECs and HEIs. The codes of practice in this document concern both types of partnership.

Background

12. In November 1998 we issued a consultation paper (HEFCE 98/59 `Funding higher education in further education colleges') seeking views on our proposals for funding higher education (HE) provision in FECs. We also held a series of regional seminars for all HEFCE-funded FECs in October 1998, and a seminar with those HEIs that have the most indirectly

funded provision. Responses to the consultation and views expressed at the seminars informed two further publications: our guidance to FECs on the options for receiving funding for their HE programmes (HEFCE 99/36), and a draft code of practice on indirectly funded partnerships through franchise arrangements (HEFCE 99/37). Subsequently, we issued the final version of that code of practice, which took into account responses to the draft, in November 1999 (HEFCE 99/63).

13. In the guidance to colleges on funding options (HEFCE 99/36), we also proposed a new funding route, through consortia arrangements. There are many different types of consortium in the HE and further education (FE) sectors, established for a variety of purposes. The type of consortium described in this document enables HEFCE funding to be distributed between a group of HE providers. Consequently, we issued in January 2000 a draft code of practice for consortia funding arrangements, similar to that for indirectly funded franchise partnerships, to provide a framework for institutions engaged in drawing up such consortium agreements. In addition, we held regional seminars in March and July 2000 which gave institutions an opportunity to learn about consortia arrangements that are already well developed and to contribute to our developing thinking about the nature and operation of funding consortia.

14. Institutions' responses to the draft code on consortia were very positive. The main themes which ran through their responses were that:

- they appreciated the recognition that the code gives to FECs as key and equal partners with HEIs in delivering high quality HE provision

- they welcomed the transparency and accountability encouraged by the code

- they sought clarification of the respective responsibilities of institutions involved in franchise and in consortia arrangements

- they wanted clarification of the basis on which member institutions would initially contribute, and distribute between them, funding and student places

- there were circumstances where institutions should be able to be a member of more than one consortium

- partners should be responsible for monitoring their own agreements

- we should publish models of good practice in consortia agreements on our web-site

- we should carry out a survey of consortia agreements in 2001-02.

15. As we identify examples of consortia which appear to us to represent good or interesting practice, we intend to mount them on our web-site, as we have done for examples of partnership agreements for franchising relationships (see www.hefce.ac.uk under 'Good Practice').

16. At the request of institutions, we have brought together in this document the codes of practice for both types of indirectly funded partnership. Thus we have reprinted the code of practice on franchise arrangements which we first published in November 1999 (HEFCE 99/63). In addition, this document includes the final code of practice on consortia arrangements. Annex B summarises the respective responsibilities of institutions in the two types of indirectly funded partnership.

Principles

17. The following codes offer guidance to FECs and HEIs on the principles which they should reflect in franchise and consortia agreements, with a view to ensuring that the agreements are well understood, transparent and able to command the confidence of all the partners involved. These principles provide frameworks for promoting good practice in indirect funding relationships, whether through franchise or consortium arrangements. The best test of such an arrangement is whether the parties to the agreement believe that it helps them deliver high quality, accessible and cost-effective HE programmes, taking account of their individual circumstances and needs. Therefore, the principles are not intended to be exhaustive or prescriptive, and franchise partners and consortium members will want to determine the specific arrangements that suit their circumstances. As noted in paragraph 10 above however, there are certain requirements for funding consortia which we will insist upon, to maintain proper accountability and transparency of funding.

18. The codes are intended to complement the Quality Assurance Agency's (QAA's) 'Code of Practice for the assurance of academic quality and standards in higher education: section 2, collaborative provision'. There is deliberate overlap between the QAA's code and our codes for indirectly funded partnerships since they are addressing the same issue from different perspectives. The QAA's code concerns those aspects of collaborative arrangements relevant to quality and standards. The two codes here concern those aspects of particular sets of collaborative arrangements in England – indirect funding partnerships through franchises or consortia – which relate to value for money in securing high quality experience for students.

Differences between franchise and consortium arrangements

19. The responses to our previous publications and our consultations have shown that there remains some uncertainty about the difference between a consortium and a franchise arrangement. The primary difference relates to the respective responsibilities of the institutions concerned. These are summarised in Annex B. In a franchise partnership, the franchiser which receives HEFCE funds is, so far as we are concerned, fully responsible for the students, and accountable for all aspects of finance, administration and quality relating to those students. We see a consortium, by contrast, as a partnership in which each institution retains responsibility for its own students. A consortium recognised by HEFCE for funding purposes enables HEFCE grant to be distributed to a group of institutions through a single lead institution. In a consortium, the students remain attributed to the individual institutions that are members of the consortium. However, the HEFCE funding flows through a lead institution which then takes responsibility for co-ordinating, and accounting for, the allocation and use of funds. It is for members of the consortium to agree who should lead. Unlike a

franchise, each member of a consortium is responsible and accountable for the students it teaches.

20. This has an important consequence for quality assurance. In a franchise, the HEI that is the franchiser is responsible for quality. The QAA reviews the franchiser's provision, and if weaknesses are identified the franchiser is responsible for putting them right. We would not expect that to be the case in a consortium, because each consortium member is directly responsible for the quality of the learning opportunities of its HE programmes and the achievement of programme outcome standards, in accordance with any conditions that may be stipulated by the awarding body as part of its validation process. The QAA will carry out subject reviews of HE programmes offered by the consortium members in accordance with the arrangements set out in their consortium agreement and in accordance with the QAA's `Handbook for academic review', published in 2000.

21. It may well be that a consortium chooses to collaborate in practice in matters relating to quality assurance, and we hope that in many cases the HEI member of a consortium will be able to contribute particularly in that area. However, for all formal purposes, the responsibility and accountability would lie with the individual consortium member. If significant weaknesses are identified during QAA reviews, it will be for the relevant consortium member rather than the lead institution, to put them right; and any requirement for an action plan or ultimate withdrawal of funding will be pursued with that consortium member, not with the lead institution.

