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Our ref:

Your ref:

11 January 2013

Dear Tim,

HIGHER EDUCATION FUNDING FOR 2013-14

1. We are writing with details of the allocations we will make to the Funding Council for 2013-14 under section 68 of the Further and Higher Education Act 1992 and the priorities we wish to set the Council for that year.
2. We are determined to promote and protect our universities by creating the financial and other incentives that enable successful, autonomous institutions to thrive. We value learning for its own sake and for the enormous social, cultural and economic benefits it brings. Through its teaching and research and its creation and exchange of knowledge, higher education supports economic performance and competitiveness and plays a pivotal role in increasing social mobility.
3. The Government's White Paper "Students at the heart of the system" has ushered in major reforms to higher education (HE). We are grateful for HEFCE's role in overseeing the implementation of a significant amount of system level change through the leadership provided to the sector in 2012-13. We welcome the Council's continuing support as the White Paper reforms are further embedded. The first year of transition to the new funding system has seen students exercising greater choice and greater dynamism in the way higher education providers operate. We welcome the work of the Council in implementing the Government's tariff and core-and-margin policies in relation to student number controls. We also welcome your work to enable the changes that are improving the information available to students and supporting their study choices, including the implementation of the Key Information Set in September.
4. We are grateful that at a time of such significant change, HEFCE provided a critical role in supporting those students affected by the UK Border Agency's decision to revoke London Metropolitan University's Highly Trusted Sponsor status. It is clear that the quick and clear action of HEFCE in leading the Taskforce and working with the University and other stakeholders has meant legitimate students have had the opportunity and support needed to continue their studies.

5. We are also grateful for HEFCE's ongoing work to provide lead oversight of the Regulatory Partnership Group as requested in our letter to you and to the Student Loans Company (SLC) on 13 June 2012. We expect HEFCE will continue to work in the national interest and with other sector bodies to ensure that the Government's reforms are delivered in a timely and efficient way. In particular, we would like HEFCE to work with the SLC and the sector to develop a new Financial Memorandum which protects students and taxpayers and ensures HEFCE grant funding is appropriately allocated and used for the purposes intended.

6. We welcome the advice the Council is providing on University Title and the process for applications from alternative providers. We want to bring greater diversity to the higher education sector and HEFCE's advice will help to deliver that aim. We will also look to HEFCE to help us develop a mechanism for controlling the number of students recruited by alternative providers as outlined in the recent BIS consultation. Subject to the outcome of the consultation, we ask HEFCE to take the lead in administering the new course designation system for alternative providers, provide advice to BIS and support us in monitoring the operation of new providers.

7. We are encouraged by the report commissioned by HEFCE "Review of Philanthropy in UK Higher Education" which shows an increase in the level of donations and philanthropic activity in institutions. We would like the Council to continue to work with the sector to support changes in institutional practice that further embed a culture of philanthropy. We would like all universities to develop institutional advancement plans – including fundraising, alumni relations and communications activities – based on a clear understanding of their own distinctiveness, goals and particular opportunities.

8. We requested an initial analysis of the impact of the wider reforms in the 2012-13 Grant Letter to HEFCE. We are grateful for this essential work to monitor the effect of changes and look forward to the full report in spring 2013. We would also appreciate HEFCE's continued monitoring as the sector goes into the second year of reforms and ask the Council to provide a further report in spring 2014, with any early conclusions to be reported in December 2013.

9. We need to understand better the HE experience of part-time and mature students. UUK are leading a review of these diverse groups of students, looking at all aspects of the student experience including marketing, recruitment, retention and degree outcomes.

Priorities

Teaching funding, quality and enhancing the student experience

10. Our letter to you of 28 June 2011 set-out our priorities for teaching funding over the period of the Spending Review. These remain government priorities. We welcome the review and subsequent changes the Council has made to the approach to targeting support at Strategically Important and Vulnerable Subjects (SIVS).

11. Our reforms provide the potential for increased investment in teaching. Taking together HEFCE recurrent grant for teaching and estimated fee income from students subject to regulated fees, the resource for teaching could rise from some £8bn in 2012-13 to almost £8.7bn in 2013-14 and almost £9.1bn in 2014-15. The sector must now respond by ensuring that every student receives the highest quality learning experience. The Council has already done significant work with the sector to support this ambition, for example through the work of the HE Academy and the strategic focus on improving teaching, assessment and feedback.

