

**Financial Memorandum between The Lanarkshire
Board and South Lanarkshire College**

Final

January 2016

Contents

Introduction	4
Purpose of this document	4
Effective date	4
Structure of this document	4
Part 1: The relationship between The Lanarkshire Board and SLC.....	5
Responsibilities of The Lanarkshire Board	5
Accountability	5
Assurance.....	5
What the institution can expect of The Lanarkshire Board	6
The Lanarkshire Board’s governance requirements of South Lanarkshire College	7
Revisions to the Financial Memorandum.....	8
Part 2: General requirements.....	9
Financial Memorandum	9
Post-16 Education Body criteria	9
Outcome Agreement	9
Payment of Strategic, Capital or other Grants	9
Changes to grant payments.....	9
Repayment of grant.....	9
Public sector pay policy	10
Tuition fees	10
Disposal of exchequer funded assets	10
Student activity.....	11
Student support guidance	11
European Social Funds.....	11
Audit and accounting.....	11
Accounts direction	11
Internal audit	11
Value for money	12
External Audit	12
Part 3: Additional requirements for South Lanarkshire College.....	13
Scottish Public Finance Manual.....	13
Borrowing	13

Contingent commitments.....	14
Delegated financial limits and annual reporting requirements	14
Early departures of staff	15
External business and management consultancy contracts	16
Delegated financial limits and annual reporting requirements for incorporated colleges	18
Delegated financial limits	18
Annual reporting requirements.....	18

FINANCIAL MEMORANDUM

Introduction

Purpose of this document

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

Compliance with the Financial Memorandum

3. The responsibility for ensuring that South Lanarkshire College complies with this FM rests with the Board of SLC. Questions about the interpretation of the FM may be raised with officers of The Lanarkshire Board.
4. Where SLC's interpretation of the FM differs from that of The Lanarkshire Board, The Lanarkshire Board will seek, wherever possible, to reach agreement in a spirit of partnership with SLC. However, The Lanarkshire Board's interpretation of this FM shall be final.

Effective date

5. This FM shall take effect from 26 February 2016.

Structure of this document

6. The FM is in three parts:
 - Part 1: defines the relationship between The Lanarkshire Board and SLC and the responsibilities of each for the proper stewardship of public funds.
 - Part 2: contains the general requirements that apply to SLC.
 - Part 3: sets out additional requirements for SLC.

Part 1: The relationship between The Lanarkshire Board and SLC

Responsibilities of The Lanarkshire Board

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

Accountability

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

Assurance

7. In order to meet his or her responsibilities, the Chief Officer of The Lanarkshire Board must be satisfied that the Board of SLC meets the requirements of this FM as a condition of receiving grant funding from The Lanarkshire Board. The Lanarkshire Board will therefore require financial management and other information from SLC. Updates from SLC's Board and Committees will be provided to NCL committees and Board where there is a relevant agenda item.

As far as possible, these updates will rely on data and information that SLC has produced to meet its own needs. If further information is required, The Lanarkshire Board will make a specific request in the context of its commitment to efficient regulation.

8. Where The Lanarkshire Board has concerns or insufficient information to provide the assurance required, it will, in the first instance, seek to resolve matters with the Principal of SLC and will allow a period which is reasonable in the circumstances for the matter to be resolved. Where this has not proved possible, or in the case of significant concerns, the Chair of The Lanarkshire Board will inform the Chair of South Lanarkshire College and SLC's Principal in writing – and without delay – and will specify what action is required to address these concerns.
9. Where circumstances warrant it, The Lanarkshire Board's Chief Officer may suspend the payment of any or all grants to SLC. The Lanarkshire Board may also use its powers to attend and address a meeting of the Board of South Lanarkshire College.