22. The preceding comments carry no implications for validating arrangements. The establishment of a funding consortium makes no difference to the continuation of existing validation arrangements, either between HEIs and FECs, or between HEIs or FECs and other accrediting or awarding institutions or bodies. The institution or body that makes awards and validates the relevant HE programmes (which may or may not also be a member of the consortium) retains responsibility for the academic standards of the awards made in its name. During the course of Institutional Review of a validating institution, the QAA will review the effectiveness of the arrangements made by it for the discharge of its awarding responsibilities in relation to any member of a consortium. The QAA's code of practice on collaborative provision (see paragraph 18 above) gives further details. Members of a consortium may wish, for their own purposes, to review the scope for rationalising validation arrangements where currently these involve a range of different validators, but that is a separate issue and is not considered in this document.

Franchise arrangements

23. We expect partners to reflect the franchise code of practice in any new franchising arrangement that they are establishing and to use it to review existing franchise arrangements.

24. We know that in existing franchise partnerships there is much good practice and a wide variety of models of agreements. We are grateful to institutions that have provided examples of existing agreements. These enable us to feed back to the sector the main features of some models already in operation. We have mounted

some examples on our web-site (www.hefce.ac.uk under ‘Good Practice’); we hope that institutions find these helpful when they draw up their own agreements.

Consortia arrangements

25. There are good reasons for encouraging consortia arrangements. They can offer advantages to students by providing a wider network of HE experience among the member institutions. They can simplify and allow flexibility in administration, and promote collaboration between HE providers in planning, particularly the local and sub-regional pattern of HE. Consortia also fulfil an important role in widening access for students. They can provide good opportunities for student progression, and they help to support diversity in the sector.

Features of a consortium

26. Where HE in FECs is to be funded through consortia arrangements, we would normally expect the consortia to be composed of clusters of colleges and HEIs in the same geographical area. We do not rule out consortia being formed on other bases – for example, consortia of specialist institutions in the same subject. FECs and HEIs are, of course, free to form whatever consortia they choose for non-funding purposes. For funding purposes, we would not wish to further complicate the funding and administrative arrangements for HE in FECs, so our presumption is that we would not allocate any HEFCE funding in respect of a college which is a member of more than one consortium.

27. We would expect each consortium to involve an HEI, unless it was unable to identify an HEI able and willing to benefit the consortium. The nature of that involvement could vary: the HEI could be the lead institution for the consortium; it could be a member of a consortium in which a college was the lead institution; or it could collaborate in providing, for example, progression routes, credit recognition for students and quality assurance support, for example, through validation. The objective in all cases would be to help link the consortium with the wider HE academic community.

28. The main features of a consortium arrangement are:

a. Each consortium will be composed of a cluster of colleges and generally an HEI.

b. Subject to the terms of any validation agreement, responsibility for assuring quality rests with the individual institution providing the programme.

c. The student numbers included in the consortium continue to belong to the individual institution, but the consortium contract provides for the redeployment of numbers by agreement between all the consortium members.

d. Each consortium must have a lead institution, which may be an HEI or an FEC.

e. The lead institution must already receive direct funding from the HEFCE.

f. Funding for the consortium flows through the lead institution.

g. The lead institution is responsible for co-ordinating and returning to the HEFCE the annual HESES or HEIFES student data surveys.

h. Each member of the consortium is responsible for its own data returns to the Higher Education Statistics Agency (HESA) or to the Further Education Funding Council (FEFC) through the Individual Student Record (ISR) as appropriate.

i. The HEFCE funding framework – including the tolerance band for funding, funding contract, application of holdback and migration, and the controls on student numbers – apply to the aggregate of all HE provision at the lead institution and the HE provision at the individual member institutions that falls within the consortium agreement (see HEFCE 00/07 ‘Funding higher education in England: how the HEFCE allocates its funds’ for explanation of the funding methodology).

Further advice about how consortia arrangements should be reflected in data returns to HEFCE will be included on our web-site (see www.hefce.ac.uk under ‘Questions’ on HEIFES and HESES).

Establishing a funding consortium arrangement

29. We will be prepared to allocate HEFCE funds to a consortium only where we are confident that there are robust arrangements for dispensing and accounting for those funds. In all cases there must be a contract between the members of the consortium setting out their respective obligations, responsibilities and understandings. We expect that contract to reflect the principles of the attached code, varying only for good and explained reasons. Beyond that, it is for each consortium to determine its own contract, taking whatever legal advice is necessary. We will not offer legal advice in that respect. We may refuse to fund a consortium if the contract appears to us to be unsatisfactory.

30. It may be necessary to distinguish between HEIs and FECs within a consortium in terms of reporting and accountability, because of the different scale of HEFCE-funded programmes involved. Where an HEI is also the lead institution for the consortium, we will aggregate the HEFCE-funded programmes of the FEC members with those of the HEI. For data collection purposes, we will want to know the distribution of student places between the consortium members, just as we currently ask for information about the distribution of franchised places. In all other respects we expect to treat the consortium, together with all the HE provision at the lead institution, as a single entity for funding purposes.

31. Where an HEI is not the lead institution, the position is different. Under the terms of our financial memorandum, we will still require a direct line of funding accountability to the HEI. We will therefore continue to assign funding and student numbers directly to, and require data and returns directly from that HEI, and the HEI will be expected to meet individually all the standard requirements of the funding method.

