

# SCHEDULE 1

## 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(1);
  - (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 telephone or other electronic facilities it is possible for every person present at the meeting to communicate with each other;

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**1** 1992 c.13.

- (g) “necessary skills and attributes” means skills, experience and attributes, considered by the Corporation as appropriate and desirable to have in its membership;
- (h) “staff member” and “student member” have the meanings given to them in clause 2;
- (i) “the previous Instrument of Government” means the Instrument of Government relating to the Corporation which had effect immediately before 10<sup>th</sup> December 2012;
- (j) “the Secretary of State” means the Secretary of State for Business Innovation and Skills;
- (k) “staff matters” means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff;

### **Composition of the Corporation**

2.1 The Corporation shall at all times consist of not less than twelve and not more than twenty members, comprising:

- (a) up to sixteen members who appear to the Corporation to have the necessary skills and attributes to ensure that the Corporation carries on its functions under Article 3 of the Articles of Government;
- (b) the Principal of the institution;
- (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 nominated and elected as set out in paragraphs 4-6 (“staff members”);
- (d) at least one and not more than three members who are students at the institution and have been nominated and elected by their fellow students (“student members”) under procedures to be determined by the Corporation.

2.2 Subject to paragraph 1, the number of members on any one day shall comprise those members who have been duly appointed as members, and whose terms as member have not expired or been terminated in accordance with Clause 8 or 9 of this Instrument.

2.3 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.

2.4 Where the Corporation has decided or decides that there is to be one staff member; the member may be a member of the academic staff or the non-academic staff and shall be nominated and elected by all staff.

2.5 Where the Corporation has decided or decides that there are to be two staff members—

- (a) one may be a member of the academic staff, nominated and elected only by academic staff; and the other may be a member of the non-academic staff, nominated and elected only by non-academic staff, or
- (b) each may be a member of the academic or non-academic staff, nominated and elected by all staff.

2.6 Where the Corporation has decided that there are to be three staff members -

- (a) all may be members of the academic or non-academic staff, nominated and elected by all staff,
- (b) one may be a member of the academic or the non-academic staff, nominated and elected by all staff, one may be a member of the academic staff,

nominated and elected by academic staff only, and one may be a member of the non-academic staff nominated and elected by non-academic staff only,

(c) two may be members of the academic staff, nominated and elected by academic staff only, and one may be a member of the non-academic staff, nominated and elected by non-academic staff only, or

(d) one may be a member of the academic staff, nominated and elected by academic staff only, and two may be members of the non-academic staff, nominated and elected by non-academic staff only.

2.7 The appointing authority, as set out in clause 3, will decide whether a person is eligible for nomination, election and appointment as a member of the Corporation under paragraph (1).

### **Appointment of the members of the Corporation**

3.1 Subject to paragraph (2) the Corporation is the appointing authority in relation to the appointment of its members.

3.2 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.

3.3 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 made under Article 13 of the Articles of Government concerning the number of terms of office which a person may serve, provided that such rules 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 8.

### **Appointment of the Chairman and Vice-Chairmen**

4.1 The members of the Corporation shall appoint a Chairman and one or more Vice-Chairmen from among themselves.

4.2 Neither the Principal nor any staff or student member shall be eligible to be appointed as Chairman or Vice-Chairmen or to act as Chairman in their absence.

4.3 If both the Chairman and the Vice-Chairmen are absent from any meeting of the Corporation, the members present shall choose someone from among themselves to act as Chairman for that meeting.

4.4 The Chairman and Vice-Chairmen shall hold office for such period as the Corporation decides.

4.5 The Chairman or Vice-Chairmen may resign from office at any time by giving notice in writing to the Clerk.

4.6 If the Corporation is satisfied that the Chairman is unfit or unable to carry out the functions of office, it may give written notice, removing the Chairman from office and the office shall then be vacant.

4.7 If the Corporation is satisfied that a Vice-Chairman is unfit or unable to carry out the functions of office, it may give written notice, removing the Vice-Chairmen from office and the office shall then be vacant.

4.8 Prior to or at the last meeting before the end of the term of office of the Chairman, or at the first meeting following the Chairman's resignation or removal from office, the members shall appoint a replacement from among themselves.

4.9 Prior to the last meeting before the end of the term of office of the Vice-Chairmen, or at the first meeting following the Vice-Chairman's resignation or removal from office, the members shall appoint a replacement from among themselves.

4.10 At the end of their respective terms of office, the Chairman and Vice-Chairmen shall be eligible for reappointment.

### **Appointment of Principal**

5.1 The Corporation shall appoint a person to serve as its Principal and Chief Executive of the institution.

5.2 In the temporary absence of the Principal, the Corporation may appoint a person to serve as a temporary Principal.

### **Appointment of the Clerk to the Corporation**

6.1 The Corporation shall appoint a person to serve as its Clerk, but the Principal may not be appointed as Clerk.

6.2 In the temporary absence of the Clerk, the Corporation shall may appoint a person to serve as a temporary Clerk, but the Principal may not be appointed as temporary Clerk.