We look to the Council to continue its work with the sector to ensure that students have clear information about the experience they will receive from their institution and that information is placed in context. Work by the HE Academy, for example the recent report by Professor Graham Gibbs, challenges the sector to place a greater focus on measures of student engagement in their higher education experience. We are keen that you continue your work to enhance the academic experience of all students, including pursuing White Paper proposals around the publication of student evaluations of teaching and the qualifications and expertise of teaching staff.

12. Outward student mobility is an important factor in supporting the academic experience and in enhancing students' employability skills. The Council is already introducing changes to the future funding arrangements to support exchange programmes such as ERASMUS in which students spend a year abroad. We will look to HEFCE to play its part in supporting the future Student Mobility strategy.

13. We are grateful that HEFCE has responded to our request to undertake a programme of work to understand and manage the impact of changes on postgraduates, including the increased funding of more than £200 million for taught and research postgraduate programmes between 2012-13 and 2014-15. We would like HEFCE to continue to support postgraduate provision and review how it is impacted over the long-term.

14. Your work with the sector to implement White Paper commitments aimed at improving student information remains a key priority. The BIS ambition is that student charters will be available in all providers of higher education and we ask HEFCE to help make this happen. However, we agree with your advice not to make charters mandatory at this time. We also want to encourage you to improve access to information on how HEI income, including student fees, is spent as part of our wider transparency agenda. We welcome your excellent work in implementing the Key Information Set (KIS) but recognise that this is only a first step. We want HEFCE to use this as the basis for further improvements in the availability of public information. Your forthcoming review of all student and public information will be key to making further progress. David Willetts letter of 4 December provided more detail of the areas where we place particular priority on progress and pace. We are keen to keep in touch with this work as it develops and, to this end, it is helpful that you have invited BIS officials to join the steering group. We are also grateful for your continued contribution to making data more freely available, in support of the wider work of the Social Mobility Transparency Board.¹

15. Government has capped the maximum tuition fee HEIs can charge students at £9,000. Legislation also sets out the additional services and products for which HEIs can charge, over and above the tuition fee. Paragraph 35 below requires the Council to place a condition of grant on HEIs to ensure these requirements are met. Ministers expect the Council, acting in the student interest, rigorously to ensure that HEIs comply with their legal responsibilities in this area.

Science and Research

16. The ring fenced settlement for Science and Research resource means that we can continue to support research and related training throughout the spending review period. Funding allocations for HEFCE for research, knowledge exchange and research capital are set out in Annex 1 and will enable you to deliver our agenda for research and economic growth.

¹ The Social Mobility Transparency Board's aim is to match and share a much wider range of data on progression through education and into the labour market to underpin research, policies and initiatives to improve social mobility.

Research capital is not ring fenced. Research capital allocations are indicative for 2014-15. In October we asked the Council to administer £200 million additional research capital funding for the UK Research Partnership Investment Fund (UKRPIF), on top of the £100m announced in the Budget 2012. You should ensure that research projects supported must lever committed private co-investment amounting to at least £2 for every £1 from the Fund. I welcome the success you have already achieved which exceed this, and which will ensure that over £1bn, including £300m from the Fund, is invested in university research infrastructure and strategic research partnerships between universities, businesses and charities. By supporting major research infrastructure projects in universities and colleges undertaking world-leading research and stimulating university/business collaboration in key industries, it will further strengthen the contribution of higher education to economic growth.

17. The whole of the ring-fenced science and research resource funding has been allocated for the 4 years of the SR10 period. We will continue to look to you, together with the Research Councils and the UK Space Agency, to work co-operatively with BIS to manage any pressures within the Science and Research budget which might arise where it is neither appropriate nor reasonable to expect the pressure to be contained within the allocation of an individual partner organisation. We would expect such situations to be exceptional but they could, for example, arise in relation to the uncovered exposure to currency movements.

18. You should continue to take forward funding both for research and for support for the next generation of researchers, by selectively funding on the basis of only internationally excellent research, and protecting funding leveraged from external sources such as the charitable and business sectors.