32. Where an HEI is not the lead institution, there may well be cases where the HEI wishes to be a member of the consortium in respect of part, but not all, of its provision. For example, it may wish to be a member in respect of its programmes which overlap in subject and level the programmes offered by the FECs, or which relate directly to them in terms of student

progression routes, in order to facilitate collaborative planning and administration of provision. The consortium model can accommodate that, so long as all parties are clear which programmes are within the consortium arrangement and which are outside it. Given their smaller volume of HE provision, we would not expect any FECs to divide up their HEFCE-funded programmes in this way. All of their HEFCE-funded programmes should be within the consortium, with the contract providing the mechanism for establishing any limitations on the redeployment of student numbers and funding between consortium members.

Funding implications of indirectly funded partnerships

33. FECs and HEIs establishing new partnerships, whether franchises or consortia, may wish to transfer existing directly funded programmes so that they become indirectly funded through the lead institution. This may be particularly appropriate for small pockets of HE provision in FECs. In some cases, the HEFCE funding attached to existing provision in FECs may be below the standard level of resource which we have calculated for each institution. Where this falls below the tolerance band of -5 per cent of the standard, we have agreed with the institutions concerned a migration plan which shows how we expect them to move within the tolerance band over a period, normally of four years, starting from 1999-2000. In such cases, where FECs' HE provision does not exceed 200 full-time equivalent (FTE) students, we will accelerate the migration period if the provision becomes indirectly funded.

34. We will apply a sliding scale as follows:

a. For FECs with fewer than 100 FTE HE students, we will increase funding to the tolerance band of the standard rate of funding immediately the transfer takes place.

b. For FECs with between 100 and 200 FTE HE students, we will increase funding to the tolerance band of the standard rate of funding over two years from when the transfer takes place, if that is less than the remaining period previously set for migration.

Monitoring

35. There will be no formal monitoring process of either franchise of consortia agreements. Instead we invite FECs and HEIs to adopt the principles of the code when they are establishing consortia agreements, and we shall want to see the full underpinning contract before we agree to start funding the consortium. We shall not regulate agreements beyond that.

36. Consortia funding arrangements are not obligatory, and they work best when all members find them an effective means of securing mutual advantage. Therefore, members should have discretion to decide what suits them best within the parameters set out in this document. We hope that these codes will help establish common expectations about the characteristics of effective franchises and consortia.

37. In 2001-02 we will carry out a survey to find out how effectively the franchise and consortium agreements are working, and how far they meet the terms of the respective codes. If the survey provides evidence of concern about the effectiveness of indirect funding partnerships or the operation of franchise or consortia agreements, we will consider at that stage what further steps would be appropriate.

Part 2: Code of practice for indirectly funded franchise partnerships

Introduction

1. This section is a code of practice for indirectly funded franchise partnerships entered into by HEIs and FECs.

2. An indirectly funded franchise partnership is one in which the student is attributed to the HEI for funding purposes but the course is wholly or partly delivered in the FEC. There are some exceptional cases where an HEI franchises provision to another HEI (for example, a university franchises to a college of higher education). This code also applies in such cases.

3. There are good reasons for maintaining and encouraging these franchise partnerships. They fulfil an important role in widening access for students. They can provide good opportunities for student progression. They offer a valuable vehicle for close collaboration between HEIs and FECs in meeting local and regional needs for coherent provision of HE. They also help to develop diversity in the sector. Where partnerships are already working well, we want to sustain them. We also want to encourage the formation of new partnerships.

4. On the other hand, some colleges have in the past experienced difficulties with their franchise partnerships. The HEFCE has a responsibility to ensure that the provision it funds offers students a comparable quality of HE experience, irrespective of where that provision is located or how it is organised. Higher education provided through FECs is becoming increasingly important in delivering the objective of widening access for students, and it will continue to grow. Therefore it becomes correspondingly important to ensure that indirect funding partnerships contribute to the achievement of high standards and value for money.

5. This code seeks to identify the characteristics of effective funding franchise partnerships. There is much good practice already in evidence. That practice now needs to become universal. The HEFCE expects HEIs and FECs to use the code as a basis for reviewing existing indirectly funded franchise partnerships, and for developing new franchise partnerships.

Seven principles of effective indirectly funded franchise partnerships

1. Indirectly funded franchise partnerships should have an explicit and agreed purpose. They should be a means of securing one or more objectives for both the HEI and the FEC, for example on widening access or regional collaboration.

6. The purpose should be defined in relation to both parties' missions and strategic plans.

7. Both parties should be clear why they have entered into the partnership.

8. It should be possible for each party to assess whether in practice it is achieving the purpose, which implies that each party should have considered what success criteria or performance indicators it would use.

2. HEIs and FECs should agree between them, and publish, a written statement of expectations and obligations of both sides.

9. The statement should be a formal written agreement. It should be drawn up by means of an agreed and explicit procedure, involving all those in both the HEI and the college who will have a significant part to play in implementing it. The agreement should be approved by the Senate or equivalent academic body of the HEI, and signed by senior managers from both the HEI and the college.

10. It should be:

- comprehensive
- cross-referenced to other related documents
- available to staff, students and anyone else with an interest. There may be elements which both parties agree should be kept confidential (notably anything which would risk prejudicing commercial or management interests); these should be very much the exception.

3. The arrangements described in the agreement should:

- **be transparent**
- **provide stability for students and institutions**
- **specify the arrangements for managing the franchising agreement**
- **specify the respective responsibilities of the HEI and the FEC**
- **specify the financial basis of the agreement**
- **specify the procedures for the HEI to remove student numbers from the FEC for redeployment elsewhere.**

11. The agreement document should state:

a. The duration of the agreement. Franchising agreements can be of any duration; from one or two years to provide a specific course, through to long-term association between the HEI and the FEC across a range of activities. So the duration will depend on purpose and circumstances.

b. Action to be taken if either party is not meeting the terms of contract, and procedures for resolving disputes.

c. How, within both the HEI and the FEC, the operation of the agreement will be managed. Particularly in cases where the HEI enters into agreements with a number of FECs, there is likely to be value in a central unit to ensure effective and consistent management. Where responsibilities are delegated to departments of the HEI, it should be stated what those responsibilities are, and how the HEI will monitor its effectiveness in discharging the agreement.

