

### **Annex 3: Conditions of Grant on Regulated Fees**

1. In accordance with the Secretary of State's duty under Section 23 of the Higher Education Act 2004, the Secretary of State is hereby imposing a condition on this grant to HEFCE for the Academic Year 2014/15, requiring them in turn to impose a condition, in accordance with section 24, on financial support given to the governing body of a relevant institution.

2. The condition that HEFCE must impose on the governing body of every relevant institution is that:-

- a) where an institution has an approved plan ("the plan") by the Director for Fair Access ("the Director") applying to students studying in the academic year 2014/15, its governing body must secure that in respect of that academic year the fees payable by a qualifying person in connection with his undertaking a qualifying course do not exceed the limit provided for that course in the plan for that academic year, and,
- b) the governing body must comply with the general provisions of the plan;
- c) where an institution does not have an approved plan for a student cohort in the academic year 2014/15, its governing body must secure that in respect of that academic year the fees payable by a qualifying person in connection with his undertaking a qualifying course do not exceed the basic fee cap.

3. Fees has the meaning set out in Section 41 of the Higher Education Act 2004 and in the Education (Student Fees) (Exceptions) (England) Regulations 1999 (Statutory Instrument 1999 No. 2265), which continue to apply.

Qualifying courses and persons have the meaning prescribed in the Student Fees (Qualifying Courses and Persons) (England) Regulations 2007, as amended<sup>1</sup>.

4. For students whose full-time courses started before 1 September 2012, the basic and higher amounts for the 2014/15 Academic Year are specified in the Student Fees (Amounts) (England) Regulations 2004 as amended by the Student Fees (Basic and Higher Amounts) (Approved plans)(England)(Amendment) Regulations 2012. For these courses, the basic amount will be £1,380, or £680 where regulation 5 of the 2004 Regulations applies, and the higher amount, £3,465, or £1,725 where regulation 5 of the 2004 Regulations applies.

5. For students whose full-time courses started on or after 1 September 2012<sup>2</sup>, for

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<sup>1</sup> Statutory Instrument 2007/778, as amended by Statutory Instruments 2007/2263, 2008/1640, 2011/87 and 2012/1653.

<sup>2</sup> Certain students are treated differently and the details are set out in regulation 3 of the Higher Education (Higher Amount) (England) Regulations 2010 as amended by the Student Fees (Basic and Higher Amounts) (Approved Plans) (England)(Amendment) Regulations 2012, and regulation 3 of the Higher

the academic year 2014/15, the basic amount under the Higher Education (Basic Amount) (England) Regulations 2010 is £6,000. The higher amount under the Higher Education (Higher Amount) Regulations 2010 is £9,000.

6. For students whose full-time courses started on or after 1 September 2012<sup>3</sup>, for the academic year 2014/15, the basic amount under the Higher Education (Basic Amount) (England) Regulations 2010 as amended by the Education (Fees and Student Support)(Amendment) Regulations 2013 where Regulation 5(1)(a) applies is £3,000. The Higher Amount under the Higher Education (Higher Amount)(England) Regulations 2010 as amended by the Education (Fees and Student Support) (Amendment) Regulations 2013 where Regulation 5(1)(a) applies is £4,500.

7. For students whose full-time courses started on or after 1 September 2012<sup>4</sup>, for the academic year 2014/15, the basic amount under the Higher Education (Basic Amount) (England) Regulations 2010 as amended by the Education (Fees and Student Support)(Amendment) Regulations 2013 where Regulation 5(1)(b) applies is £1,200. The Higher Amount under the Higher Education (Higher Amount)(England) Regulations 2010 as amended by the Education (Fees and Student Support) (Amendment) Regulations 2013 where Regulation 5(1)(b) applies is £1,800.

8. For students whose full-time courses started on or after 1 September 2012<sup>5</sup>, for the academic year 2014/15, the basic amount under the Higher Education (Basic Amount) (England) Regulations 2010 as amended by the Education (Fees and Student Support)(Amendment) Regulations 2013 where Regulations 5 (1)(c) and 5(1)(d) apply is £900. The Higher Amount under the Higher Education (Higher Amount)(England) Regulations 2010 as amended by the Education (Fees and Student Support)(Amendment) Regulations 2013 where Regulations 5(1)(c) and 5(1)(d) apply is £1,350.

9. The basic and higher amounts for students with part-time courses starting on or after 1 September 2012<sup>6</sup>, £4,500 and £6,750 respectively, are specified by the Higher Education (Basic Amount) (England) Regulations 2010 as amended by the Student Fees (Basic and Higher Amounts)(Approved Plans)(England)(Amendment) Regulations 2012 and the Higher Education (Higher Amount) Regulations 2010 as amended by the Student Fees (Basic and Higher Amounts)(Approved Plans) (England)(Amendment) Regulations 2012.

