

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE FE AND HE FUNDING BODIES OF
ENGLAND, SCOTLAND, WALES AND NORTHERN IRELAND
IN RESPECT OF THE Jisc GROUP**

Introduction

1. The purpose of this Memorandum of Understanding is to specify the general principles which will form the basis for the relationship between the UK further and higher education funding bodies (collectively the 'funding bodies' or the 'funders') in respect of their relationship with Jisc and its subsidiary companies (collectively 'Jisc'). For the time being these funding bodies are as follows:

- Department for Education and Skills, Wales (DfES)
- Department for Employment and Learning, Northern Ireland (DEL)
- Department of Business, Innovation and Skills (BIS)
- Higher Education Funding Council for England (HEFCE)
- Higher Education Funding Council for Wales (HEFCW)
- Scottish Funding Council for Further and Higher Education (SFC).

Where necessary, this Memorandum of Understanding shall apply to any of the successor bodies to those listed above. For the avoidance of doubt, the Research Councils, who also fund Jisc for specific purposes, are not a party to this Memorandum of Understanding.

2. This Memorandum of Understanding supersedes the memorandum agreed between the funding bodies (except BIS) in connection with their funding of their former Joint Information Systems Committee (JISC) in 2007. This Memorandum of Understanding is not intended to create and shall not be deemed to create any binding agreement.

Purpose of Jisc

3. Through funding of services and the management of development programmes, Jisc aims to help and facilitate institutions, in the UK FE, post-16, skills, HE and Research Councils sectors (the Jisc community), in their use of the internet and other Information and Communications Technology (ICT) applications. The objectives of the Jisc holding company (as stated in its articles of association) are:

- **Digital Infrastructure and Technology:** The provision and maintenance of shared network systems and other information and communications technology (ICT) infrastructure, applications and systems.
- **Digital Content and Discovery:** The maintenance of expertise and the procurement and provision of digital information resources and discovery environments.
- **Value Realisation:** The provision of guidance, tools and practical assistance in relation to the exploitation of digital content and technologies and practices.

- **Futures:** The provision of foresight, evaluation, experimentation, co-development and prototyping of new ICT and information management approaches.

Status of Jisc

4. On 1 December 2012, Jisc became a separate legal entity, owned by UniversitiesUK, GuildHE and the Association of Colleges. In the first phase of its development as a separate legal entity, Jisc is comprised of Jisc (the holding company, which is limited by guarantee and a charity) and a wholly owned subsidiary, Jisc Collections and Janet Ltd (which is also limited by guarantee and has a wholly-owned subsidiary, Content Complete Ltd). The funders plan to respect the independent status of Jisc at all times. In doing so, they will normally work through and with the Jisc Chief Executive (or their nominee) and with Jisc as the holding company, except where it is agreed otherwise.

5. It is planned that the funders will continue to fund the JISC Services Management Company Ltd (trading as JISC Advance) until at least 31 July 2013, but with an expectation that Jisc will transfer that company's activities to other parts of Jisc and wind the company up by or soon after 31 July 2013. A separate independent company and charity, the British Universities Film & Video Council (BUFVC), receives funding from both HEFCE and the funders collectively. At the date of this Memorandum of Understanding, discussions were taking place with a view to transferring HEFCE's share of BUFVC's funding to Jisc. The funders broadly support the recommendation on BUFVC in the 2012 Transition Group report, in which Jisc expresses an aspiration that BUFVC will align with and possibly transfer its activities to Jisc in the foreseeable future. The funders plan to continue to collectively and individually support Jisc in the transition to, and the evolution of, these structural arrangements.

6. Jisc carries out many of its activities through funding or contractual arrangements with many other organisations, including institutions supported by the funders. Jisc may continue to use the funds provided by the funders for these purposes where this remains consistent with the priorities described in our funding letters. Jisc may seek to obtain income from the wider education community, both in the UK and overseas, and from other public and commercial sources. The funders will respect and not seek to interfere in those arrangements, except that there is an expectation that the funding provided by the funders to Jisc is not used to subsidise activities beyond the funders' own remit.

7. For an initial phase, Jisc will continue to use Northavon House (HEFCE's main office) and some services of HEFCE, for which there is in place a service level agreement (SLA). Nothing in this Memorandum is intended to change this SLA relationship between HEFCE and Jisc.

The relationship between the funding bodies

8. The nature of the relationship between the funding bodies in respect of Jisc is one of mutual trust and a common acceptance of a shared responsibility to allow Jisc to implement its agreed strategy in a way it sees fit. This approach is subject to the proper oversight of the use of public funds provided by the funding bodies to Jisc both collectively and individually, taking into account their responsibilities to secure accountability for these funds. Where funders identify common interests among themselves, they will communicate jointly with Jisc about them.