12. The agreement should cover the following:

- designated responsibilities

- finances
- reassignment of student numbers.

Designated responsibilities

13. Each partner should be clear about their respective responsibilities:

- who is responsible for student recruitment, selection and admission?
- what support is provided for students, and by whom?
- who deals with complaints and appeals?
- who is responsible for staff recruitment and development?

Finances

14. For the duration of the agreement, the HEFCE will fund the student numbers at the standard rate for the relevant price band. Those students may also attract funding premiums (for example, those relating to widening participation) and Access Funds. The amount of money from within that income stream which the HEI retains to cover its contribution to the arrangements will differ in each partnership. The HEFCE will not prescribe a set proportion which must apply, but in all cases, both parties should be clear on:

   a. What is the total HEFCE funding, including premiums and Access Funds, allocated to the HEI in respect of those students.

   b. What part of that funding the HEI will retain.

   c. What that retained funding is intended to pay for, in terms of the HEI's overheads and services contributed to the partnership arrangements, with an indication of how that retention has been calculated.

15. It is not feasible to cost every aspect of a partnership agreement. Particularly in a long-term and wide-ranging association between HEI and FEC, there will be intangible and unquantifiable benefits. One of the advantages of indirect funding partnerships is that an HEI can undertake activities at marginal cost which would cost the FEC a great deal more to do on its own (for example, the various administrative requirements associated with HEFCE funding). There will be wider activities and facilities provided by the HEI whose contribution to the franchised provision cannot sensibly be costed. Nonetheless, both parties should be clear about how the total funding available for the franchised provision is being used.

16. Currently, most agreements operate by the HEI transferring to the FEC a net amount of funds, after deducting the amount it retains for the services it provides. An alternative model is a service level agreement whereby all the allocated funds flow through to the FEC, which then buys back agreed support services from the HEI.

17. There should be agreement on:

- how and when payments will be made, and the recording of transactions

- which party collects student fees
- what happens to funding when students fail to complete a course
- what happens if there are changes in public funding.

18. The students contracted by the HEI to the FEC will be included within the HEI's total HEFCE-funded student numbers when calculating any grant allocations for special funding initiatives which are based on a student-number related formula. Non-formula project and special programme funding received by HEIs can also cover relevant activity in the FEC. The partnership agreement should set out how the HEI and FEC will determine what element of any special funding allocations from the HEFCE is attributable to the programmes delivered in the FEC.

Reassignment of student numbers

19. For the duration of the partnership agreement, so far as the HEFCE is concerned, the student numbers belong to the HEI. The HEI must have reasonable discretion to move numbers around. It is one of the advantages of franchising for FECs that it gives flexibility to re-deploy numbers within a larger student total so as to reflect fluctuations in recruitment. This can help ensure that penalties do not apply for over- or under-recruitment to specific FEC courses, as they would if the college were directly funded by the HEFCE. That flexibility needs to be retained.

20. Flexibility needs to be exercised by agreement between the HEI and the FEC, so that the FEC is not surprised by a sudden and unilateral decision to re-deploy, with consequent disruption for students and possible reduction in the local accessibility of provision.

21. The partnership agreement therefore should state in what circumstances numbers may be re-deployed from the FEC; and the procedures for agreeing such redeployment. This should include arrangements for ensuring that existing students are able to complete their course of study.

22. The agreement should also state what happens to the student numbers at the end of the agreement period; in particular, whether on expiry they are attributed to the FEC or to the HEI. For the duration of a partnership agreement, the franchised student numbers must be within the HEI's total. If the FEC also has its own numbers, there is nothing to prevent it reassigning them to the HEI for incorporation within the HEI's student number total for the duration of the agreement, with those numbers then reverting to the FEC at the end of the agreement. However, the HEFCE's consent will be required for any such transfers between institutions.

4. The agreement should state how the HEI and the FEC will work together, and in particular state the arrangements:
• for students at the FEC to have access to resources and facilities of the HEI
• for students at the FEC to progress on to higher level provision directly provided by the HEI
• for staff of the FEC and the HEI to work together.

23. An objective of all indirect funding agreements should be to ensure good quality and high standards of provision for students, and effective partnership between the institutions. There is no single right way of doing it: the method will depend on circumstances. In all cases, however, the arrangements should be published for the students and staff concerned.

24. Indirect funding partnerships can provide opportunities to broaden and enrich the experience of students on the courses involved. The areas which may be considered in terms of student access to HEI facilities include:

- access to libraries and general resource centres
- access to equipment, facilities and resources specific to the subject area
- access to student union, welfare and social facilities and services.

25. Improved opportunities for student progression are a valuable feature of many franchising arrangements. The institutions should agree, and students should be told, what the opportunities are, including:

- what range of courses they may be able to progress to at the HEI
- whether such progression is automatic for FEC students who reach a specified level of attainment on the course provided at the college, or whether the HEI will apply a selection procedure
- the basis for calculating the 'credit' the student will get for successful completion of the FEC-provided course in terms of the point of entry to the HEI-provided course.

26. Opportunities for collaboration between staff are also a valuable feature of franchising, and may include:

- HEI staff contributing to the teaching of FEC provision
- joint staff training and development
- collaborative curriculum development
- involvement of FEC staff in research and development activity undertaken by HEI staff.

27. Although there is a greater likelihood of this sort of collaboration where the HEI and FEC are in close proximity, distance should not rule it out.

