

WILTSHIRE COLLEGE AND UNIVERSITY CENTRE

INSTRUMENT OF GOVERNMENT

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Interpretation of the terms used

- 1 In this Instrument of Government -
 - (a) any reference to "the Principal" shall include a person acting as Principal;
 - (b) "the Clerk" means the Clerk to the Corporation;
 - (c) "the Corporation" means any further education corporation to which this Instrument applies;
 - (d) "the Institution" means the institution which the Corporation is established to conduct and any institution for the time being conducted by the Corporation in exercise of its powers under the Further and Higher Education Act 1992;
 - (e) "this Instrument" means this Instrument of Government;
 - (f) "meeting" includes a meeting at which the members attending are present in more than one room, provided that by the use of video-conferencing and/or teleconferencing facilities it is possible for every person present at the meeting to communicate with each other;
 - (g) "necessary skills" means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for members to have;
 - (h) "staff member" and "student member" have the meanings given to them in clause 2;
 - (i) "the Secretary of State" means the Secretary of State having responsibility for Further and Higher Education from time to time;
 - (j) "staff matters" means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff;
 - (k) "the students' union" means any association of students formed to further the educational purposes of the institution and the interests of students, as students;

- (l) a “variable category” means any category of members whose numbers may vary according to clauses 2 and 3.

Composition of the Corporation

- 2 (1) The Corporation shall consist of-
- (a) up to 14 members who appear to the Corporation to have the necessary skills to ensure that the Corporation carries out its functions under article 3 of the Articles of Government;
 - (b) the Principal of the institution, unless the Principal chooses not to be a member;
 - (c) at least one and not more than three members who are members of the Institution’s staff and have a contract of employment with the institution and who have been appointed by the Corporation; and
 - (d) At least one and not more than two members who are students at the institution and have been nominated and elected by their fellow students, one of these positions reserved for the Student Alliance President and the other being the elected HE student representative.
- (2) A person who is not for the time being enrolled as a student at the institution, shall nevertheless be treated as a student during any period of authorised absence from the institution for study, travel or for carrying out the duties of any office held by that person in the institution’s students’ union.

Determination of membership numbers

- 3 (1) Subject to paragraph (2), the number of members of the Corporation, and the number of members of each variable category shall be that decided by the Corporation.
- (2) The Corporation may at any time vary the determination referred to in paragraph (1) and any subsequent determination under this paragraph provided that the numbers of members of each variable category shall be subject to the limit which applies to that category set out in clause 2.

Appointment of the members of the Corporation

- 4 (1) Subject to paragraph (2) the Corporation is the appointing authority in relation to the appointment of its members.
- (2) If the number of members falls below the number needed for a quorum, the Secretary of State is the appointing authority in relation to the appointment of those members needed for a quorum.
- (3) The appointing authority may decline to appoint a person as a staff or student member if-
- (a) it is satisfied that the person has been removed from office as a member of a further education corporation in the previous ten years; or
 - (b) the appointment of the person would contravene any rule or bye-law made under article 20 of the Articles of Government concerning the number of terms of office which a person may serve, provided that such rules or bye-laws make the same provision for each category of members appointed by the appointing authority; or
 - (c) the person is ineligible to be a member of the corporation because of clause 6.
- (4) Where the office of any member becomes vacant the appointing authority shall as soon as practicable take all necessary steps to appoint a new member to fill the vacancy.

Appointment of the Clerk to the Corporation

- 5
- (1) The Corporation shall appoint a person to serve as its Clerk, but the Principal may not be appointed as Clerk.
 - (2) In the temporary absence of the Clerk, the Corporation shall appoint a person to serve as a temporary Clerk, but the Principal may not be appointed as temporary Clerk.
 - (3) Any reference in this Instrument to the Clerk shall include a temporary Clerk appointed under paragraph (2).
 - (4) The Clerk shall be entitled to attend all meetings of the Corporation and any of its committees.
 - (5) The Clerk may also be a member of staff at the institution.