9. This shared approach also recognises that in any individual year, and notwithstanding that the funds provided by each funder are provided in pursuit of their own objectives, Jisc expenditure is frequently spent on a UK-wide or project basis, such that it will not always be the case that Jisc expenditure will be spent by sector or country in a way that exactly matches the public funds received. Any funder may raise this as an issue at any time with the other funders or directly with Jisc. If the latter course is taken, the funder concerned should consider consulting the other funders prior to contacting Jisc.

10. The parties to this Memorandum of Understanding aim to develop the partnership between Jisc and the funding bodies into one which will bring mutual benefit to the activities and development of the parties involved, and the sectors in which they operate. As part of this, the funders will respect the role of, and work with, the owners of Jisc and other stakeholders, including institutions and students. The main aims of the funding bodies shall be reflected in annual documents sent to the chair of the Jisc Board. These will detail the annual grant to be paid by each funder and will include a common document setting out those common aims to ensure that Jisc is not faced with contradictory sets of guidance. The documents will provide guidance to Jisc on the use of the public funds provided, by considering the main priorities the funders have in respect of Jisc, and to address and resolve any significant differences in priorities between the sectors of the Jisc community, or particular issues affecting different territories within the UK. Each funder may include a specific section or document dealing with their own needs should they wish to do so. These documents shall ordinarily be finalised and sent to Jisc by 31 May in each year, prior to the start of each new academic year on 1 August.

11. The funders' expectations, as set out in their annual funding documents and respective funding agreements, will normally encourage the activities of Jisc to:

- Support the strategic objectives of the funding partners;
- Demonstrate that the views of stakeholders have been taken into account;
- Demonstrate value for money;
- Demonstrably add value; and
- Show clear benefit from being performed by Jisc rather than by others.

Funding agreements

12. Each funding body shall have and maintain a separate funding agreement with Jisc and, except where circumstances necessitate otherwise, shall pay their grants directly to Jisc. The primary purpose of the funding agreements shall be to specify the arrangements under which grants shall be paid to Jisc and the accountability terms and conditions requested of Jisc for receiving those grants. Any funder may at any time provide additional grants with or without additional terms and conditions, or enter into contracts with Jisc, for any purpose. Where the sums or activity involved is significant and/or may affect the interests of the other funding bodies, the funder will advise the other funding bodies of the relevant arrangement. The funders will share their funding agreements with Jisc with each other on request. The funders may publish their funding agreements with Jisc at their own discretion.

Funding body representative

13. Each funding body will nominate a senior officer to act as its "funding body representative" in respect of Jisc. Each representative shall have sufficient authority to act on their funders behalf in matters associated with Jisc, including making funding and policy decisions. Each representative may also nominate one or more colleagues who may support them in their work and/or act on their behalf at any time or with their discretion, in accordance with the authority they have within their own organisation (but not with their budgetary authority unless expressly stated).

Representative meetings

14. The funding body representatives (with or without their nominated colleagues) will normally meet three times each year to discuss Jisc-related business. These meetings will be aligned with meetings of the 'Funders and Owners Group', which is the body representing the funding bodies and the guarantor owners of Jisc (for the time being, UUK, GuildHE and the AoC). While additional meetings may be called by any funder at any time, these three meetings will normally be in January, May and October each year. Meetings or decisions between the funders may also be undertaken by email, correspondence or video-conference.

Appointment of Director to the Jisc Board

15. Under the Articles of Association of Jisc, the funding bodies are permitted to appoint a non-executive director to the Jisc Board. The funding bodies will normally exercise this right such that a funding bodies' appointee is in place at all times. The appointment will be made using arrangements jointly agreed between them, according to agreed criteria and after openly advertising the post. The funding bodies note that Jisc will expect the appointee to become a member of Jisc's Nominations and Governance Committee and possibly other governance committees, and possibly also a director of another Jisc company. The appointee may also be a member of Jisc advisory committees by mutual agreement.

16. Once appointed, the funders accept that the appointee will become a director and trustee of the company and charity, and that the appointee will therefore have an overriding fiduciary duty to act in the best interests of Jisc. Nevertheless, the funders will issue a letter of appointment to their appointee. This will include advice that the funders' appointee has a right to draw Jisc-related matters to the attention of any funder that they consider significant, after consideration of the impact of this on their fiduciary position with the company and a discussion with the company if they consider this necessary. This matter is further described in the HEFCE-Jisc funding agreement.