28. In many cases, HEIs have partnership arrangements with two or more FECs. There are major benefits if the FECs can work together collaboratively, as well as with the HEI, to achieve greater coherence and strategic planning on a local or regional basis.

5. The HEI should support the FEC in setting and maintaining expectations on quality and standards.

29. The HEI is responsible for the quality and standards of all programmes for which it receives HEFCE funding, in accordance with the QAA's code of practice on collaborative provision.

30. The agreement should state the respective responsibilities of the HEI and the FEC in undertaking quality assurance procedures.

31. The agreement should state what happens if provision is judged by the QAA to be of unacceptable quality, particularly if funding for that provision is withdrawn.

6. The partnership agreement should provide for the agreement, and its effectiveness, to be periodically reviewed.

32. The HEFCE expects the partners to the agreement to monitor its operation and effectiveness. They should hold regular reviews of the agreement and performance in carrying it out.

33. The HEI and the FEC should agree how often the review will take place, and the procedure for undertaking it, including reporting results to the governing bodies of both institutions.

34. The HEI and the FEC should have in place procedures which will allow them to assess whether and how far:

- the needs of the students are being met
- the conditions of the agreement are being met
- where relevant, students are gaining access to HEI facilities
- where relevant, students are progressing on to the HEI's directly provided courses.

35. Any changes in the partnership document should be made by mutual agreement and incorporated in revisions to the written statement.

7. Where an HEI or an FEC enters into more than one indirect funding relationship, they should state their objectives and how they will ensure coherence in that pattern of relationships.

36. No FEC should use any HEFCE funding to engage in 'serial indirect funding', where the HEI contracts with one college to deliver provision but that college subsequently sub-contracts the work to a second college.

37. Beyond that, the HEFCE will not limit the number of indirect funding franchise partnerships that an HEI or FEC should enter into using HEFCE funds: that will depend on circumstances, and is for the judgement of the HEI and FEC.

38. Nonetheless, the HEFCE expects HEIs or FECs with multiple partnership agreements to be able to:

a. Demonstrate that their indirectly funded partnerships have academic coherence and contribute to the quality of the student experience.

b. Explain the principles they are applying in choosing partners.

c. Explain, in the case of an HEI franchising provision in subjects which it does not directly provide, what quality assurance safeguards will apply, given that the HEI does not have its own subject expertise in that area.

Part 3: Code of practice for funding consortia

Introduction

1. This section is a code of practice for funding consortia entered into by FE sector colleges and higher education institutions.

2. It is for the member institutions to determine the purposes of the consortium. However, we expect it to be more than merely a funding mechanism, and to develop as a framework within which institutions can collaborate more widely.

3. Funding of consortia is a new feature of the HEFCE funding method. As consortia develop, they will need to ensure propriety, regularity and transparency in accounting for the use of public funds. In this code we have sought to address this requirement and to identify the characteristics of effective consortia. We expect FECs and HEIs to use the code as a basis for their consortia. We expect the consortia to observe the requirements of the code, summarised in the checklist at Annex A, and to have regard to all other parts of the code as a condition of funding. We will have regard to the code when deciding whether to fund or continue funding a consortium.

Quality review in funding consortia

4. A consortium recognised by HEFCE for funding purposes enables HEFCE grant to be distributed to a group of institutions through a single lead institution. In a consortium, the students remain attributed to the individual institutions that are members of the consortium. However, the HEFCE funding flows through a lead institution which then takes responsibility for co-ordinating, and accounting for, the allocation and use of funds. It is for members of the consortium to agree who should lead. The institution or body that makes awards and validates the relevant HE programmes (which may or may not also be a member of the consortium) retains responsibility for the academic standards of the awards made in its name. During the course of Institutional Review of a validating institution, the QAA will review the effectiveness of the arrangements made by it for the discharge of its awarding responsibilities in relation to any member of a consortium. The QAA `Code of practice for the assurance of academic quality and standards in higher education: section 2 collaborative provision' gives further details.

5. Each consortium member is directly responsible for the quality of the learning opportunities of its HE programmes and the achievement of programme outcome standards, in accordance with any conditions that may be stipulated by the awarding body as part of its validation process. The QAA will carry out subject reviews of HE programmes offered by the consortium members in accordance with the arrangements set out in their consortium agreement and in accordance with the QAA's `Handbook for academic review', published in 2000.

6. For each review, this will involve one of the two following models:

either

- the QAA will carry out discrete reviews in each member of the consortium offering the subject of review. Wherever possible, these reviews will be carried out within the same year

or

- the QAA will carry out one review of all the provision in the subject offered by the consortium.

7. Where discrete reviews are carried out, the QAA will prepare and publish separate reports, with separate summative judgements at the conclusion of each. The QAA will deal direct with each consortium member in arranging and conducting the review. Where all the provision in a subject is covered by one review, the QAA will prepare and publish a single report with a single summative judgement for each of the standard aspects. However, where there is significant variation in the quality or standards within the consortium, the narrative in the report published by the QAA will identify this. If significant weaknesses are identified in the provision of one or more consortium members, they will be clearly stated in the report. The institution(s) concerned must put them right and they will be responsible for any requirement for follow-up action. For example, the institution(s) in which the weak provision has been identified may be required to produce and implement an action plan for quality enhancement or their provision may be subject to re-review. The report will distinguish between the summative ratings assigned to the particular member or members where significant weaknesses are identified, and the summative ratings assigned to the rest of the provision covered by the review.

8. The choice between the two models in paragraph 6 above will be made by the QAA on a case by case basis. Consortia will be able to propose to the QAA which model they would prefer in responding to the QAA's `scope and preference' questionnaires which initiate subject reviews. The primary consideration will be the volume of activity to be covered: the smaller the aggregate FTE student total in the subject area among all consortium members the stronger the case for a single review. Other factors may also be relevant. They include:

- the extent of differentiation or overlap between the programmes of different consortium members: programmes which are markedly different in approach, level or content might indicate separate reviews

- the extent to which common systems applied across the consortium for quality management, staff development or other relevant factors: the greater the commonality, the stronger the case for a single review of all the provision in the subject.