Persons who are ineligible to be members

- 6
- (1) No one under the age of 18 years may be a member, except as a student member.
 - (2) The Clerk may not be a member.
 - (3) A person who is a member of staff of the institution may not be, or continue as, a member, except as a staff member or in the capacity of Principal.
 - (4) Paragraph (3) does not apply to a student who is employed by the Corporation in connection with the student's role as an officer of a students' union.
 - (5) A person shall be disqualified from holding, or from continuing to hold, office as a member, if that person is disqualified from acting as a charity trustee under the Charities Act 2011 (as amended from time to time).
 - (6) Where a person is disqualified by reason of having been adjudged bankrupt or by reason of being the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking, that disqualification shall cease-
 - (a) on that person's discharge from bankruptcy, unless the bankruptcy order has before then been annulled; or
 - (b) if the bankruptcy order is annulled, at the date of that annulment; or
 - (c) if the bankruptcy restrictions order is rescinded as a result of an application under section 375 of the Insolvency Act 1986, on the date so ordered by the court; or
 - (d) if the interim bankruptcy restrictions order is discharged by the court, on the date of that discharge; or
 - (e) if the bankruptcy restrictions undertaking is annulled, at the date of that annulment.
 - (7) Where a person is disqualified by reason of having made a composition or arrangement with creditors, including an individual voluntary arrangement, and then pays the debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition, arrangement or individual voluntary arrangement are fulfilled.
 - (8) Subject to paragraph (9), a person shall be disqualified from holding, or from continuing to hold, office as a member if-
 - (a) within the previous five years that person has been convicted, whether in the United Kingdom or elsewhere, of any offence and has received a sentence of imprisonment, whether suspended or not, for a period of three months or more, without the option of a fine; or
 - (b) within the previous twenty years that person has been convicted as set out in subparagraph (a) and has received a sentence of imprisonment, whether suspended or not, for a period of more than two and a half years; or

- (c) that person has at any time been convicted as set out in sub-paragraph (a) and has received a sentence of imprisonment, whether suspended or not, of more than five years.

(9) For the purpose of this regulation there shall be disregarded any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in the United Kingdom, would not have constituted an offence under the law then in force anywhere in the United Kingdom.

(10) Upon a member of the Corporation becoming disqualified from continuing to hold office under paragraphs (5) or (8), the member shall immediately give notice of that fact to the Clerk.

Members not to hold interests in matters relating to the institution

7 (1) A member to whom paragraph (2) applies shall-

- (a) disclose to the Corporation the nature and extent of the interest; and
- (b) if present at a meeting of the Corporation, or of any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (2) is to be considered, not take part in the consideration or vote on any question with respect to it and not be counted in the quorum present at the meeting in relation to a resolution on which that member is not entitled to vote; and
- (c) withdraw, if present at a meeting of the Corporation, or any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (2) is to be considered, where required to do so by a majority of the members of the Corporation or committee present at the meeting.

(2) This paragraph applies to a member who-

- (a) has any financial interest in-
 - (i) the supply of work to the institution, or the supply of goods for the purposes of the institution;
 - (ii) any contract or proposed contract concerning the institution; or
 - (iii) any other matter relating to the institution; or
- (b) has any other interest of a type specified by the Corporation in any matter relating to the institution.

(3) This clause shall not prevent the members considering and voting upon proposals for the Corporation to insure them against liabilities incurred by them arising out of their office or the Corporation obtaining such insurance and paying the premium.

(4) Where the matter under consideration by the Corporation or any of its committees relates to the pay and conditions of all staff, or all staff in a particular class, a staff member-

- (a) need not disclose a financial interest; and
- (b) may take part in the consideration of the matter, vote on any question with respect to it and count towards the quorum present at that meeting, provided that in so doing, the staff member acts in the best interests of the Corporation as a whole and does not seek to represent the interests of any other person or body, but
- (c) shall withdraw from the meeting if the matter is under negotiation with staff and the staff member is representing any of the staff concerned in those negotiations.

(5) The Clerk shall maintain a register of the interests of the members which have been disclosed and the register shall be made available during normal office hours at the institution to any person wishing to inspect it.

Minutes

- 8 (1) Written minutes of every meeting of the Corporation shall be prepared, and, subject to paragraph (2), at every meeting of the Corporation the minutes of the last meeting shall be taken as an agenda item.
- (2) Paragraph (1) shall not require the minutes of the last meeting to be taken as an agenda item at a special meeting, but where they are not taken, they shall be taken as an agenda item at the next meeting which is not a special meeting.
- (3) Where the minutes of a meeting are taken as an agenda item and agreed to be accurate, those minutes shall be taken as a true record of the meeting.
- (4) Separate minutes shall be taken of those parts of meetings from which staff members, the Principal, student members or the Clerk have withdrawn from a meeting in accordance with Standing Orders and such persons shall not be entitled to see the minutes of that part of the meeting or any papers relating to it.

