

# PLUMPTON COLLEGE

## STANDING ORDERS FOR THE CORPORATION AND ITS COMMITTEES

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## **1 BACKGROUND**

- 1.1 The College is a statutory body incorporated under the Further and Higher Education Act 1992. The principal duties and powers of the Corporation under the Act are set out in Appendix A and B. The governance of the College is prescribed in detail in the statutory Instrument and Articles of Governance common to all Further Education (FE) institutions.
- 1.2 The College is subject to detailed regulation by the Skills Funding Agency (SFA), particularly in respect of finance, accounting and audit, under a Financial Memorandum in place between the College and the SFA.
- 1.3 The College is also subject to regulation as an Exempt Charity under the Charity Act 1993 and the Charity Act 2006.
- 1.4 The College is expected to comply with the private sector governance principles set out in Section 1 of the Combined Code on Corporate Governance issued by the London Stock Exchange.

## **2 STATUS OF STANDING ORDERS**

- 2.1 These standing orders (“Orders”) supplement the provisions of the Further and Higher Education Act 1992 (“Act”) and the instrument and articles of government of the College (“the Instrument and Articles”). In the event of any conflict between these Orders and either or both of the Act and the Instrument and Articles, the Act and the Instrument and Articles shall prevail.
- 2.2 Every member of the Corporation and of its Committees shall be bound by these Orders.
- 2.3 The Orders will be reviewed every two years by the Corporation. The Chairman is delegated to approve minor changes to the Standing Orders in response to legal requirements and audit recommendations.

## **SECTION A: MEMBERSHIP OF THE CORPORATION**

### **3 SIZE OF THE CORPORATION**

- 3.1 In accordance with Clauses 2 and 3 of the Instrument of Government, the number of Corporation members is re-determined on a daily basis in line with the actual numbers of Governors in post on that day, subject to the number determined being between 15 and 20.
- 3.2 The Clerk will maintain a register of membership of the Corporation including periods of office and resignations.

### **4 APPOINTMENTS AND TERMINATION OF APPOINTMENTS**

- 4.1 Members will be appointed in accordance with the provisions of the Instruments and Articles of Government. General members will be recruited having regard to the

particular skills, experience, and networking requirements of the Corporation. Two staff members will be elected by teaching and non-teaching staff respectively. Two student members will be elected by Further Education and Higher Education students respectively. The Principal is an ex officio member.

- 4.2 The Corporation is the appointing body and must approve all appointments and reappointments of members. The Corporation delegates to the Search Committee responsibility for determining appropriate selection procedures, and for advising the Corporation on membership issues, including seeking eligible and appropriate candidates for consideration for appointment by the Corporation, and evaluating the contribution of candidates for reappointment. The Terms of Reference of the Search Committee and non-confidential minutes of its meetings are available on the College website.

## **5 ELIGIBILITY OF MEMBERSHIP**

- 5.1 Clause 8 of the Instrument of Governance sets out categories of person who are ineligible for membership. The eligibility of each member to serve shall be checked by the Clerk on appointment; members will be responsible for advising the Clerk should their eligibility cease and they will be reminded of this on an annual basis by the Clerk. Criminal Records Bureau (CRB) checks will be undertaken in respect of all Governors other than student governors and staff governors at the time of their appointment. Staff Governors will have undergone a CRB check on their appointment as an employee of the College.

## **6 TERMS OF OFFICE**

- 6.1 All members of the Corporation shall hold and vacate office in accordance with the terms of his/her appointment, excluding the Principal, a term of office shall not exceed four years.
- 6.2 Members retiring at the end of their term of office shall be eligible for re-appointment, subject to an evaluation by the Search Committee of their individual contribution. In line with the guidance of the Nolan Committee on Standards in Public Life, Corporation members should normally serve no more than two consecutive terms of office (i.e. a total of eight years). The Search Committee shall document the exceptional reasons for recommending a reappointment for a third or subsequent term. Third or subsequent terms should normally be for a maximum period of two years.

## **7 ABSENCE FROM MEETINGS**

- 7.1 If at any time the Corporation is satisfied that a member has been absent from meetings of the Corporation for a period longer than 6 consecutive months without the permission of the Corporation, the Corporation may by notice in writing to that member remove him/her from office in accordance with s.10 (2) of the Instrument of Government; and thereupon the office shall become vacant. The procedure to be followed in such cases is set out at para 26 below

## **8 APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN**

- 8.1 The Corporation will appoint (or reappoint) a Chairman and Vice Chairman of the Corporation from amongst its existing membership for a 12 month period, normally at the last meeting of the Corporation in each Calendar Year. The Corporation may appoint more than one Vice-Chairman. The Principal, staff and student governors are ineligible for appointment as Chairman or Vice-Chairman. They may however, participate and vote in the appointment process. The appointment procedure is described more fully at para 25 below.
- 8.2 On the initial appointment of Chairman of the Corporation, the Governor concerned will be granted a new four year term of office to ensure continuity in leadership.