Six principles of effective consortia

1. Consortia should have an explicit and agreed purpose. They should be a means of securing one or more objectives for both the FECs and the HEI, for example, on widening access, promoting progression or regional collaboration.

9. The purpose should be defined in relation to all consortium members' missions and strategic plans.

10. All members should be clear why they have entered into the consortium arrangement. The agreement should state the basis on which the consortium partners have been chosen.

11. It should be possible for each member to assess whether in practice the consortium is achieving the purpose, which implies that each member should have considered what success criteria or performance indicators it would use.

2. All members of the consortium should agree between them, and publish, a written statement of expectations, responsibilities and obligations of members individually and collectively.

12. The statement should be a formal written contract. It should be drawn up by means of an agreed and explicit procedure that involves all those in the member institutions that will have a significant part to play in implementing it. The contract should be approved by the senior academic body of each institution and subsequently signed by the accounting officer (that is, the vice-chancellor or principal of each member of the consortium).

13. It should be:

a. Comprehensive.

b. Cross-referenced to other related documents.

c. Available to staff, students and anyone else with an interest. There may be elements which all members agree should be kept confidential (notably anything which would risk prejudicing commercial or management interests); these should be very much the exception.

3. The arrangements described in the agreement should:

- **be transparent**
- **provide stability for students and institutions**
- **specify the arrangements for managing the consortium agreement**
- **specify the respective responsibilities of the lead institution and the other members**
- **specify the financial basis of the agreement**
- **specify the student numbers that each member initially contributes to the agreement**
- **specify the action to be taken if the HEFCE funding contract or the overall controls on student numbers is breached.**

14. The contract should state:

a. The duration of the agreement. The consortium agreement can be of any duration, though the presumption is that it will be a long-term association between member institutions, covering a range of activities. The duration will depend on the purpose and circumstances.

b. Action to be taken if any member of the consortium is not meeting the terms of contract, and procedures for resolving disputes.

c. How, within individual member institutions, the operation of the agreement will be managed. An office or central unit in the lead institution to ensure effective and consistent management is likely to be essential.

d. Where responsibilities are delegated to specific institutions or departments, the contract should state what those responsibilities are, and how the lead institution will monitor its effectiveness in discharging the agreement.

15. In all cases, the contract should explicitly assign to the lead institution a right to withhold funding from any consortium member that defaults on their obligations and responsibilities under the contract. The standard terms of the Financial Memorandum between the HEFCE and the institutions it funds would apply to the grant paid to the lead institution of the consortium. That includes the right of the HEFCE Chief Executive to suspend payment of grant where appropriate to safeguard public funds; the right to attach terms and conditions to the payment of grant after appropriate consultation; and the requirements to provide information (see HEFCE 00/25, particularly paragraphs 11, 15, 24-27 and 33).

16. For a consortium, the HEFCE would reserve the right to apply those standard powers under the Financial Memorandum to the grant paid to the lead institution if it considers that there are grounds for concluding that one or more members of the consortium is in default of its obligations or responsibilities, such that public funds are at risk. (This applies whether or not the lead institution is itself one of the members in default.) The consortium contract will then need to ensure that the lead institution can secure an appropriate response on the part of the consortium member or members concerned.

17. The agreement should cover the following:

- designated responsibilities
- finances
- student numbers.

Designated responsibilities

18. Each consortium member should be clear about their respective responsibilities. This includes each member's contribution to:

a. The areas of co-operation covered by the consortium.

b. The administrative base of the consortium.

Annex B summarises the respective responsibilities of the lead institution and the members of the consortium.

19. Each member of the consortium is directly responsible for assuring the quality of the learning opportunities of its own HE programmes, in accordance with any conditions that may be stipulated by the awarding body as part of its validation process. Each member will be subject to review by the QAA on the basis described above in paragraphs 4-8 of this section. The consortium agreement should state what happens if provision at any member institution is judged by the QAA to be failing or in need of significant improvement, particularly in the event of that funding being withdrawn[1]. It remains open to consortia to act collaboratively in relation to quality assurance and quality development if they wish. That does not detract from the formal responsibility of each member for the quality of the learning opportunities of its own programmes or of the awarding body for the academic standards of the award.

Finances

20. At the outset of the agreement, the HEFCE will transfer to the lead institution funding previously received by the member institutions for the provision which is included in the consortium. Where relevant, the Council will also be prepared to accelerate migration funding, on the basis described in Part 1, paragraphs 33 and 34. The HEFCE will provide each member of the consortium with a breakdown of the funding and the Maximum Student Number (MaSN) to be transferred from it to the lead institution. It will also provide the lead institution with these details in respect of each member. Thereafter, for the duration of the agreement, the HEFCE will calculate all grant and funding contracts, including MaSNs, on the basis of the aggregated data returns from the lead institution. The Council will fund any additional student places allocated to the consortium at the standard rates that apply for each bidding exercise. Those student places may also attract specific premiums, for example, those relating to widening participation.

21. The amount of money from within that income stream which the lead institution retains to cover its contribution to the arrangements will differ in each consortium. The HEFCE will not prescribe a set proportion which must apply, but in all cases the agreement should specify:

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[1] Current method: Quality is deemed to be unsatisfactory if any aspect receives a score of 1, and in need of significant improvement if three or more aspects receive a score of 2.