19. You should continue to work with the Research Councils to ensure that the overall impact agenda is delivered coherently, and with Research Councils and the National Academies to address collectively issues such as health of disciplines and research careers.

Higher Education and Growth

20. We will also want HEFCE to focus the allocation of grant towards activities that support strategic growth aims. In September 2012 we launched the Industrial Strategy, setting out the Government's vision for building the competitive advantage of British industries. This long-term strategic plan for growth will put in place foundations to allow our companies to build and grow in future and ultimately rebalance the economy. Higher Education is both an enabler of growth in other sectors and a significant export sector in its own right. We welcome the work the Council is doing to develop an investment programme to support our growth ambitions including support for new and ongoing Catalyst projects.

21. Education exports are a significant contributor to the economy and international students studying for UK qualifications play a key part in this success. Government recognises the many benefits that international students bring to the UK. Not only do they fund their own places, providing our universities with a valuable source of income, but also benefit the UK's research base, support UK provision in some strategic and vulnerable subjects and bring diversity to campus life.

Government recognises the important contribution that international students make to the UK's economy and we want to continue to encourage talented students to come and study at our world-class academic institutions. We will continue to work across the centre of government to seek to ensure that the UK remains open to legitimate students.

22. University collaboration with industry provides a notable competitive advantage for the UK. The World Economic Forum evaluation now ranks the UK as second in the world, ahead of the USA for university-industry collaboration in research and development. It is important that we continue to build on this and that universities and business work ever more closely together. In that context, we welcome the Council's commitment to maintain HEIF at least £150m per year over the spending review period including £113m per year specifically included from within the Science and Research budget and provide additional support for high knowledge exchange performance if affordable. The HEIF reforms have provided greater incentives to HEIs to increase interaction with business and other users. The Government is also committed to provide incentives which enhance the economic and social impact of research. We welcome the progress that you have made in implementing the Research Excellence Framework 2014 to recognise impact.

Quality Assurance

23. We are grateful to HEFCE for consulting on the risk-based approach to quality assurance which we proposed in the White Paper. The outcome successfully balances better regulation with protecting the interests of students and supporting the enhancement of quality across the sector. We would like the Council to keep us informed of your work with QAA towards implementing the risk-based system from 2013/14.

Social Mobility

24. The Council will continue to liaise with OFFA and provide advice to the Department on the operation of National Scholarship Programme, including the allocation of funds to institutions and the guidance to institutions on how they will use these funds. This will include the detailed working on the in-year monitoring of the programme's performance and the work of the appointed external evaluators consulting with OFFA in regard to access agreement commitments where appropriate. As joint leaders with OFFA in developing the shared national strategy for access and student success you will make a key contribution to the deliberations of the expert group that is advising us on the future development of the Programme.

25. Widening access to Higher Education is a strategic priority for the Government and an important contribution to our social mobility. In November 2012 we wrote to you and to OFFA in response to your initial plans for developing a strategy for access and student success. Progress has been made in widening access to date; hence our priority is to inject pace and rigour to the next phase. We are grateful for your agreement to provide an interim report in mid January and we encourage you to keep BIS officials engaged in this work. Your initial assessment of how fit for purpose the current funding streams are in terms of clarity and incentives will be important. We would also welcome your advice on options for maximising the impact of funding on access and student opportunity, while recognising the limitations of the interim report. We remain supportive of your plans to undertake in-depth research and evaluation to inform the final strategy by autumn 2013.

Efficiency

26. Under the reformed HE system, students will legitimately want to understand what their fees pay for. This places the onus on institutions to provide clear information and to be able to demonstrate value for the fees charged. There is also a continued requirement for those in receipt of public funding to operate efficiently and deliver value for money. We expect to see quantifiable progress against the Diamond recommendations particularly improvements in collective procurement, benchmarking, energy use and asset utilisation in the sector. We ask the Council to continue to take account of the cross-government drive to deliver ever greater value for public money and ask HEFCE to promote and demonstrate ways in which the sector can deliver increased efficiency.