## **9 CODE OF CONDUCT FOR CORPORATION MEMBERS**

- 9.1 The Corporation has adopted a code of conduct for members. This is provided to all Governors as part of their induction. It is reviewed by the Corporation every three years. A copy of the code of conduct is available on the College website.
- 9.2 The Corporation has also adopted a code of ethics for the College and a procedure to safeguard members of staff in disclosing genuine perceptions of any malpractice on public interest grounds. These are also available on the College website.
- 9.3 Members are expected to adhere to the seven principles of public life recommended by the Nolan Committee: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership.

## **10 REGISTER OF INTERESTS**

- 10.1 The Clerk shall maintain and annually update a register of interests of members of the Corporation and staff with significant financial responsibilities (Senior Management Team, Head of Student Services, Head of Business Training, Farm Manager and Head of Management Information Systems). Members of the Corporation and the staff with significant financial interest will be required to advise the Clerk of any changes to their entry and will be asked to annually review and update their entry.
- 10.2 A copy of the register of interests is available on the College website. The procedure for disclosure of interests at meetings is discussed at para 23 below.

## **11 REGISTER OF GIFTS**

- 11.1 Governors and Senior Managers should decline gifts, hospitality or benefits offered by a third party which are of a nature or on a scale which the College would be unlikely to reciprocate, particularly where the third party is or would like to supply the College. Any accepted gift with a market value in excess of £25 should be recorded in the Gift Register kept by the Clerk.

## **12 INDEMNITY INSURANCE**

- 12.1 The College maintains personal indemnity insurance of up to £3m for any one event that might give rise to a claim for financial liability. Section 145 of the Learning and Skills Act 2000 also provides for the Court to extinguish, reduce, or vary the liability of Governors who have acted honestly and reasonably. Further details are at Appendix C.
- 12.2 Members, individually and collectively, have rights to seek professional advice in respect of their functions as members. These are set at Appendix D.

## **SECTION B: BUSINESS OF THE CORPORATION**

### **13 STANDING COMMITTEES**

- 13.1 The formal business of the Corporation is conducted at meetings of the Corporation or its Committees and sub-Committees. The Corporation has established 5 Committees: Academic, Audit, Finance & General Purposes, Remuneration, Search.
- 13.2 The Corporation
- a) Shall determine written terms of reference for each Committee established by it and review these annually in the light of the Committee's self assessment. The current terms of reference are set out on the College website;
  - b) Shall appoint the Chairman and Vice-Chairman of each committee, and determine its membership (which may include co-opted non-governors) from time to time on the advice of the Search Committee;
  - c) Shall regularly receive reports from Committees and consider their recommendations;
  - d) May establish additional Committees as it sees fit. In particular the Corporation may establish a Special Committee in accordance with Clause 10 of the Articles of Government to act in relation to the dismissal of the Principal (whom the Corporation has determined shall be the only Senior Postholder) or the Clerk.

### **14 SUB COMMITTEES AND WORKING GROUPS**

- 14.1 Each of the Corporation's Committees may establish Sub-Committees or working groups for the more effective or efficient despatch of its business. The Finance and General Purposes Committee has established three Sub-Committees:
- Buildings and Farm
  - Residential and Student Services
  - Environmental
- 14.2 The relevant Committee
- a) shall approve a Sub-Committee/Working Group's terms of reference including chairmanship, membership (which may include non-Governors) and quoracy: the terms of reference of the current Sub-Committees are set out on the College's website;
  - b) shall regularly receive reports from the Sub-Committee and consider their recommendations;
  - c) may delegate to a sub-Committee in writing any decisions that it has power itself to take.

## **15 STAFF APPEALS AGAINST DISMISSAL**

- 15.1 There are contingent arrangements for a panel of governors to deal with staff appeals against dismissal, in accordance with procedures established under Clause 16 of the Articles.