New method: The provision is deemed to be unacceptable if reviewers have no confidence in standards, or judge any aspect of the quality of learning opportunities as failing. Significant improvement would be needed if reviewers had only limited confidence in standards, or approved an aspect of the quality of learning opportunities whilst finding that improvements were needed to overcome weaknesses.

a. The total HEFCE funding, including both mainstream teaching grants and any other funds, and the MaSN being transferred to the lead institution in respect of those student places in the consortium, and how they have been calculated for each consortium member.

b. What part of those funds the lead institution will retain.

c. What that retained funding is intended to pay for, in terms of the lead institution's overheads and services contributed to the consortium, with an indication of how the amount retained has been calculated.

22. It is not feasible to cost every aspect of a consortium agreement. Particularly in a long-term and wide-ranging association between member institutions, there will be intangible and unquantifiable benefits. Nonetheless, all members should be clear about how the total funding available to the consortium is being used. One of the advantages of consortia is to secure economies of scale in undertaking activities which would cost the individual member institution more to do on its own.

23. Agreements could operate by the lead institution transferring to the consortium members a net amount of funds, after deducting the amount it retains for the services it provides. An alternative model for clarifying how the funding flows is a service level agreement, whereby all the allocated funds flow through from the lead institution to each consortium member, which then buys back agreed support services from the lead institution.

24. There should be agreement on:

a. How and when payments will be made, and the recording of transactions.

b. What happens to funding when students fail to complete a course.

c. What happens if there are changes in public funding.

25. Individual colleges within the consortium would not each have to stay within the HEFCE's standard +/-5 per cent tolerance band. The tolerance band would apply to the aggregate of all the HE provision of the lead institution and the HE provision offered through the individual members of the consortium, allowing colleges to balance under- and over-recruitment to individual programmes so as to stay within the tolerance band. There should be agreement between all the consortium members on how they will make adjustments if their aggregate provision falls outside the tolerance band, and how any consequential reductions in HEFCE funding or student numbers will be apportioned between members.

Student numbers

26. Each consortium member will have its own allocated student numbers, and the consortium will have flexibility to transfer them between member institutions. However, the aggregate student numbers of all the consortium members will be used to determine over- or under-recruitment for the purpose of meeting the controls on student numbers. A significant

advantage of consortia is that they give flexibility to re-deploy numbers within a larger student total, and can therefore absorb some fluctuations in recruitment.

27. The contractual agreement between members of the consortium will need to determine how student numbers will be distributed, and adjusted as necessary over time, between member institutions. The contract should state:

a. What HEFCE-funded student numbers each member contributes to the consortium.

b. The arrangements for re-deploying those numbers if one or more members does not recruit or retain its targeted number of students in a given year; and whether that redeployment is temporary or permanent.

c. What happens if one or more members over-recruits, without offsetting under-recruitment or retention in other members.

d. If the contract is time-limited, the basis on which numbers will be apportioned between members at the end of the contract, including arrangements for ensuring that existing students are able to complete their courses.

28. If one or more members of the consortium withdraws unilaterally before any agreed termination date for the whole consortium, there is no presumption that the HEFCE will agree to fund that college separately from the consortium.

29. For the provision covered by the consortium agreement, individual institutions will not be able to bid on their own for additional student numbers from the HEFCE, nor for any other special HEFCE funding programmes which are applicable. Instead, the lead institution will be able to bid on behalf of the consortium. As with direct funding for FECs, consortia will be eligible to bid for those HEFCE special funding programmes which, in broad terms, support developments related to programmes and students, rather than to the whole institution.

4. The agreement should state how the members of the consortium will work together, and in particular state any arrangements:

- **for students to progress on to higher level provision**
- **for staff to work together**
- **for students to have access to resources and facilities of the consortium members.**

30. Operationally, the main benefits of any consortium that the HEFCE funds will be administrative: to enable FE colleges with small volumes of HE provision to co-operate in meeting funding and operational requirements, and to secure the benefits of larger scale in managing recruitment. However, the HEFCE expects that consortia will also serve a wider purpose in the strategic planning, quality development and accessibility of programmes. An objective of all consortia agreements should be to ensure good quality and high standards of provision for students, and effective partnership between the institutions. There is no single

right way of achieving this: it will depend on circumstances. In all cases the arrangements should be published for the students and staff concerned.

31. Consortia arrangements can provide opportunities for members to work together to broaden and enrich the experience of students. These might include providing better student support arrangements, and giving access across the consortium to specified facilities, resources and services.

32. Consortia can also offer improved opportunities for student progression. Consortium members should agree, and students should be told, what the opportunities are, including:

a. The range of courses they may be able to progress on to at any institution which is a member of, or associated with, the consortium.

b. Whether such progression is automatic for students who reach a specified level of attainment on a course, or whether there will be a selection procedure.

c. The basis for calculating the 'credit' the student will get for successful completion of the initial programme, in terms of the point of entry to the course to which progression is sought.

33. Opportunities for collaboration between staff are another valuable feature of consortia, and may include:

a. Shared curriculum development and programme review.

b. Establishing common systems for managing, resourcing and ensuring the quality of the programmes.

c. Sharing resources, expertise and good practice in the delivery of programmes.

d. Joint staff training and development.

e. Encouraging scholarly activity among staff delivering the programmes.

f. Staff contributing to the teaching of other members' provision.

g. Involving FE college staff in research and development activity undertaken by HEI staff.

5. The consortium contract should provide for the contract, and its effectiveness, to be periodically reviewed.

34. The HEFCE expects members of the consortium to monitor its operation and effectiveness. They should hold regular reviews of the contract and of the performance in carrying it out.

35. The consortium members should agree how often the review will take place, and the procedure for undertaking it, including reporting of results to the governing bodies of member institutions.

36. The consortium members should have in place procedures which will allow them to assess whether and how far:

a. The needs of the students are being met.

b. The conditions of the agreement are being met.

c. Where relevant, students are gaining access to the facilities of member institutions.

d. Where relevant, students are progressing on to the HEI's courses.