We expect the sector to continue to operate restraint in relation to staff pay. We would like the Council to identify and take advantage of future opportunities to deliver further efficiencies in the HE sector. We welcome the continued efficiencies that are being delivered under the University Modernisation Fund (UMF) through increased use of shared services in the sector. We look forward to seeing the initial BIS investment of £20m bear fruit, with greater efficiencies being delivered in 2013-14 and ask for the Council to provide continued support to successfully realise the projected savings of £124m in 2015-16

27. On research, you should deliver efficiency savings from Quality Related (QR) recurrent research funding of £73 million in 2013-14 and £104 million in 2014-15 to be reinvested within QR. You should continue to work with the Research Councils to ensure that institutions take forward actions recommended by the Wakeham review to reduce indirect costs associated with research and related postgraduate training. In achieving these efficiencies you should encourage HEIs to collaborate for example through greater sharing of research equipment and infrastructure.

Sustainability

28. We thank the Council for its activity which has contributed to the HE sector's good progress on sustainable development. In particular, by developing strategies and using the Revolving Green Fund to provide recoverable grants to help HEIs in England reduce emissions the Council has supported the sector to reduce carbon emissions. We look forward to the development of a new sustainable development framework that should seek to build on the achievements of universities and colleges and the enthusiasm of students and continue to support institutions in their efforts to improve their sustainability.

Equality and diversity

29. HEFCE's equality and diversity scheme identifies achievements but also the remaining challenges that the sector and HEFCE need to address. It highlights the lower percentage of men in the student population; the lower attainment rates of black and minority ethnic (BME) students; insufficient diversity of institutional governing bodies and the relatively low proportions of women, BME and disabled people in senior management positions. It is essential that universities continue to address these long standing issues and we look to the council to continue to work with the sector, including through the Equality Challenge Unit.

Funding and Student Numbers

30. We are grateful to the Council for implementing the tariff and core and margin policies. The dynamism that has been introduced has improved the chance of students getting into their preferred institution and widened the range of options available to meet the needs of different types of student.

31. We have highlighted how we want the Council to go further in 2013-14 in freeing up more places from student number controls by allowing unrestrained recruitment of students with A level grades ABB or similar. We would also like to see continued protection for strategically important and vulnerable subjects (SIVS) and for specialist institutions in the performing and creative arts.

32. As the funding reforms bed in it is important that we continue to learn lessons and work together to maximise student choice and support institutions to fill the places available. Given the pattern of recruitment in 2012/13, we are asking the Council to take the following approach for 2013/14. Firstly, we have the flexibility to apply student number controls less rigidly in 2013/14. You should therefore use your central estimate in reducing core numbers to take account of ABB or similar recruitment. In addition, when expanding the margin by up to a further 5,000 places, you do not need to make a corresponding cut to the core. You should allocate these places flexibly taking into account evidence of student and institutional demand.

33. Secondly, at a time of continued pressure on the public purse, there remains an overriding need to manage the demands on public funds. So, we are asking the Council to recoup unanticipated student support costs wherever possible. We would like this to be on the basis of cost recovery. To achieve this, grant adjustments should reflect both the average life time and the upfront outlay cost to Government of providing student support, recognising this latter is particularly influenced by the different fees institutions charge. So, we are asking you to make adjustments to institutions' allocations for each full time under-graduate and PGCE student recruited above the permitted level in 2012/13 as follows:

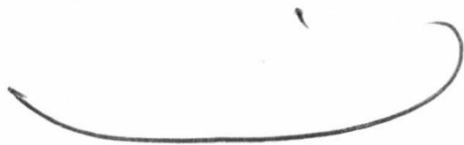
- by £5,000 for institutions charging average fees after fee waivers of up to £6,000; and
- by £1,000 less than the average fee after fee waivers charged by institutions that, on the basis of an OFFA Access Agreement, make an average charge exceeding £6,000.

The arrangements for recouping the unanticipated student support pressures from over recruitment in previous years remain unchanged. We will be discussing with you how to handle this money.