## **16 INFORMAL MEETINGS**

- 16.1 Corporation members meet informally from time to time in a workshop or seminar format (see para 16.1), and in particular
- a) to consider the strategic direction of the College each year and
  - b) to develop their collective understanding of particular issues affecting the business
- 16.2 The Chairman and Vice Chairman of the Corporation meet the Committee Chairmen, Principal and Clerk each term (the “Committee Chairs meetings”) to review and prioritise the forward schedule of Corporation and Committee business (see para 18 below).
- 16.3 In addition there is a range of informal activity carried out by individual Governors, e.g. in advising particular departments as Link Governors or in representing the College externally. The allocation and effectiveness of this activity is regularly reviewed by the Search Committee.

## **17 MEETING DATES**

- 17.1 Meetings of the Corporation shall be held on such days and at such times at the College’s Plumpton campus or such other place as the Corporation shall determine. There shall be at least one Corporation meeting per term.
- 17.2 The Clerk shall prepare for the Corporation approval of a draft annual calendar of Corporation and Committee/Sub-Committee meetings that meets the needs of the Corporation and is based on the College planning cycle. Apart from scheduled Corporation meetings a special meeting of the Corporation may be called at any time by the Chair or at the request in writing of any five members.

## **18 SCHEDULE OF BUSINESS**

- 18.1 Each term the Clerk will prepare for review by the Committee Chairs an updated draft schedule of business which accords with the Corporation’s timetable for publishing its Annual Report and Accounts or making returns to regulatory bodies.
- 18.2 In the light of the agreed schedule the specific agenda for meetings of the Corporation will be drawn up by the Clerk in consultation with the Principal and the Chairman of the Corporation; and the specific agenda for meetings of Committees and Sub-Committees will be drawn up by the Clerk in consultation with the Principal and the relevant Committee (or Sub-Committee) Chairman. Any member may request an item to be placed on the agenda of a Corporation or Committee meeting provided that written notice of the item is received by the Clerk eight calendar days in advance of the meeting.

## **19 MEETING AGENDAS AND SUPPORTING PAPERS**

- 19.1 Written agendas will be circulated in advance by the Clerk for all meetings of the Corporation and its Committees/Sub-Committees. The agenda of Corporation meetings shall be circulated to reach members at least seven calendar days in advance of the meeting in accordance with clause 12.2 of the Instrument of Government. The proposed agenda for Committee and Sub-Committee meetings shall be circulated to reach members at least three calendar days in advance of the meeting. Agendas and papers may be circulated in electronic form if necessary to meet this timetable.
- 19.2 Items of additional urgent business should be notified to the Clerk before the Corporation or Committee/Sub-Committee meeting and may be raised at the Chairman's discretion under Any Other Business.
- 19.3 Corporation or Committee discussion of agenda items will normally be on the basis of papers circulated by the Clerk in advance, unless the Committee Chairmen have agreed otherwise at their termly meetings or the Corporation (or Committee) Chairman has agreed that discussion of a specific agenda item may proceed on the basis of an oral report.
- 19.4 Papers should normally be circulated with the agenda. Committee papers exceeding 10 pages shall, however, be circulated five calendar days before the meeting, and shall be accompanied by an executive summary. Late papers may be tabled in exceptional circumstances with the agreement of all members present.
- 19.5 Papers should make it clear who is presenting the paper and what action is sought, i.e. to note, or to approve a specific course of action.

## **20 QUORUM**

- 20.1 Meetings of the Corporation (or Committees) shall be quorate if 40% or more of the Corporation (or Committee) membership participate. In the case of Audit Committee and Remuneration Committee a quorum shall be three members, including co-optees. The quoracy of Sub-Committees will be determined by the parent Committee and set out in the Sub-Committee's terms of reference.
- 20.2 If the number of members present at the commencement of a meeting does not constitute a quorum, the meeting shall not take place. If, during the course of a meeting, the number of members present ceases to constitute a quorum, the meeting shall be terminated forthwith. Nothing in this, however, shall prevent the continuation of informal discussion amongst the remaining members.

## **21 PARTICIPATION IN MEETINGS**

- 21.1 A member may not participate in a meeting of the Corporation for the purposes of quoracy (or voting), unless they are either present or are able to communicate with other participants through the use of video-conferencing. Members may in all other respects contribute to Corporation meetings by telephone or other means and their contribution shall be recorded in the minutes.