What the institution can expect of The Lanarkshire Board

10. The Lanarkshire Board will conduct its affairs to high standards of corporate governance and public administration. It will maintain a complaints procedure and a separate appeals process for funding decisions.
11. The Lanarkshire Board will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with SLC, and with other stakeholders, and will give or be prepared to give a public justification of its decisions.
12. In discharging its responsibilities, The Lanarkshire Board will seek to make regulation efficient and effective.
13. The Lanarkshire Board will seek at all times to work in a spirit of partnership with SLC, including maintaining regular dialogue with SLC and, where appropriate, its representative bodies. The shared aim of that partnership will be to work collaboratively to support SLC deliver its strategic priorities and commitments in terms of the Regional Outcome Agreement with SFC, and to ensure that The Lanarkshire Board can deliver its regional priorities and undertake its statutory and other functions. The Lanarkshire Board will recognise that SLC may also undertake activities, and have to comply with legislation and regulation, which may fall outside the scope of this partnership.
14. The Lanarkshire Board will allocate and pay grant to SLC in accordance with its published policies and procedures. SLC will be consulted in advance and given

reasonable notice of any significant change to these policies and procedures and of significant changes in overall funding levels.

The Lanarkshire Board's governance requirements of South Lanarkshire College

15. The Lanarkshire Board must be able to rely on the whole system of governance, management and conduct of SLC to safeguard all funds of SLC deriving from The Lanarkshire Board and achieve the purposes for which those funds are provided.
16. The Lanarkshire Board requires the SLC Board to comply with the principles of good governance set out in the Code of Good Governance for Scotland's Colleges. The Lanarkshire Board also requires the Board of SLC to ensure that:
 - Public funds are used in accordance with relevant legislation, the requirements of this FM and only for the purpose(s) for which they were given. Strategic, Capital or other grant funding must only be used for the purpose for which it is provided by The Lanarkshire Board
 - Subject to any legal requirement to observe confidentiality, SLC will be open and transparent with The Lanarkshire Board and other stakeholders, and will give, or be prepared to give, a public justification of its decisions in relation to the use of public funds
 - SLC strives to achieve value-for-money and is economical, efficient and effective in its use of public funding
 - There is effective planning and delivery of SLC's activities in accordance with its mission and its commitments to the Regional Outcome Agreement agreed with SFC and New College Lanarkshire
 - SLC plans and manages its activities to remain sustainable and financially viable. SLC is being managed on a sustainable basis if, year on year, it generates sufficient income to cover its costs and allow for maintenance of and investment in its infrastructure (physical, human and intellectual) at a level which enables it to maintain adaptive capacity necessary to meet future demands
 - SLC has a sound system of internal management and control, including an audit committee, an effective internal audit service, and adequate procedures to prevent fraud or bribery
 - SLC has an effective policy of risk management and risk management arrangements
 - SLC has regular, timely, accurate and adequate information to monitor performance and account for the use of public funds. Such information will be made available to The Lanarkshire Board on request, as necessary, for the exercise of its functions and to gain assurance
 - SLC is engaged actively in continuously enhancing the quality of its activities and involves students and other stakeholders in these processes

17. As well as being accountable directly to the SLC Board for the proper conduct of SLC's affairs, the Principal is also accountable directly to the Chief Officer of The Lanarkshire Board for SLC's proper use of funds deriving from The Lanarkshire Board and its compliance with the requirements of this FM.
18. The Principal of SLC must inform The Lanarkshire Board's Chief Officer without delay of any circumstance that is having, or is likely to have, a significant adverse effect on the ability of SLC to deliver its education programmes, and other related activity, including delivery of its commitment to the Regional Outcome Agreement with SFC. He or she must also notify The Lanarkshire Board's Chief Officer of any serious weakness, such as a significant and immediate threat to the institution's financial position, significant fraud or major accounting breakdown or any material non-compliance with any requirement of this FM.

Revisions to the Financial Memorandum

19. The Lanarkshire Board will make changes to the requirements of this FM only after consulting the SFC, SLC, its representative bodies and other relevant stakeholders.

Part 2: General requirements

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

Financial Memorandum

2. It is a term and condition of grant payment from The Lanarkshire Board that the Board of SLC and its designated officers comply with the requirements set out in this FM.

Post-16 Education Body criteria

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

Outcome Agreement

4. SLC must deliver its commitment to the Regional Outcome Agreement.

Payment of Strategic, Capital or other Grants

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

Changes to grant payments

6. If the SFC revises its payment of grant to The Lanarkshire Board, then The Lanarkshire Board reserves the right to make in-year adjustments to its payment of grant to SLC.