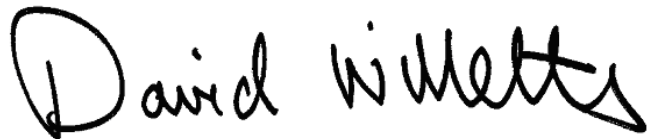
34. Thirdly, we know that many institutions will take a cautious approach to recruitment in attempting to avoid such grant reductions. This can lead to unfilled places. To reduce that risk for 2013/14, I would like you to allow institutions to recruit up to 3% above their total recruitment of HEFCE fundable students. This buffer zone would allow institutions to avoid grant reductions for minor over-recruitment. Grant reductions will continue to be applied where institutions recruit above these agreed number limits. Looking forward we would like the Council to further liberalise the system from 2014/15. We want you to consider increasing the flexibility for those institutions that have shown strong recruitment patterns in 2013/14 and taper this away from institutions enjoying less demand. This will allow successful institutions that can attract students to expand, and allow more students to take up a place at their first choice of institution. You should also consider mechanisms to allow new providers to enter the system.

35. **Annex 1** provides details of your recurrent and capital teaching and research for the financial year 2013-14, and indicative totals for 2014-15. 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 2013/14, 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. The details of this condition of grant are set out in **Annex 2** to this letter.

36. We recognise that our universities are one of our most valuable national assets. Higher education transforms people's lives through excellent teaching and transforms society through research and the application of knowledge. The Government's reforms have laid the foundations for a more securely funded, stronger, more confident and more responsive higher education sector. We will continue to work with the Council and the sector to communicate the enduring value of higher education to potential students and the wider world.

A handwritten signature in black ink, appearing to read 'Vince Cable', written in a cursive style.

VINCE CABLE

A handwritten signature in black ink, reading 'David Willetts', written in a cursive style.

DAVID WILLETTS

Annex: Funding for the HE sector via HEFCE and tuition fee income for 2013-14 and 2014-15

| All figures in £m | This table shows the funding allocations for the HE sector for 2013-14 and Science and Research funding allocations for period up to 2014-15 | Baseline | Budget | <i>Indicative allocations except for Science resource, which are funding figures</i> |
|-------------------|--|----------|---------|--|
| | | 2012-13 | 2013-14 | 2014-15 |
| a | Recurrent grant for Teaching | 3,815 | 2,881 | 1,960 |
| b | Recurrent grant for Research | 1,587 | 1,573 | 1,573 |
| c | Recurrent Grants sub-total for HE (a+b) | 5,402 | 4,454 | 3,533 |
| d | HEIF | 119 | 113 | 113 |
| e | Total recurrent grant for English HEIs (c+d) | 5,520 | 4,567 | 3,646 |

| Additional Funding | | | | |
|--------------------|--------------------------------|----|-----|------------|
| f | Access to Learning Fund | 37 | 37 | <i>TBC</i> |
| G | National Scholarship Programme | 50 | 100 | 150 |

| Capital funding to HEIs | | | | |
|-------------------------|----------------------------|-----|-----|-----|
| h | Teaching capital | 90 | 59 | 134 |
| i | Research Capital | 195 | 221 | 286 |
| j | Total Capital Grants (h+i) | 286 | 280 | 420 |

| | | | | |
|----------|--|-------|-------|-------|
| k | Total funding for HE via HEFCE (e+f+g+j) | 5,893 | 4,984 | 4,216 |
|----------|--|-------|-------|-------|

| Estimated fee income | | | | |
|----------------------|--|--------|--------|--------|
| L | Estimate of fee income from students subject to regulated fees | 4,200 | 5,800 | 7,100 |
| Total | | | | |
| M | Total of HEFCE funding plus estimated fee income (k+l) | 10,100 | 10,800 | 11,300 |

Notes

1) The amounts set out above are the Council's resource and capital budgets. They represent the maximum amount of resource and capital that the Council may consume in pursuance of the priorities agreed with the Department for the Spending Review period. Figures may not sum due to rounding. Funding must not be moved between the recurrent, capital and non-cash resource lines, without explicit agreement from BIS. If the department's level of overall funding is decreased due to wider events or in order to cover other unavoidable financial pressures, the Department may, within the framework set by Parliament and the courts, need to make in year adjustments to allocations to our Partner Organisations in order to meet budget reductions.

2) HEFCE will receive a separate letter detailing their administrative budget for 2013-14 but they should expect to make further contributions in 2014-15 to the Department's overall real terms reductions in administrative budgets. As in previous years, HEFCE will receive a separate letter confirming the

finalised unrounded totals for 2012-13 and 2013-14 budgets. This letter will confirm any re-profiling adjustments that have been made across financial years.