37. Any changes in the contract should be made by mutual agreement. Contracts should state the procedures for resolving disputes, by arbitration or other means.

38. Contracts must contain provisions dealing with both the termination of membership of a consortium for one member, and winding up the consortium generally. The provisions should secure the expectations of students enrolled, or who have accepted places, during the existence of the consortium, in terms of progression, recognition of courses and the like. They should also cover the allocation of student numbers to the departing member or members.

6. For funding purposes an institution should enter into only one consortium agreement.

39. The HEFCE expects that institutions would be members of only one consortium and that normally this would be formed on a regional basis.

40. No member of a consortium should use any HEFCE funding to engage in `serial indirect funding', where the lead institution contracts with one institution to deliver provision, but that institution subsequently sub-contracts the work to a second institution.

41. A checklist of the requirements to cover and the terms to include in the consortium contract is attached at Annex A. This is intended as an aid to drafting a contract, and not as a replacement for the code.

Annex A

Checklist for consortium agreements

A consortium agreement should include:

a. A clause specifying the members of the consortium, and how institutions may be admitted to membership.

b. A statement of the purposes for which the consortium is established.

c. A statement of the responsibilities of each member in the consortium including the lead institution.

d. A mechanism for making binding decisions on matters connected with the purposes of the consortium.

e. A mechanism for determining and adjusting student numbers and funding between members of the consortium.

f. A mechanism for responding to changes in funding methodologies.

g. A right to withhold funding from any consortium member defaulting on any obligation in the agreement.

h. Provisions for the termination of individual membership and/or the agreement as a whole.

i. A clause dealing with the consequences of termination of individual membership of the consortium, and termination of the consortium itself. This clause must secure the rights of all students enrolled by, or who have accepted places at, institutions in the consortium to complete their planned studies. The clause must also deal with the allocation of individual student numbers to departing institutions, and provide that such allocation shall be subject to approval by the HEFCE.

j. Mechanisms for member institutions to assess the effectiveness of the consortium in meeting their individual objectives, and to review the working agreement.

k. A procedure for general amendments to the agreement.

l. A dispute resolution procedure, possibly including both less formal procedures and a formal clause providing for binding arbitration in place of court action.

m. Clauses dealing with the interpretation of the agreement, force majeure, the service of notices and so on.

Annex B

Indirectly funded partnerships: institutions' responsibilities

Issue	Responsibility under consortium funding arrangement	Responsibility under franchise funding arrangement
Payments		
Distribution of recurrent funding from HEFCE	The lead institution receives all payments. All recurrent funding is calculated using the lead institution's funding and student numbers combined with those contributed to the consortium by the member institutions	The lead institution (franchiser) receives all payments. All recurrent funding is calculated using the total funding and student places involved in the franchise
Access/hardship funds	FEFC allocates funds for students at FECs HEFCE allocates funds for students at HEIs; this excludes HE students in the FE colleges in the consortium	FEFC allocates funds for students at FECs HEFCE allocates funds for students at HEIs; this includes students on franchised HE courses delivered through FECs
HE funding criteria		
Definition of fundable provision	The definition of fundable HE provision is that which applies to each individual member institution, and is described annually in HESES for HEIs and HEIFES for FECs	The definition of fundable HE provision is that which applies to the lead institution, and is described annually in HESES for HEIs and HEIFES for FECs
Data returns		
HESES/HEIFES return	All numbers involved in the consortium should be returned via the lead institution, together with its own numbers	All numbers involved in the franchise should be returned via the lead institution, together with those taught at the lead institution
Student data collected by HESA	HEIs who are members of a consortium should each return their own data. HEIs leading a consortium should **not** include data from the member institutions	Where an HEI leads a franchise, it should return all the data relating to the franchised places. Individual institutions that are franchisees should not report this provision in any returns that they may make
Staff data collected by HESA	Staff should be returned by the institution with whom	Staff should be returned by the institution with whom

	they have a contract of employment, irrespective of whom they teach	they have a contract of employment, irrespective of whom they teach
Finance data collected by HESA	Where the lead institution is an HEI it should return all income in respect of the consortium as funding council grants (Table 5 head 1 a i). Funds passed to member institutions should be recorded as expenditure (Table 6 head 7b). HEIs receiving funds from a lead institution should return these as other operating income (Table 5 head 4 a viii)	Where the franchiser is an HEI it should return all income in respect of the franchise as funding council grants (Table 5 head 1 a i). Funds passed to the franchisee should be recorded as expenditure (Table 6 head 1 against the relevant cost centre). HEIs receiving funds from a franchiser should return these as other operating income (Table 5 head 4 a viii)
ISR return	FECs who are members of a consortium should return their own data. FECs leading a consortium should not include data from the member institutions	Where an FEC leads a franchise, it should return all the data relating to the franchised places. Individual FECs that are franchisees should not report this provision in any returns that they may make
Reporting arrangements		
Performance indicators (PIs)	PIs will be published separately for each institution, and will not be included in those for the lead institution	PIs in respect of franchised-out provision will be reported under the lead institution
QAA review	Subject to the terms of any validation agreement, each consortium member is directly responsible for the quality of the learning opportunities of its HE programmes, for the achievement of standards, and for putting right any significant weaknesses.	The franchiser is directly responsible for the quality of the learning opportunities and the achievement of standards of the HE programmes it franchises out to another institution. It is also responsible for putting right any significant weaknesses
Monitoring		
Recurrent funding	Monitoring will be via the lead institution, which will also be responsible for dealing with questions relating to any members of	Monitoring will be via the lead institution, which will also be responsible for dealing with questions relating to the franchisee

	the consortium	
Audit	Audit arrangements will be carried out separately with each institution	Audit arrangements will be carried out via the lead institution