## **22 ATTENDANCE**

- 22.1 The attendance of every member attending a meeting of the Corporation or a Committee shall be recorded in the minutes of the meeting. A member will be recorded as being 'absent' unless he/she notifies the Clerk that their apologies should be given to the Chair. To assist the Clerk in establishing that there will be a quorum for the meeting, apologies should be submitted by the day preceding the meeting wherever possible.
- 22.2 The Clerk will maintain a register of attendance of all meetings of the Corporation and its standing committees and will submit a report to the Corporation twice a year. The attendance of each member will be published in the Corporation's Annual Report.
- 22.3 Corporation members are entitled to attend a meeting as an observer of any Committee of which they are not a member and may participate in discussion if invited to do so by the Committee Chair.
- 22.4 The attendance of certain members of staff is sometimes required in an advisory capacity at Corporation and/or committee meetings. Such staff may have a standing invitation to attend meetings or may receive an invitation by the Clerk (after discussion with the Chair) to attend a particular meeting or a particular agenda item. Any non-Governor attending a Corporation or committee meeting shall be recorded as being "in attendance" on the minutes.

## **23 DECLARATION OF INTERESTS**

- 23.1 Under Clause 11 of the Instrument of Government members who have a financial interest in business being considered by the Corporation or a Committee must declare their interest, not take part in the discussion, not form part of the quorum and not vote. The declaration of an interest is essentially the responsibility of the individual governor.
- 23.2 If a conflict of interest is likely or would, if publicly known, be perceived as being likely, to interfere with the exercise of a member's independent judgement, then any interest, financial or otherwise, should be reported to the Clerk, and fully disclosed to the Corporation before the matter giving rise to the interest is considered. Members should withdraw from that part of the meeting at which the matter giving rise to the interest is considered, and on no account may vote in relation to the matter.

## **24 WITHDRAWAL FROM MEETINGS**

- 24.1 In accordance with clause 14 of the Instrument of Government, the Principal, Clerk and staff members are obliged to withdraw from any part of a Corporation or Committee meeting which is discussing:
- their own remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement
  - the appointment of their successor.
- 24.2 At the discretion of the other governors present,

- staff members shall withdraw from any part of the meeting which is discussing the appointment, remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of any member of staff senior to themselves
- student governors shall withdraw where the Corporation or any of its Committees is discussing staff matters relating to a member of staff.

24.3 Where staff or student members have withdrawn from the meeting for confidential items, the staff / student members shall not be entitled to receive copies of the minutes or papers relating to those items. (Clause 15(4) of the Instrument of Government refers).

## **25 PROCEDURE FOR THE APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN**

25.1 The Clerk shall circulate nomination forms in advance of the meeting to provide an opportunity for members to nominate and second members for the appointment of Chairman and Vice Chairman. Should there be no nominations, then nominations will be taken from members at the meeting at which the election is to be held. Where there is more than one nomination for each appointment, a vote may be taken. Voting will be by secret ballot using a form prepared by the Clerk.

25.2 A governor who is not standing for the position of Chairman will chair the meeting for these agenda items.

## **26 TERMINATION OF A MEMBER'S APPOINTMENT**

26.1 Where the Corporation is minded to terminate the appointment of a member for the reasons set out at para 7.1 above, the matter will be placed on the agenda for the next meeting of the Corporation. A written report setting out all the known facts will be submitted by the Clerk. The member in question shall be entitled to attend the meeting or submit in writing his/her reasons for absence, but may not vote on the matter.

## **27 VOTING**

27.1 Decisions at meetings of the Corporation or of its Committees should be reached as far as possible by consensus. A dissenting member shall have the right to have his or her disagreement recorded in the minutes; and a vote shall be taken on a particular issue if any member requests it.

27.2 If a formal vote is taken, the question will be determined by a majority of the votes of the members present and eligible to vote on the question, with the Chairman having a second or casting vote in the event of a tie. A member may not vote by proxy at meetings of either the Corporation or a Committee. A student member who is under the age of 18 years at the time of the meeting may not vote on any question involving the Corporation in committing expenditure, making a contract or incurring debt or liability (clause 14(7) of the Instrument of Government). The minutes will record the number voting for and against. The Corporation (or Committee) may decide the circumstances in which a secret ballot should be held or in which the names of those voting for or against a proposal should be recorded.

## **28 RESOLUTIONS**

- 28.1 No resolution of the Corporation is effective unless it is duly minuted at a properly constituted meeting. No resolution may be rescinded or varied at a subsequent meeting of the Corporation unless its reconsideration appears on the agenda for that meeting. A formal decision of the Corporation cannot therefore be overturned or varied unless the subject appears as a substantive item on the agenda with the indication that there is a proposal to vary or rescind it.

