

COLLEGE GUIDANCE ON JOINT AWARDS

This guidance is based on information provided at a number of seminars held over recent years by the QAA and Eversheds and pertains primarily to legal considerations in the award of joint degrees (see Appendix F for consideration of quality assurance principles).

The granting of a joint award, where only one award is made by two or more institutions, raises complex legal issues.

1. **Chartered institutions**

Where an institution's powers to award degrees emanates from the grant of Royal Charter there should, in principle, be no difficulty in that institution collaborating with another institution with similar powers to make a joint academic award. This is because the doctrine of ultra vires, which prevents bodies with powers given by statute from exceeding those powers, does not apply to powers granted under Royal Charter. A chartered body can do anything within the general law which an ordinary individual can do. In most cases the charters of UK universities will not preclude the award of joint degrees, they will just not address the issue at all. However an unofficial view of lawyers at the DfES is that there are legal problems with joint degrees which stems from the view that an institution cannot award a degree unless it has been specifically granted the power to do so by charter or statute.

2. **Statutory power to award degrees**

Section 76(5)(b) of the Further and Higher Education Act 1992 specifically provides that the power to grant awards includes the power to do so jointly with another institution. A UK institution with statutory degree awarding powers will therefore have no problem in awarding joint degrees where it does so with one other UK HEI. It is not clear however whether this provision extends to multilateral awards or whether it extends to joint awards made with a foreign institution.

3. **Overseas collaborative partners**

It is incumbent on the UK partner to satisfy itself that the proposed overseas partner has the necessary powers to award a joint degree. It will be a matter for investigation within the country concerned whether this is in fact the case. Many universities in Europe have power to award degrees conferred by statutes which make no provision for awards to be made jointly with a university based in another country (see the survey by Tauch and Rauhvargers cited below). The Bologna process could be a means by which all HE institutions within the EU, regardless of the origin of their degree-awarding powers, could be enabled to work together to provide awards which would have to be recognised throughout the EU. The London Communiqué of May 2007

(<http://www.dcsf.gov.uk/londonbologna/uploads/documents/LondonCommuniquefinalwithLondonlogo.pdf>) encouraged a significant increase in the number of joint programmes as one of the ways of incentivising mobility for staff and students across the European Higher Education Area (EHEA).

Therefore solving the issue of the power to award joint degrees is the first step in the academic, financial and legal due diligence required in considering such collaborations. In respect of overseas partners it is also important to investigate local law, tax and data protection requirements. For example, a joint degree collaboration will almost inevitably involve the exchange of personal data on staff and students between the UK institution and the overseas partner. The country concerned may

not have a similar data protection regime as that applicable in the UK and EU and compliance with UK law will then require equivalent protection to be given.

4. General principles

The following provides some areas that need to be considered in the development of a joint award and which will form the basis of the content of the Memorandum of Agreement.

- There should be an expectation that there is an equal academic contribution from each institution
- For ease of arrangements it is normal to designate one of the institutions as the lead institution who would then:
 - administer the admissions process and send out offer letters
 - deal with day to day administrative matters
- Students should have equal access to the facilities at both/all institutions and should be registered at both/all institutions
- Financial arrangements should be agreed in advance to cover:
 - level of fees to be charged
 - division of fee and HEFCE income
 - additional costs borne by the lead institution
- There should be an agreement on how regulations and examination processes and quality assurance processes will be applied taking account of the specific requirements of both/all institutions
- There should be an agreement on the use of complaints, appeals and disciplinary procedures

5. Further reading

- Report of the first joint degree conference, *Joint degrees: quality assurance in international contexts*, QAA, UUK and the Europe Unit
<http://www.qaa.ac.uk/international/jointdegrees/jointdegreesreport.asp>
- Joint degrees colloquium, March 2006: some references and resources
<http://www.qaa.ac.uk/international/jointdegrees/secondevent/Joint%20Degrees%20References3.doc>
- *Handbook for practitioners: the quality management of collaborative provision*, Council of Validating Universities
<http://www.cvu.ac.uk/guidance/handbook.html>
- European Universities Association, Joint masters project
http://www.eua.be/eua/en/projects_joint.jsp
- Lisbon Recognition Convention Committee Recommendation on the recognition of joint degrees 2005
http://www.bologna-bergen2005.no/EN/Other/Lisbon_Rec-doc/040609_Recommendation_joint_degrees.pdf
- Information on Erasmus Mundus degrees
http://www.europeunit.ac.uk/sites/europe_unit2/eu_policy_education/mobility/erasmus_mundus.cfm

Reference

Tauch, C, Rauhvargers, A Survey on Masters Degrees and Joint Degrees in Europe, EUA/European Commission, www.minedu.fi/julkaisut/pdf/Survey_Master_Joint_degrees.pdf

[International Partnerships: a legal guide for UK Universities, Eversheds & UK HE International Unit, Research Series 15, July 2009](#)