Jisc intelligent customer function - Jisc Liaison role

17. Prior to the establishment of Jisc as a separate legal entity, the JISC Executive staff based at HEFCE's Bristol office acted as the funding bodies' intelligent customer function in respect of the activities of the wider Jisc carried out elsewhere. As these former HEFCE-based staff can no longer carry out this role, the funding bodies (with the exception of the Scottish Funding Council), have agreed to establish and jointly pay for a part-time 'Jisc Liaison' role. The job description, both initially and as amended from time to time, will be the subject of consultation

with all participating funders. A key function of this post will be for the postholder to understand and reflect back to Jisc the needs of each participating funder, to act as their observer on the Jisc Board and (notwithstanding the rights of any funder to discuss matters with Jisc directly) to act as a conduit between the funders and Jisc for most purposes. The postholder can be expected to visit each funder at least once each year to receive their advice and/or instructions about their relationship with Jisc. The postholder will similarly support each funder in managing their relationship with Jisc. The postholder may attend all Funders meetings and Funders and Owners Group meetings, except they may be asked to withdraw from some discussions by exception (e.g. to discuss the Jisc Liaison role itself) at the discretion of the Chair of the meeting. The postholder will be an observer on the Jisc Board.

18. Normally this Jisc Liaison post will be located within HEFCE and thereby be subject to HEFCE pay and conditions, but the funding bodies may agree a different arrangement at any time. The cost of the post, including pay, employment costs (NI, pension and any other), of diary support and travel and subsistence costs, will be shared according to the formula shown below. HEFCE will invoice the other participating funders for this cost on an academic year basis.

| | |
|------------|----------------|
| HEFCE | 56.75% |
| HEFCW | 3.45% |
| DEL HE | 1.34% |
| BIS | 34.92% |
| DfES Wales | 2.70% |
| DEL FE | 0.84% |
| SFC | 0% |
| | 100.00% |

19. Each funding body (including the SFC) will allocate its own resources to provide additional oversight of JISC as it sees fit. How any additional oversight is managed internally within each funding body is not directly a concern of this Memorandum of Understanding (with the exception of HEFCE as the body that monitors Jisc from a financial sustainability and governance perspective - see below), but there is an expectation of co-operation between the funding bodies where this makes sense.

The Jisc budget

20. The Jisc funding year will be the academic year, from 1 August to 31 July each year. Funders may enter into contracts for services covering any appropriate period, where a service is provided back to one or more funders, directly with Jisc under separate arrangements

21. Wherever possible, each funding body representative will determine the amount of funding their organisation wishes to make available to the whole Jisc group in time to inform the discussions on the annual funding documents, accompanied by their view of the priorities on which the funding should be spent. This seeks to recognise that early information about funding

(particularly significant changes in funding levels) helps Jisc to organise its business more efficiently and respond more effectively to the funders' objectives. Therefore, in the context of the funders overall funding strategy for Jisc, each funder will endeavour to provide an indication to the other funders and Jisc as to the anticipated or confirmed contribution for the next year at the January Funders and Owners Group meeting if possible, and at least by the end of March. Importantly, but subject to the caveat expressed in paragraph 9, the amount of funding from each funder represents the amount intended to be applied to each funder's own sector and country, taking into account other elements of income for Jisc, such as institutional subscriptions and the network charge.

22. As noted in paragraph 9, the funding is largely provided on a shared partnership basis. Therefore the majority of Jisc's funding will be payable in accordance with the agreed proportions on an annual basis, subject to advice from Jisc as to the fairness of the apportionment for any particular purpose or year. Each funding body representative is responsible for obtaining their own organisation's approval of the funding to be made available to Jisc each year. Where a funding body is unable to confirm funding or is unable to commit to funding in the agreed proportions, then alternative arrangements need to be made for the relevant period; this is likely to include a reduction of expenditure by Jisc in the relevant sector and/or country, in line with the confirmed funding. The formula agreed for the time being is shown below; this formula may be reviewed at any time on the request of any funder. One or more funder may take a decision that a proportion of grant that they are due to pay may instead be raised through institutional subscription to Jisc to complete the balance of their due proportion of funding. Such a decision needs to be discussed with both Jisc and the other funders to ensure it is consistent with the funding formula and sits well with agreed profiling of grant payments.

| | HE only | FE only | When combined | |
|------------------|-------------|-------------|---------------|------------|
| | | | HE share | FE share |
| England | 81% | 85% | 54.3% | 28.1% |
| Scotland | 12% | 8% | 8.0% | 2.6% |
| Wales | 5% | 5% | 3.4% | 1.6% |
| Northern Ireland | 2% | 2% | 1.3% | 0.7% |
| | 100% | 100% | 67% | 33% |

23. As stated in paragraph 12, any funding body may provide Jisc with additional funds for specific purposes beyond the agreed proportions for use in their own sector or country at any time. This includes capital funding e.g. for specific Janet network related expenditure. Each funding body will endeavour to notify the other funding bodies of any forthcoming capital programmes, to help aid planning and consistency. Any capital funding provided to Jisc (for spending anywhere in the Jisc group) is treated separately to the Jisc core budget. The funding year for capital funding will run from April to March.