Public access to meetings

- 9 The Corporation shall decide any question as to whether a person should be allowed to attend any of its meetings where that person is not a member, the Clerk or the Principal and in making its decision, it shall give consideration to clause 10(2).

Publication of minutes and papers

- 10 (1) Subject to paragraph (2), the Corporation shall ensure that a copy of-
- (a) the agenda for every meeting of the Corporation;
 - (b) the draft minutes of every such meeting, if they have been approved by the Chair of the meeting;
 - (c) the agreed minutes of every such meeting; and
 - (d) any report, document or other paper considered at any such meeting,
- shall as soon as possible be made available during normal office hours at the institution to any person wishing to inspect them.
- (2) There shall be excluded from any item made available for inspection any material relating to-
- (a) a named person employed at or proposed to be employed at the institution;
 - (b) a named student at, or candidate for admission to, the institution;
 - (c) the Clerk; or
 - (d) any matter which, by reason of its nature, the Corporation is satisfied should be dealt with on a confidential basis.
- (3) The Corporation shall ensure that a copy of the draft or approved minutes of every meeting of the Corporation, under paragraph (1), shall be placed on the institution's website, and shall, despite any rules the Corporation may make regarding the archiving of such material, remain on its website for a minimum period of 12 months.
- (4) The Corporation shall review regularly all material excluded from inspection under paragraph (2)(d) and make any such material available for inspection where it is satisfied that the reason for dealing with the matter on a confidential basis no longer applies, or where it considers that the public interest in disclosure outweighs that reason.

Copies of the Instrument of Government

- 11 A copy of this Instrument shall be given free of charge to every member of the Corporation and at a charge not exceeding the cost of copying or free of charge to any other person who so requests a copy, and shall be available for inspection at the institution upon request, during normal office hours, to every member of staff and every student.

Change of name of the Corporation

12 The Corporation may change its name with the approval of the Secretary of State.

ARTICLES OF GOVERNMENT

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Interpretation of the terms used

- 1 In these Articles of Government:

- (a) any reference to "the Principal" shall include a person acting as Principal;
- (b) "the Articles" means these Articles of Government;
- (c) "Chair" and "Vice-Chair" mean respectively the Chair and Vice-Chair of the Corporation;
- (d) "the Clerk" has the same meaning as in the Instrument of Government;
- (e) "the Corporation" has the same meaning as in the Instrument of Government;
- (f) "the CE of Education and Skills Funding" means the Chief Executive of Education and Skills Funding or any successor organisation;
- (g) , "staff member" and "student member" have the same meanings as in the Instrument of Government;
- (h) "the Secretary of State" means the Secretary of State for Education or any equivalent successor post;
- (i) "senior post" means the post of Principal and such other senior posts as the Corporation may decide for the purposes of these Articles;
- (j) "the staff" means all the staff who have a contract of employment with the institution;

Conduct of the institution

- 2 The institution shall be conducted in accordance with the provisions of the Instrument of Government, these Articles, any rules or bye-laws made under these Articles and any trust deed regulating the institution.

Responsibilities of the Corporation, the Principal and the Clerk

- 3 (1) The Corporation shall be responsible for the following functions-
- (a) the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;
 - (aa) publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;

- (b) approving the quality strategy of the institution;
- (c) the effective and efficient use of resources, the solvency of the institution and the Corporation and safeguarding their assets;
- (d) approving annual estimates of income and expenditure;
- (e) the appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Clerk, including, where the Clerk is, or is to be appointed as, a member of staff, the Clerk's appointment, grading, suspension, dismissal and determination of pay in the capacity of a member of staff; and
- (f) setting a framework for the pay and conditions of service of all other staff.

(2) Subject to the responsibilities of the Corporation, the Principal shall be the Chief Executive of the institution, and shall be responsible for the following functions-

- (a) making proposals to the Corporation about the educational character and mission of the institution and implementing the decisions of the Corporation;
- (b) the determination of the institution's academic and other activities;
- (c) preparing annual estimates of income and expenditure for consideration and approval by the Corporation, and the management of budget and resources within the estimates approved by the Corporation;
- (d) the organisation, direction and management of the institution and leadership of the staff;
- (e) the appointment, assignment, grading, appraisal, suspension, dismissal and determination, within the framework set by the Corporation, of the pay and conditions of service of staff, other than the holders of senior posts or the Clerk, where the Clerk is also a member of the staff; and
- (f) maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.