Repayment of grant

7. If SLC fails to comply with the requirements of this FM, and any other specific terms and conditions attached to the payment of grant from The Lanarkshire Board, it may be required to repay The Lanarkshire Board any sums received from it and may be required to pay interest in respect of any period during which a sum due to The Lanarkshire Board in accordance with this or any other condition remains unpaid.
8. If, in the reasonable opinion of The Lanarkshire Board, any provision set out in this FM is not observed by SLC, The Lanarkshire Board will be entitled, in respect of the payment of grant from The Lanarkshire Board:
 - In the case of funding by way of grant: to require immediate repayment of any and all grants or any part or parts of any grants at any time after The

Lanarkshire Board becomes aware of such failure to observe such provision (without prejudice to further demands until the whole of all sums made available by way of grant shall have been paid in full)

- In the case of funding by way of loan (notwithstanding the terms of any agreement attached to the same): to require immediate repayment of the whole or part of each such loan at any time after The Lanarkshire Board becomes aware of such failure to observe such provision (without prejudice to further demands until the whole of all sums made available by way of loan shall have been repaid in full).

Public sector pay policy

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

Tuition fees

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

Disposal of exchequer funded assets

11. In disposing of exchequer funded assets, SLC must follow the guidance in the relevant procedure notes on the SFC website as amended from time-to-time.

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

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

Student activity

12. Where appropriate, SLC must provide data returns requested by the SFC by the deadlines and to the standards specified. SFC's Student Activity Data Guidance for Colleges can be found on the SFC website.

Student support guidance

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

European Social Funds

14. Where SLC is in receipt of European Social Fund funding, it must follow SFC's ESF guidance.

Audit and accounting

15. The Board of SLC must appoint an audit committee and ensure the establishment and maintenance of effective arrangements for the provision of internal and external audit. Audit Scotland will appoint external auditors.
16. The Audit Committee must produce an annual report to the SLC Board.

Accounts direction

17. SLC must follow the SFC's current Accounts Direction in the preparation of its annual financial statements.

Internal audit

18. SLC must have in place an effective internal audit service. The operation and conduct of the internal audit service should conform to the professional standards of the Chartered Institute of Internal Auditors. The operation and conduct of internal audit must comply with Public Sector Internal Audit Standards and, where relevant the SPFM.
19. SLC must inform The Lanarkshire Board when an internal auditor is appointed and must inform The Lanarkshire Board immediately if the internal auditor is removed or departs before the end of their term of office.
20. The internal audit service must provide the Board and senior management of SLC with an objective assessment of adequacy and effectiveness of risk management, internal control, governance, and value-for- money.
21. The internal audit service must extend its review over all the financial and other management control systems, identified by the audit needs assessment process. It must cover all activities in which SLC has a financial interest, including those not funded by The Lanarkshire Board. It must include review of

controls – including investment procedures – that protect SLC in its dealings with organisations, such as subsidiaries or associated companies, Arms-Length Foundations, students' associations, and collaborative ventures or joint ventures with third parties.

22. The head of internal audit must produce an annual report for SLC's Board on its activities during the year. The report must include an opinion on the adequacy and effectiveness of SLC's risk management, internal control, and governance. The report must be presented to the SLC audit committee, SLC Board and a copy sent to The Lanarkshire Board.

Value for money

23. SLC must have a strategy for reviewing systematically management's arrangements for securing value for money.
24. As part of its internal audit arrangements, SLC must obtain a comprehensive appraisal of management's arrangements for achieving value for money.

External Audit

25. SLC's external auditor must be entitled to receive all notices of and other communications relating to any meeting of the Board of SLC which any member of the Board of SLC is entitled to receive. They must also be entitled to attend any such meeting and to be heard at any meeting which they attend, on any part of the business which concerns them as auditors.
26. SLC's external auditor must also be entitled to attend the meeting of the Board of SLC or other appropriate committee at which SLC's statutory audited report and financial statements are presented.
27. SLC's external auditor is expected to attend, as a minimum, any meetings of the SLC audit committee where relevant matters are being considered, such as planned audit coverage, the audit report on the financial statements and the audit management letter. It is the responsibility of the Clerk to the Board of SLC to notify the external auditor of such meetings.
28. The external auditors, notwithstanding responsibilities to their clients, are expected to co-operate fully with any enquiries or routine monitoring that The Lanarkshire Board undertakes.
29. SLC must not in any way limit The Lanarkshire Board's access to SLC's external auditors.