24. Payments of Jisc grants will normally be made by each funder monthly by BACS directly to Jisc, using a profile agreed between each funder and Jisc. This does not preclude any funder from accepting grants from any or all other funding bodies for any Jisc-related purpose or for

onward payment to Jisc for any agreed purpose. By exception, any funder may agree directly with Jisc that some of its funding may be spent locally (e.g. some Jisc-funding may be made directly by a funding body to an institution within its territory for Jisc-related purposes in agreement with Jisc). Where this arises, the expenditure will be offset against the payments due from the relevant funding body to Jisc.

25. The funders may, exceptionally, from time to time receive a request from Jisc for additional financial support e.g. to meet unexpected additional costs, for special initiatives or to respond to opportunities arising. The funders will consider but cannot guarantee that any such request will be granted and plan to consult each other in the event of such a request.

26. The recurrent (revenue) grants provided by the funders to Jisc are intended to be spent by Jisc in the academic year for which they have been provided. The funders acknowledge that this may not always be achieved by Jisc, for example, because of the temporary deferral of planned work. The funders also acknowledge the need for Jisc to generate surpluses and reserves for working capital and other purposes in line with good business and charity practice, noting that some of any surplus may be derived from other income sources. Where underspends arise within Jisc, the funders will consider the reasons for this and endeavour to be flexible and supportive in their response, noting that each case will depend on the circumstances. Notwithstanding that funders plan to co-operate in such matters, under rules governing public accountability, each funder reserves the right to claw-back its own share of unspent funds directly from Jisc (or recover such funds by way of a reduction in future grant). This will normally only be done after consulting with all funders. The funders will encourage Jisc not to work on the assumption that identifiable underspends of grant will be carried forward without good cause.

27. Capital grants are usually subject to an agreed profile of expenditure, which may extend over more than one year. Each funder will be responsible for the management and oversight of its own capital grants, including where there are underspends against the agreed profile.

State aid collective risk

28. The funding bodies recognise that some of their funding of Jisc activity may raise some state aid considerations. Each funder will work with Jisc and each other to minimise these risks on an ongoing basis. The funders note that it is in the common interests of them all (despite differences in their policies and risks), and (critically) in the interests of the UK HE, FE and skills sectors, to adopt a common position in this matter. In particular, the funders plan to keep the situation under annual review for the time being, and consider conducting a market study in the third year of JISC's existence as a separate legal entity (i.e. around 2015) to obtain a better understanding of the marketplace and the changing nature of the potential state aid risks following the development of Jisc as an independent business.

Assurance over Jisc's expenditure, financial sustainability and governance

29. HEFCE will treat Jisc as one of its related bodies, subject to oversight by HEFCE in accordance with its related bodies framework and also with the HEFCE-Jisc funding agreement. While work in connection with this HEFCE-Jisc relationship is primarily undertaken for the benefit of HEFCE, anything significant arising from this work will be shared with the other funding bodies.

In particular, on behalf of HEFCE, the HEFCE Assurance Service will receive and monitor the annual financial and other returns from Jisc, with a view to maintaining a risk assessment of Jisc at all times. The other funding bodies will be advised of any changes in the HEFCE risk assessment of Jisc. As part of this work, HEFCE has asked Jisc to obtain a formal opinion from its external auditors that the public funds provided to Jisc have been spent for the purposes provided, as part of their annual audit of the accounts of the Jisc group.

30. Any funding body may request assurance or information about the Jisc financial position from HEFCE at any time and for any purpose. HEFCE may request any information from Jisc and the other funding bodies in connection with its accountability obligations. Any information held by HEFCE in respect of Jisc, including information provided by the other funders, will be open to inspection by HEFCE's Audit Committee, the National Audit Office, and any other body or person to whom HEFCE is required to make disclosure under rules and procedures relating to public accountability. HEFCE will provide information to the other funding bodies on Jisc audit and assurance matters on request, subject to consultation with Jisc where appropriate.