(3) The Clerk shall be responsible for the following functions-

- (a) advising the Corporation with regards to the operation of its powers;
- (b) advising the Corporation with regards to procedural matters;
- (c) advising the Corporation with regards to the conduct of its business; and
- (d) advising the Corporation with regards to matters of governance practice.

The establishment of committees and delegation of functions generally

4 (1) The Corporation may establish committees for any purpose or function, other than those assigned in these Articles to the Principal or Clerk and may delegate powers to-

- (a) such committees;
- (b) the Chair, or in the Chair's absence, the Vice-Chair; or
- (c) the Principal.

(2) The number of members of a committee and the terms on which they are to hold and to vacate office, shall be decided by the Corporation.

(3) The Corporation may also establish committees under collaboration arrangements made with other further education institutions or maintained schools (or with both), and such joint committees shall be subject to any regulations made under section 166 of the Education and Inspections Act 2006 governing such arrangements.

The audit committee

5 (1) The Corporation shall establish a committee, to be known as the "audit committee", to advise on matters relating to the Corporation's audit arrangements and systems of internal control.

(2) The audit committee shall consist of at least three governors and may not include members of staff at the institution, and shall operate in accordance with any requirements of the CE of Education and Skills Funding.

Composition of committees

- 6 Any committee established by the Corporation, other than the committee referred to in article 9, may include persons who are not members of the Corporation.

Access to committees by non-members

- 7 The Corporation shall ensure that:
- (a) a written statement of its policy regarding attendance at committee meetings by persons who are not committee members shall be published on the college website.

Delegable and non-delegable functions

- 8 The Corporation shall not delegate the following functions-
- (a) the determination of the educational character and mission of the institution;
 - (b) the approval of the annual estimates of income and expenditure;
 - (c) the responsibility for ensuring the solvency of the institution and the Corporation and for safeguarding their assets;
 - (d) the appointment of the Principal or holder of a senior post;
 - (e) the appointment of the Clerk, (including, where the Clerk is, or is to be, appointed as a member of staff the Clerk's appointment in the capacity of a member of staff); and
 - (f) the modification or revocation of these Articles.
- 9 (1) The Corporation may not delegate-
- (a) the consideration of the case for dismissal; and
 - (b) the power to determine an appeal in connection with the dismissal
- of the Principal, the Clerk or the holder of a senior post, other than to a committee of members of the Corporation.
- (2) The Corporation shall make rules specifying the way in which a committee having functions under paragraph (1) shall be established and conducted.
- 10 The Principal may delegate functions to the holder of any other senior post other than:
- (a) the management of budget and resources; and
 - (b) any functions that have been delegated to the Principal by the Corporation.

Appointment and promotion of staff

- 11 (1) Where there is a vacancy or expected vacancy in a senior post, the Corporation shall:

Decide whether the circumstances are such that the post should be advertised and if so, whether the vacancy should be advertised nationally. Should the decision be that the post should not be advertised, an invitation will be made to selected staff to apply for appointment.

Appoint an appointment panel consisting of-

- At least five members of the Corporation including the Chair or the Vice-Chair or both, where the vacancy is for the post of Principal; or
 - The Principal and at least three other members of the Corporation, where the vacancy is for any other senior post.
- (2) The members of the selection panel shall-
- (a) decide on the arrangements for selecting the applicants for interview;
 - (b) interview the applicants; and

(c) where they consider it appropriate to do so, recommend to the Corporation for appointment one of the applicants they have interviewed.

(3) If the Corporation approves the recommendation of the selection panel, that person shall be appointed.

(4) If the members of the selection panel are unable to agree on a person to recommend to the Corporation, or if the Corporation does not approve their recommendation, the Corporation may make an appointment itself of a person from amongst those interviewed, or it may require the panel to repeat the steps specified in paragraph (2), with or without first re-advertising the vacancy.

(5) Where there is a vacancy in a senior post or where the holder of a senior post is temporarily absent, until that post is filled or the absent post holder returns, a member of staff-

(a) may be required to act as Principal or in the place of any other senior post holder; and

(b) if so required, shall have all the duties and responsibilities of the Principal or such other senior post holder during the period of the vacancy or temporary absence.

12 The Principal shall have responsibility for selecting for appointment all members of staff other than-

(a) senior post holders; and

(b) where the Clerk is also to be appointed as a member of staff, the Clerk in the role of a member of staff.