## **29 MINUTES**

- 29.1 Draft minutes of Corporation, Committee, and Sub-Committee meetings will be prepared by the Clerk normally within 10 days of the meeting, and circulated to the Chair, Principal and other senior members of the College staff who were present at the meeting to ensure that the minutes are accurate and that the decisions and action points are clear and unambiguous. Recipients should wherever possible respond within 3 days. Once agreed by the Chair minutes will remain unconfirmed drafts until they are confirmed and signed by the Chair as an accurate record at the next meeting.
- 29.2 Agendas, minutes, supporting papers and signed copies of the minutes shall be retained by the Clerk.

## **30 HANDLING URGENT BUSINESS BETWEEN MEETINGS**

- 30.1 Excluding non delegable functions under sections 9 and 10 of the Articles of Government, the Chair of Corporation, or in his or her absence the Vice Chair, may, from time to time, be required to take action on behalf of the Corporation, without Corporation having considered the matter first. This is most likely to occur in the case of:
- urgent matters, whereby the delay necessary to call a Special meeting of Corporation would be detrimental.
  - routine action which would not have warranted an agenda item;
  - where such a course of action is not contrary to the Articles of Government or Financial Regulations.
  - matters of details relating to the implementation of action already agreed by Corporation;
- 30.2 The Chair (or Vice Chair) should consider the advice of the Principal and or Clerk before taking such action and where time allows, consult the Chair of the Committee(s) or Sub-Committees under whose terms of reference the business normally falls.
- 30.3 Likewise the Chair of a Committee or sub-Committee may, on the advice of the Principal and the Clerk, authorise action between meetings on matters within the Committee's (or Sub-Committee's) terms of reference, and within its delegated authority, on which urgent decisions are required. Where time allows the Chair of the Committee (or Sub-Committee) should first consult the Chair of the Corporation (or of the parent Committee).

- 30.4 Where such a procedure has been used, the details (including the reason for using this procedure) shall be reported to the next meeting of the Corporation or the respective Committee.
- 30.5 In addition, in order to expedite Corporation or Committee business at meetings, the Chair, in consultation with the Principal and the Clerk, may circulate outline proposals to other members of the Corporation (or Committee) between meetings with a view to achieving an early consensus that can be endorsed and minuted at the subsequent meeting.

## **SECTION C: CORPORATION ACCOUNTABILITY AND TRANSPARENCY**

### **31 ACCOUNTABILITY**

- 31.1 The Corporation is accountable for all aspects of the College's performance. It is accountable not only to sponsor Departments, regulators and funding bodies, but also to a much wider range of stakeholders including current and prospective students, employers, partner schools and universities, and community representative bodies.
- 31.2 The primary vehicle for accountability is the Corporation's Annual Report and Accounts. These shall comply not only with any Accounts Direction issued by the sponsor Department, but also with best practice under the Combined Code. In particular the Annual Report will set out
- a) the Strategic Objectives and Aims in the Corporation's Strategic Plan;
  - b) progress achieved during the year towards them;
  - c) the short-term and long-term prospects for further progress, including the major risks under each Objective and any changes in policy the Corporation is seeking on the part of our stakeholders;
  - d) the College's governance arrangements, and the Corporation's assessment of its own performance and areas for improvement.
  - e) audit data provided to financial regulators, and regulatory assessments of the College's financial and quality performance.
- 31.3 The Annual Report and Accounts will be placed on the College website and will be circulated directly to key stakeholders as a basis for an accountability dialogue. The Corporation does not hold an Annual General Meeting.

### **32 TRANSPARENCY OF PAPERS AND MINUTES**

- 32.1 In accordance with Clause 17 of the Instrument of Government, the Clerk will
- a) Make available on request the agenda, unconfirmed minutes and papers considered at every meeting of the Corporation, provided they are not confidential. Efforts will be made to meet requests for minutes to be provided in alternative formats such as audio where required.
  - b) Place on the College's website for a minimum period of 12 months confirmed minutes of Corporation and Committee meetings, provided they are not confidential, but not minutes of sub-Committees.
- 32.2 Minutes and papers falling into the following categories will usually be regarded as confidential and will not normally be released:
- a) personal information relating to an individual

- b) information provided in confidence by a third party who has not authorised its disclosure
- c) financial or other information relating to procurement decisions, including that relating to the college negotiating position, during the course of those negotiations
- d) information relating to the negotiating position of the college in industrial relations matters, during the course of those negotiations
- e) information relating to the financial position of the college where the Corporation is satisfied in good faith disclosure might harm the college or its competitive position
- f) legal advice received from or instructions given to the college legal advisors
- g) information planned for publication in advance of that publication
- h) Information not otherwise covered above, but considered to be commercially sensitive.