31. If, in the view of any funder, Jisc is not fulfilling the terms of its funding agreement with them and the funder is considering or has actually taken action to withhold part or all of the funding due to Jisc, then that funder will advise all of the other funders of Jisc at the earliest opportunity. Such action should normally only be undertaken to safeguard public funds and after Jisc has been notified in full of any concerns and been given opportunity to answer such concerns and given an appropriate period to remedy the concerns that have been expressed.

Freedom of Information Act (as appropriate in each jurisdiction)

32. It is the responsibility of each funding body to make reference to Jisc within their individual Publication Schemes if they consider it appropriate to do so. Requests for information received under the terms of the Act by any funder which relate to the activities of Jisc may require consultation with some or all of the other funders.

Term of this Memorandum

33. This Memorandum of Understanding shall commence immediately once signed by all the funders. It shall remain in force until further notice, but shall be due for review every three years commencing 1 December 2015. All parties will be entitled to participate in each review.

Termination

34. This Memorandum of Understanding may be terminated by mutual agreement of the funding body representatives acting on behalf of the funding bodies, or by one or other party subject to notice of not less than twelve months being given and to the fulfilment of agreed obligations of the participating parties at the time notice is given. This specifically includes any obligations attached to the financial support of the Janet network.

Disputes

35. In the event of any dispute arising out of or in connection with this Memorandum of Understanding the funders will in good faith seek to resolve that dispute using a method acceptable to all relevant parties. Where not all of the funding bodies are involved and/or the

dispute cannot easily be resolved, the matter may be referred to the funders' Chief Executives or equivalents for advice.

Nominated officers and alternative contacts

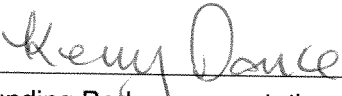
36. Each funding body shall nominate a senior officer to represent their organisation on Jisc matters for routine purposes – these officers shall be described as the 'Funding Body Representative' for the purposes of their oversight of their own organisations relationship with Jisc. These officers shall be members of the 'Funders and Owners Group'. Each Funding Body Representative may ask a member of their own staff to attend Funders meetings and/or 'Funders and Owners Group' meetings with them, or to act on their behalf, at their discretion. The funders shall maintain a Jisc-mail account for contact by email to all funders. Postings to the mailbase account shall be assumed to be received by the senior officer, the alternative contact and the Jisc liaison postholder.

37. At the time of signing this Memorandum of Understanding the officers, alternative contacts and Jisc Liaison postholder contact details were as follows:

| | Funding Body representative | Alternative contact |
|--------------|---|--|
| BIS | Adam Micklethwaite, Deputy Director, Further Education and Skills Investment and Performance Directorate Adam.Micklethwaite@bis.qsi.gov.uk 0117 207 5194 | Mike Klym, Team Leader, Technology for Learning mike.klym@bis.qsi.gov.uk 0207 215 4165 |
| HEFCE | Heather Fry, Director of Education, Participation and Students h.fry@hefce.ac.uk , 0117 931 7280 | Ian Gross, Head of Governance i.gross@hefce.ac.uk , 0117 931 7169 |
| SFC | Brian Baverstock, Deputy Director - Learning, Governance and Sustainability bbaverstock@sfc.ac.uk 0131 313 6630 | David Beards, Senior Policy Officer, Learning, Governance & Sustainability DBeards@sfc.ac.uk 0131 313 6520 |
| HEFCW | Cliona O'Neill, Head of Student Experience Cliona.oneill@hefcw.ac.uk 029 2068 2283 | |
| DfES | Kerry Darke, ICT for Learning kerry.darke@wales.qsi.gov.uk 0300 062 5489 | Elaine Cosgrove elaine.cosgrove@wales.qsi.gov.uk 0300 062 5354 |
| DEL | Gavin Campbell Acting Head of HE Research Policy gavin.campbell@delni.gov.uk 028 9025 7516 | Scott Carson scott.carson@delni.gov.uk 028 9025 7693 |
| Jisc Liaison | | Andy Coulthard a.coulthard@hefce.ac.uk 0207 400 4100 |

Signatories

Signed on behalf of DfES/Welsh Ministers:



Funding Body representative

16/5/13
Date


Signed on behalf of DEL:



Funding Body representative

2/5/2013
Date

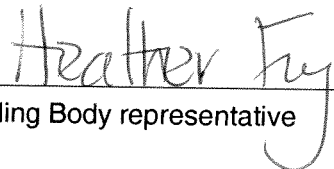
Signed on behalf of BIS:



Funding Body representative

10/5/2013
Date

Signed on behalf of HEFCE:



Funding Body representative

2.5.13
Date

Signed on behalf of HEFCW:



Funding Body representative

2/5/13
Date

Signed on behalf of SFC:



Funding Body representative

2/5/13
Date