Part 3: Additional requirements for South Lanarkshire College

1. The following additional requirements apply to SLC.

Scottish Public Finance Manual

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

Borrowing

5. All borrowing by SLC will require the approval of the Scottish Ministers. Requests to borrow must be submitted, through The Lanarkshire Board, to the SFC in the first instance.

Cash management and banking

6. Grant payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year must be kept to the minimum level consistent with the efficient operation of SLC and the level of funds required to meet any relevant liabilities at the year-end. Grant-in-aid not drawn down by the end of the financial year shall lapse. Grant-in-aid must not be paid into any restricted reserve held by the institution. Transfers to arms-length-foundations are permitted.
7. Banking arrangements must ensure they offer best value and comply with the Banking section of the SPFM. The Scottish Ministers have approved a derogation which delays the move to the Government Banking Service (GBS) to 2016-17 at the earliest.
8. SLC may extend existing banking arrangements, provided they are not extended beyond Financial Year 2016-17. Any extension beyond Financial Year 2016-17 requires the agreement of the Scottish Ministers

9. SLC can operate bank overdraft facilities to assist it in managing the timing of income and expenditure through its bank account. Overdrafts should not be used as a means of increasing borrowing.

Contingent commitments

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

Delegated financial limits and annual reporting requirements

13. SLC's specific delegated financial limits are set out in **Appendix A**. SLC must obtain, through The Lanarkshire Board, SFC's prior written approval before entering into any undertaking to incur any expenditure that falls outwith these delegations.
14. Prior SFC approval, through The Lanarkshire Board, must always be obtained before incurring expenditure for any purpose that is, or might be considered, novel, contentious or repercussive or which has or could have significant future cost implications.
15. What might be regarded as novel or contentious inevitably involves a degree of judgement. Novel would include proposed expenditure or financial arrangements of a sort not undertaken previously or which is not standard practice. Contentious would include proposed expenditure or financial arrangements where there was any doubt as to its regularity – for example, its compliance with relevant legislation or guidance – or its propriety – for example, compliance with the standards expected of publicly funded bodies or their officials. Proposed expenditure or financial arrangements that might be considered to be sensitive politically would also be regarded as contentious.
16. In addition, any frauds that are detected must be reported to SFC, through The Lanarkshire Board as and when they occur.

17. SLC must establish appropriate documented internal delegated authority arrangements consistent with the Delegated Authority section of the SPFM and this FM.
18. **Appendix A** also sets out the levels for certain categories of expenditure above which SLC should report annually to SFC. The report should describe the number of instances and total cost, by category of expenditure.

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

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

Early departures of staff

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

External business and management consultancy contracts

24. Any external consultancy contracts with a value of more than £100,000 must be approved in advance, through The Lanarkshire Board, by the SFC.

Impairments, provisions and write-offs

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

Income generation

27. SLC will be able to retain all commercial income, gifts, bequests or donations received. These funds will be in addition to any grant or funding the institution receives from The Lanarkshire Board.

Insurance

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

Investments

29. SLC must not make any investments of a speculative nature without the prior written approval, through The Lanarkshire Board, of SFC.

Procurement and payment

30. SLC's procurement processes must reflect the relevant guidance contained in the Advanced Procurement for Universities and Colleges, and relevant policy and advice issued by the Scottish Procurement Directorate. Procurement must be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the institution's objectives consistent with the principles of Best Value, the highest professional standards and any legal requirement.

31. Any proposal to award a contract without competition (non-competitive action) must be approved, through The Lanarkshire Board, in advance by SFC. Specific delegated authority is given to award a contract without competition for £25,000 or less without advance approval. (See Appendix A)

Transfer of surplus funds to arms-length foundations

32. SLC may transfer any surplus on its income and expenditure account as at 31 March each year to its arms-length foundation. This transfer must take place in the financial year in which it arises, and is subject to sufficient cash and resource cover being available.

Delegated financial limits and annual reporting requirements for incorporated colleges

Delegated financial limits

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

Annual reporting requirements

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