3) The Access to Learning Fund is to provide financial assistance to those students experiencing hardship whilst at university. This fund is administered by HEIs and a separate letter to HEIs will make clear the priorities and operation of this fund for the next financial year. The amounts shown above include contributions to the Fund from the Department of Health, as well as an amount paid to HEIs for administration of the scheme. This amount was previously classified within a separate administration budget.

4) In 2012, we introduced the National Scholarship Programme (NSP) which will be worth £150 million a year from 2014-15. The NSP is part of a package of measures to support disadvantaged young people and adults through their education. It is a new approach to widening participation and fair access. Alongside the pupil premium it will provide extra support to some of the least advantaged learners. We are providing £50m in the first year (2012-13), rising to £100m in 2013-14 and £150m a year from 2104-15.

5) Although it is not part of the Council's settlement, the figures also show the anticipated level of fee income from UK/EU undergraduates subject to regulated tuition fees in each of the financial years in question from both student loans and up-front payments.

6) The table below shows the 4 year allocations for Science and Research resource along with indicative allocations for Science and Research capital for 2014-15. This includes an additional £5.5m one-off allocation for HEIF, and additional capital allocation of £300m for the UK Research Partnership Investment Fund which HEFCE is administering, working in collaboration with Devolved HE funding bodies.

| £ Millions | 2011-12 | 2012-13 | 2013-14 | 2014-15 | Total |
|----------------------------------|----------------|----------------|----------------|----------------|--------------|
| Science and Research Funding | 1,866 | 1,900 | 1,907 | 1,973 | 7,646 |
| o/w Recurrent grant for Research | 1,549 | 1,587 | 1,573 | 1,573 | 6,282 |
| o/w HEIF | 113 | 119 | 113 | 113 | 458 |
| o/w Research Capital England | 151 | 111 | 37 | 55 | 354 |
| o/w HEI Research Capital England | 53 | 64 | 64 | 72 | 253 |
| o/w UK-RPIF | 0 | 20 | 120 | 160 | 300 |

7) HEFCE will maintain total funding for HEIF at a minimum of £150 million per year over the remaining years of the spending review period, including at least £113 million per year specifically from within the Science and Research funding.

8) Recurrent teaching grant for 13-14 and 14-15 has been adjusted by £2m in each year to reflect the transfer of specific funding from BIS to DELNI.

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 2013/14, 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") for the academic year 2013/14, 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 the academic year 2013/14, 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. For students starting their full-time courses before 1 September 2012², the basic and higher amounts for the 2013/14 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 which amend. For these courses, the basic amount will be £1,380, or £680 where regulation 5 of those Regulations applies, and the higher amount, £3,465, or £1,725 where regulation 5 of those Regulations applies.
 4. For new students starting full-time courses on or after 1 September 2012³, for the academic year 2013/14, the basic amount under the Higher Education (Basic Amount) (England) Regulations 2010 of £6,000 or where regulation 5 of those Regulations applies £3,000. The higher amount under the Higher Education (Higher Amount) Regulations 2010 is £9,000 or £4,500 where regulation 5 of those Regulations applies.
- and.
5. The basic and higher amounts for students with part-time courses starting on or after 1

² Certain students are treated differently and the details are set out in regulation 6 of the Student Fees (Amounts) (England) Regulations 2004, as amended.

³ 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, and regulation 3 of the Higher Education (Basic Amount) (England) Regulations 2010, as amended.

September 2012⁴, £4,500 and £6,750 respectively, are specified by the Higher Education (Basic Amount) (England) Regulations 2010 and the Higher Education (Higher Amount) Regulations 2010 which were both amended by Student Fees (Basic and Higher Amounts) (Approved Plans) (England) (Amendment) Regulations 2012.

Financial requirements/penalties

6. 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 7 to 10.

Financial requirements/penalties to be imposed by the Director

7. 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”).

8. 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

9. 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 7, 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;

⁴ 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, and regulation 3 of the Higher Education (Basic Amount) (England) Regulations 2010, as amended.

- (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 7, 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 sub-paragraphs 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.

10. Where there is a failure to comply with the condition under paragraph **2(c) or 2(d)**, 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 sub-paragraphs a-c. An amount determined under sub-paragraph (d) will not be paid or repaid to the institution.