Rules relating to the conduct of staff

13 After consultation with the staff, the Corporation shall make rules relating to their conduct.

Academic freedom

14 In making rules under article 13, the Corporation shall have regard to the need to ensure that academic staff at the institution have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without putting themselves at risk of losing their jobs or any privileges which they may enjoy at the institution.

Grievance, suspension and disciplinary procedures

15 (1) After consultation with staff, the Corporation shall make rules setting out disciplinary and dismissal procedures for senior post-holders.

(2) Any rules made under paragraph (1) shall include provision that where a person has been suspended without pay, any appeal against such suspension shall be heard and action taken in a timely manner.

(3) Any rules made under paragraph (1) shall include provision that where the Corporation considers that it may be appropriate to dismiss a person, a preliminary investigation shall be conducted to examine and determine the case for dismissal.

Suspension and dismissal of the Clerk

16 (1) Where the Clerk is also a member of staff at the institution, the Clerk is to be treated as a senior post holder for the purposes of article 15.

(2) Where the Clerk is suspended or dismissed under article 15, that suspension or dismissal shall not affect the position of the Clerk in the separate role of Clerk to the Corporation.

Students

- 17 (1) Any students' union or equivalent body shall conduct and manage its own affairs in accordance with a constitution approved by the Corporation and no amendment to, or rescission of, that constitution, in part or in whole, shall be valid unless approved by the Corporation.
- (2) After consultation with representatives of the students, the Corporation shall make rules concerning the conduct of students, including procedures for their suspension and expulsion (including expulsion for an unsatisfactory standard of work or other academic reason).

Internal audit

- 18 (1) The Corporation shall, at such times as it considers appropriate, examine and evaluate its systems of internal financial and other control to ensure that they contribute to the proper, economic, efficient and effective use of the Corporation's resources.
- (2) The Corporation may arrange for the examination and evaluation mentioned in paragraph (1) to be carried out on its behalf by internal auditors.

Accounts and audit of accounts

- 19 (1) The Corporation shall
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts for each financial year of the Corporation.
- (2) The statement shall-
- (a) give a true and fair account of the state of the Corporation's affairs at the end of the financial year and of its income and expenditure in the financial year; and
 - (b) comply with any directions given by the CE of Education and Skills Funding as to the information to be contained in it, the manner in which the information is to be presented, the methods and principles according to which it is to be prepared and the time and manner of publication.
- (3) The accounts and the statement of accounts shall be audited by external auditors appointed by the Corporation in respect of each financial year.
- (5) Auditors shall be appointed and audit work conducted in accordance with any requirements of the CE of Education and Skills Funding.
- (6) The "financial year" means the first financial year and, except as provided for in paragraph (8), each successive period of twelve months.
- (7) The "first financial year" means the period from the date the Corporation was established up to the second 31st July following that date, or up to some other date which has been chosen by the Corporation with the CE of Education and Skills Funding's approval.
- (8) If the Corporation is dissolved-
- (a) the last financial year shall end on the date of dissolution; and
 - (b) the Corporation may decide, with the CE of Education and Skills Funding's approval, that what would otherwise be the last two financial years, shall be a single financial year for the purpose of this article.

Rules and bye-laws

- 20 The Corporation shall have the power to make rules and bye-laws relating to the government and conduct of the institution and these rules and bye-laws shall be subject to the provisions of the Instrument of Government and these Articles.

Copies of Articles of Government and rules and bye-laws

- 21 A copy of these Articles, and of any rules and bye-laws, shall be given free of charge to every member of the Corporation and at a charge not exceeding the cost of copying or free of charge, to any other person who requests a copy and shall be available for inspection at the institution upon request, during normal office hours, to every member of staff and every student.

Modification or replacement of the Instrument and Articles of Government

- 22 (1) Subject to paragraph (2), the Corporation may by resolution of the members modify or replace its instrument and articles of government, after consultation with any other persons who, in the Corporation's view, are likely to be affected by the proposed changes.
- (2) The Corporation shall not make changes to the instrument or articles of government that would result in the body ceasing to be a charity.

Dissolution of the Corporation

- 23 (1) The Corporation may by resolution dissolve itself and provide for the transfer of its property, rights and liabilities.
- (2) The Corporation shall ensure that a copy of the draft resolution to dissolve the corporation on a specified date shall be published at least one month before the proposed date of such resolution.