#### *Financial requirements/penalties*

10. The condition that HEFCE must impose on the governing body of every relevant institution must include, in the event of a failure to comply with the condition, the financial requirements set out in paragraphs 11 to 14.

#### *Financial requirements/penalties to be imposed by the Director*

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Education (Basic Amount) (England) Regulations 2010 as amended by the Student Fees (Basic and Higher Amounts) (Approved Plans) (England)(Amendment) Regulations 2012.

3 see footnote 2

4 see footnote 2

5 see footnote 2

6 see footnote 2

11. Where there is a failure to comply with the condition under paragraph **2(a)**, the financial requirement in relation to fees charged which exceed those provided for in the plan but do not exceed the higher fee cap, will be that imposed by the Director in a direction made in accordance with the Student Fees (Approved Plans)(England) Regulations 2004 (“the Approved Plans Regulations”).

12. Where there is a failure to comply with the condition under paragraph **2(b)**, the financial requirement will be that imposed by the Director in a direction made in accordance with the Approved Plans Regulations.

*Financial requirements/penalties to be imposed by HEFCE*

13. Where there is a failure to comply with the condition under paragraph **2(a)**, and the fee payable exceeds the higher fee cap, the financial requirement will be that imposed under paragraph **11** and, in addition, the amount determined by HEFCE in accordance with the following principles:

- (a) an amount of the Teaching and Research Grant which in the opinion of HEFCE equals the amount each student on a course has been charged in excess of the relevant higher fee cap, multiplied by the number of students HEFCE believes to have been overcharged, and,
- (b) 10% of the amount calculated in sub-paragraph (a);
- (c) that the amount determined under sub-paragraphs (a) and (b) will be repaid by the institution to HEFCE, or withheld from grant, and retained until the institution has satisfied HEFCE that reasonable efforts have been made to repay the amount charged in excess of the higher fee cap, either to every qualifying person overcharged, or to the Student Loans Company, as the case may be. Once HEFCE is so satisfied by a date it determines, the amount retained, or a proportion of that amount, will be repaid or given in grant to the institution;
- (d) the following further principles also apply:
  - (i) where it appears to HEFCE that an institution does not intend to comply with the higher fee cap, an amount up to the maximum of the total Teaching and Research grant for the current or any future grant period may be withheld from grant,
  - (ii) where it appears to HEFCE that a breach of the higher fee cap is minor or accidental there will be no financial penalty additional to that set out in sub-paragraphs a-c, and
  - (iii) in any other circumstances, an amount in the current grant period HEFCE considers appropriate in view of the severity of the failure to comply with the higher fee cap, up to a maximum of £500,000 less any

amount already imposed by the Director under paragraph 11, to be repaid by the institution to HEFCE or withheld from grant;

- (e) an amount determined under sub-paragraph (d) must not exceed in any grant period the total amount received from HEFCE in that grant period, less any amount withheld under subparagraphs a-c and the amount of any financial requirement imposed by the Director in a direction. An amount determined under sub-paragraph (d) will not be paid or repaid to the institution.

14. Where there is a failure to comply with the condition under paragraph **2(c)**, the financial requirement will be the amount determined by HEFCE in accordance with the following principles;

- (a) an amount of the Teaching and Research Grant which in the opinion of HEFCE equals the amount each student on a course has been charged in excess of the basic fee cap, multiplied by the number of students the HEFCE believes to have been overcharged, and,
- (b) 10% of the amount calculated in sub-paragraph (a);
- (c) that the amount determined under sub-paragraphs (a) and (b) will be repaid by the institution to HEFCE, or withheld from grant, and retained until the institution has satisfied HEFCE that reasonable efforts have been made to repay the amount charged in excess of the basic fee cap, either to every qualifying person overcharged, or to the Student Loans Company, as the case may be. Once HEFCE is so satisfied by a date it determines, the amount retained, or a proportion of that amount, will be returned or given in grant to the institution;
- (d) the following further principles also apply:
  - (i) where it appears to HEFCE that an institution does not intend to comply with the basic fee cap, an amount up to the maximum of the total Teaching and Research grant for the current or any future grant period may be withheld from grant,
  - (ii) where it appears to HEFCE that a breach of the basic fee cap is minor or accidental there will be no financial penalty additional to that set out in sub-paragraphs a-c, and
  - (iii) in any other circumstances, an amount in the current grant period HEFCE considers appropriate in view of the severity of the failure to comply with the basic fee cap, up to a maximum of £500,000, to be repaid by the institution to HEFCE or withheld from grant.
- (e) An amount determined under sub-paragraph (d) must not

exceed in any grant period the total amount received from HEFCE in that grant period, less any amount withheld under subparagraphs a-c. An amount determined under subparagraph (d) will not be paid or repaid to the institution.