32.3 The Clerk will review all confidential minutes and papers each year and make recommendations to the Chairs of the Corporation and its Committees to declassify minutes and papers which appear no longer to meet the categories listed above. The Clerk will place a written statement on electronic and paper copies of such declassified minutes and paper to confirm the date that the information became available to the public.

### **33 PUBLIC ACCESS TO MEETINGS**

33.1 The media, staff, students and members of the public are permitted to attend Corporation and Committee meetings as observers on prior agreement with the Chair via the Clerk). ('Members of the Public' shall be defined as anyone who is not a Member of the Corporation nor the Clerk). The attendance of observers is subject to rulings by the Corporation with regard to confidentiality, interest etc.

### **34 STATEMENTS TO THE MEDIA**

34.1 All enquiries from the press, radio or television must be directed to the Principal's office, and all press releases should issue only from the Principal's office. Members other than the Principal should not make statements to the press or media or at any public meeting relating to the proceedings of the Corporation or its Committees without the agreement of the Principal. In any public statement particular care should be taken not to reveal or criticise the views that other Members have expressed at meetings of the Corporation or its Committees.

### **35 COMPLAINTS AGAINST THE CORPORATION**

35.1 A complaint against the Corporation or an individual member of the Corporation shall be addressed to the Clerk to the Corporation in the first instance. The response to such a complaint will include details of the arrangements for pursuing the matter with an independent body if appropriate. A complaint against the Clerk to the Corporation shall be forwarded to the Chair of the Corporation. The procedure for dealing with complaints against the Corporation is available from the Clerk.

## **SECTION D: CONTINUOUS IMPROVEMENT IN GOVERNANCE PERFORMANCE**

### **36 GOVERNOR INDUCTION**

- 36.1 Under its terms of reference, the Search Committee shall develop and recommend to the Corporation policies and procedures for the induction of Corporation Members and their continuing development, both individually and collectively.

### **37 GOVERNOR DEVELOPMENT**

- 37.1 Each governor will identify to the Clerk each year those areas of the College's business where they would find it most helpful to develop their understanding.
- 37.2 A half-day each year will be set aside for collective governor development. The Clerk will arrange the topics for discussion in conjunction with the Chair of the Corporation and the Principal.
- 37.3 The Clerk will maintain a protected website for Governors, which is easy to access and easy to navigate, and which contains key papers generated by the College but also up-to-date reference material on external policies and developments relevant to the College's success and Governor training materials.
- 37.4 A report on the development activities undertaken by Governors and the Clerk, and the priorities for the coming year, will be submitted annually to the Search Committee, and will be summarised in the Corporation's Annual Report.

### **38 GOVERNOR SELF ASSESSMENT**

- 38.1 In order to achieve more effective and efficient governance, Members will carry out an annual self-assessment of the Corporation's performance of its duties and responsibilities and the scope for future improvement. Each Committee will also conduct an annual self assessment of its own role and effectiveness.

## **SECTION E: MISCELLANEOUS MATTERS**

### **39 CLERK TO THE CORPORATION**

- 39.1 The appointment and dismissal of the Clerk shall be matters for the decision of the Corporation, as also the Clerk's remuneration on the recommendation of the Remuneration Committee.
- 39.2 The Clerk is accountable to the Corporation on all matters relating to his or her duties as an officer of the Corporation. The job description of the Clerk shall be considered by the Corporation in self-assessing its own performance each year. The performance of the Clerk against the agreed job description and personal objectives shall be reviewed annually by the Clerk and the Chair of the Corporation.

## **40 GOVERNORS' EXPENSES POLICY**

- 40.1 Members are not permitted to claim allowances which remunerate them for their services as members. However expenses associated with attendance at meetings, training events and conferences may be claimed for. All claims for expenses, supported by receipts where possible, shall be submitted to the Clerk as soon as reasonably practical, using the College's expense claim form.
- 40.2 Members may only claim expenses for travelling and subsistence at rates contained in the staff handbook. Members will need to provide evidence of car insurance for business use in order for mileage costs to be reimbursed.
- 40.3 When using public transport members are required to travel by the most cost-effective method which, in most circumstances, will be second class rail travel. Expenses for significant journeys should be agreed with the Clerk to the Corporation in advance.

## **SUMMARY OF THE POWERS OF THE CORPORATION**

### **Principal Powers**

Under Section 18 of the Further and Higher Education Act 1992 a further education corporation may:-

- (a) provide further and higher education;
- (b) provide secondary education to persons who would, if they were pupils at the school, be pupils in the fourth key stage, or provide secondary education or participate in the provision of secondary education at a school (subject to the consultation with the appropriate local education authority); and
- (c) supply goods or services in connection with their provision of education.

### **Supplementary Powers**

Under Section 19 of the 1992 Act a further education corporation may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of any of the principal powers conferred by Section 18 of the Act, including in particular the following:-

- (a) the power to acquire and dispose of land and other property;
- (b) the power to enter into contracts including in particular:-
  - contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers; and
  - contracts with respect of carrying on by the Corporation of any such activities
- (c) the power to borrow such sums as the Corporation thinks fit for the purposes of carrying on any activities they have power to carry on or to meet any liability transferred to them under Sections 23 to 27 of the 1992 Act (ie when the College achieved its corporate independence on 1 April 1993) and, in connection with such borrowing, the power to grant any mortgage charge or other security in respect of any land or other property of the Corporation. This power may not be exercised without the consent of the Learning & Skills Council (LSC), which may give its consent for a particular borrowing or for borrowing of particular class;
- (d) power to invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
- (e) power to accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes; and
- (f) power to do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

The Corporation may also provide facilities of any description (including boarding and accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties) which appear to be necessary or desirable for the purposes of or in connection with the carrying on of the principal powers.

**SUMMARY OF STATUTORY RESPONSIBILITIES OF CORPORATION MEMBERS**

**Responsibilities**

Under Article 3(1) of the College's Articles of Government the Corporation shall be responsible:-

- (a) 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.

"Senior Post" means the post of Principal and such other posts as the Members may determine for the purposes of the Articles.

**Responsibilities which must not be delegated**

Article 9 of the Articles of Government prohibits the Corporation from delegating the following:-

- (a) the determination of the educational character and mission of the institution;
- (b) the approval of the annual estimates of income and expenditure;
- (c) ensuring the solvency of the institution and the Corporation and the safeguarding of their assets;
- (d) the appointment of the Principal or holder of a senior post;
- (e) the appointment of the Clerk of the Corporation; and
- (f) the modifying or revoking of the Articles of Government.

The Corporation may not delegate the consideration of the case for dismissal, and 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.

The Corporation may, from time to time, resolve to add other matters which must not be delegated to this list of "reserved" responsibilities.

## **CORPORATION MEMBERS' FINANCIAL LIABILITY**

Corporation members (Governors) have two key forms of protection against any personal financial liability that may arise through their activities on behalf of:

1. Section 145 of the Learning and Skills Act 2000 makes provision for the Court to extinguish, reduce or vary the liability of any Governor who has acted honestly and reasonably;
2. The College maintains insurance, of up to £3 million for any one event, in respect of damages and costs for any acts, errors or omissions committed by the College, Governors and Officers whilst acting in those capacities.

Generally, if a problem in the college caused a loss to a third party, that third party would sue the Corporation and not individuals. This is because actions are taken in the name of the Corporation, which is a legal entity in its own right. In exceptional circumstances, it might be possible for a claimant or a successor corporation to sue an individual Governor, on the basis that it was his/her action or failure to act that caused the loss. In these unusual circumstances, the protections mentioned above would potentially be invoked.

Governors are not responsible for losses caused by acts of employees or agents of the Corporation unless they have personally procured the act that led to the loss or are in breach of their duties of skill and care and that led to the loss.

It is worth noting the basic duties of Governors.

1. Collectively to carry out the responsibilities set out in Clause 3 (1) of the Articles. These include responsibility for the effective and efficient use of resources, the solvency of the institution and the safeguarding of its assets. This does not mean that Governors become personally liable simply by virtue of the insolvency of the institution. Personal liability in such circumstances would only be likely to arise if it was found that individual Governors had failed to discharge their responsibilities properly in accordance with the principles referred to below.
2. To act in good faith and in the best interests of the Corporation. Anything Governors do in their capacity as Governors they do, not on their own behalf, but on behalf of the Corporation. In making any decision, Governors should always have the best interests of the Corporation and the continued fulfilment of its functions at the forefront of their minds. Any ulterior motives or factors that are not relevant to such interests should not be taken into account.
3. In carrying out their functions as Governors, to exercise such powers of skill and care as they possess, at least at the same level that an ordinary prudent person might reasonably be expected to show when acting on their own behalf. Higher duties of skill and care are expected of people who are professionally qualified when acting within their areas of expertise, as opposed to people who are not qualified.
4. To avoid putting themselves in a position where they have a conflict of interests with the Corporation. For example, if Governors find that they have an interest in a personal or business capacity in a potential contract with the Corporation, they must

declare that interest and ensure that they take no part in the Corporation's decision in relation to that contract.

5. Not to obtain any undisclosed benefit as a result of being Governor. In other words, Governors should not profit from their position and should not misappropriate or misuse Corporation assets or information. A Governor may be liable to repay any improper benefit and should always declare any benefits received.
6. To observe the rules of governance, ensuring that the Corporation stays within its powers (e.g. in delegation of duties and commercial decisions) and that actions are properly authorised. A third party could sue Governors who signed a contract that was unenforceable because the decision had been taken at an inquorate meeting.

There is, of course, no protection for a Governor or for any member of staff against criminal prosecution for acts for which they are personally responsible. In the normal course of events, prosecutions are unlikely but our insurance covers "reasonable legal fees, costs and expenses incurred....which are necessary to defend or appeal a claim."

In the event of an alleged criminal offence (e.g. under Health and Safety or Environmental Protection legislation) the Corporation would be the likely subject of prosecution but action against responsible individuals cannot be ruled out. Motoring offences (e.g. driving a College minibus with bald tyres or no insurance) could render the driver liable to prosecution. Civil action could be taken against both the Corporation and the driver in the event of injury to a third party.

It is important to note that we must advise our insurers as soon as we become aware of any potential claim under the liability policy.

Any claim against a Governor personally is unlikely. In the event of a claim, Governors are likely to be protected by the Learning and Skills Act and by our own insurance, provided that they have acted honestly and with a reasonable level of skill and care (as they would in looking after their own affairs).

**PROCEDURES ON INDEPENDENT PROFESSIONAL ADVICE FOR CORPORATION MEMBERS**

- 1 Corporation Members shall have, within the financial limits appearing in paragraph 3, the right to take advice from:-
  - the Corporation's advisers; or
  - if necessary, at the Corporation's expense, independent adviserson any matters concerning the exercise of their powers and responsibilities.  
Such matters shall:-
  - include advice on their legal, accounting and regulatory duties, but
  - exclude advice to individual Corporation Members concerning their own respective personal interests in relation to the Corporation.
- 2 A Member who intends to seek advice under this procedure shall give prior written notice to the Clerk to the Corporation and such notice must contain:-
  - a summary of issues on which advice is sought; and
  - if independent advice is sought (ie not from the Corporation's advisers), the name(s) of the advisers whom the Member proposes to instruct together with a short explanation of the reasons why consultation with the Corporation's advisers on the particular issue(s) is considered to be inappropriate.The Clerk shall forthwith deliver copy of a notice to the Chairman of the Corporation and the Principal. Wherever practicable, a Member shall first enquire of the Clerk whether professional advice has already been obtained by the Corporation, before giving notice under this paragraph.
- 3 The Chairman shall be authorised by the Corporation for the college to pay reasonable costs of independent professional advice under this procedure up to a maximum cost of £50,000.
- 4 The Chairman shall decide whether to authorise such payment or contribution as soon as practicable after receiving a copy of the notice seeking advice under this procedure and in any event within 10 working days. The decision shall be made after consultation with the Principal.
- 5 The Clerk will notify the Member in writing whether the costs for the professional advice are payable by the Corporation and, if they are not, brief reasons shall be stated in support of the decision.
- 6 Any advice which is obtained under this procedure shall, on request, be made available to all Corporation Members.

- 7 References in this procedure to the Chairman shall include, in his or her absence or where he or she is seeking independent advice under this procedure, references to the Vice Chairman.

### General Notes

- 1 *The purpose of this procedure is to establish a formal mechanism whereby Corporation Members can, collectively or individually, obtain professional advice at the Corporation's expense. This may, for example, be necessary if a Corporation Member is not satisfied with the advice already given the Corporation's retained advisers or if a previous request for professional advice has been ignored.*

- 2 *The Cadbury Code of Best Practice (Report of the Cadbury Committee on the Financial Aspects of Corporate Governance, 1 December 1992) recommends that such a procedure is formally established for boards of listed public limited companies:-*

*“Paragraph 1.5        There should be an agreed procedure for directors in the furtherance of their duties to take independent professional advice if necessary, at the company's expense.”*

*The Corporation has been advised by the CEF that Corporation Members in the further education sector should have a similar access to independent advice to enable them to perform their duties properly.*

- 3 *This procedure is additional to, and does not displace, the inherent power of Corporation Members to decide to take independent professional advice by passing a resolution to that effect.*