6.3 Any reference in this Instrument to the Clerk shall include a temporary Clerk appointed under paragraph (2).

6.4 The Clerk may also be a member of staff at the institution.

### **Persons who are ineligible to be members**

7.1 No one under the age of 18 years may be a member, except as a student member.

7.2 The Clerk may not be a member.

7.3 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.

7.4 Nothing in this paragraph shall, however, terminate the appointment of a member who becomes a member of staff of the institution subsequent to their appointment or re-appointment as a member.

7.5 Notwithstanding paragraph 7.3, no student at the institution who is employed by the institution shall be ineligible for membership, and no student member shall become ineligible for continuing membership, as a result of that employment.

7.6 Subject to paragraphs 7.7 and 7.8, a person shall be disqualified from holding, or from continuing to hold, office as a member, if that person has been adjudged bankrupt or is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking within the meaning of the Insolvency Act 1986(2), or if that person has made a composition or arrangement with creditors, including an individual voluntary arrangement.

7.7 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

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2 1986.c.45 as amended by the Enterprise Act 2002 (c. 40)

- (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.
- (f) 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.

7.8 Subject to paragraph (7.9), 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 sub-paragraph (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.

7.9 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.

7.10 Upon a member of the Corporation becoming disqualified from continuing to hold office under paragraphs (7.5) or (7.8), the member shall immediately give notice of that fact to the Clerk.

### **The term of office of a member**

8.1 A member of the Corporation shall hold and vacate office in accordance with the terms of the appointment, but the length of the term of office shall not exceed four years.

8.2 Members retiring at the end of their term of office shall be eligible for reappointment, and clause 5 shall apply to the reappointment of a member as it does to the appointment of a member.

### **Termination of membership**

9.1 A member may resign from office at any time by giving notice in writing to the Clerk.

9.2 If at any time the Corporation is satisfied that any member –

- (a) is unfit or unable to discharge the functions of a member; or

(b) 9.4 has been absent from meetings of the Corporation for a period longer than six consecutive months without the permission of the Corporation,

(c) the Corporation may by notice in writing to that member remove the member from office.

9.3 Any person who is a member of the Corporation by virtue of being a member of the staff at the institution, including the Principal, shall cease to hold office upon ceasing to be a member of the staff.

9.4 A student member shall cease to hold office—

(a) at the end of the student's final academic year, or at such other time in the year after ceasing to be a student as the Corporation may decide; or

(b) if expelled from the institution.

### **Members not to hold interests in matters relating to the institution**

10.1 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.

10.2 This paragraph applies to a member who has any financial interest in—

(a) the supply of work to the institution, or the supply of goods for the purposes of the institution;

(b) any contract or proposed contract concerning the institution; or

(c) any other matter relating to the institution; or

(d) has any other interest of a type specified by the Corporation in any matter relating to the institution.

10.3. 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.

10.4 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.

10.5 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.

## **Procedural Arrangements**

11.1 The Corporation shall make further rules, arrangements and procedures for the conduct of the business of the Corporation and the institution.

## **Meetings**

12.1 The Corporation shall meet at least three times in a calendar year, and shall hold such other meetings as may be necessary.

12.2 Every member shall act in the best interests of the Corporation and shall not be bound to speak or vote by mandates given by any other body or person.

## **Quorum**

13.1 Meetings of the Corporation shall be quorate if the number of members present is at least 40% of the total number of members, determined according to clause 3.

## **Decisions taken between meetings**

14.1 Where the Chairman, or in the Chairman's absence the Vice-Chairman, after consultation with the Principal and the Clerk, considers it expedient for the prompt, effective or efficient discharge of the Corporation's business that members consider and reach a decision on a question between meetings of the Corporation, the Clerk shall circulate a paper to all members setting out the question to be decided and a recommended decision; and the recommended decision shall be deemed to be approved if 50% of the members communicate their approval in writing or by electronic means to the Clerk, except that if any member communicates their dissent the recommended decision shall not be approved but shall be placed on the agenda of the following Corporation meeting.

14.2 Decisions so taken by written procedure shall be reported to the following meeting of the Corporation and recorded in the minutes of that meeting.

## **Proceedings of meetings**

15.1 Every question to be decided at a meeting of the Corporation shall be decided by a majority of the votes cast by members present and entitled to vote on the question.

15.2 Where, at a meeting of the Corporation, there is an equal division of votes on a question to be decided, the Chairman of the meeting shall have a second or casting vote.

15.3 A student member who is under the age of 18 shall not vote at a meeting of the Corporation, or any of its committees, on any question concerning any proposal—

(a) for the expenditure of money by the Corporation; or

(b) under which the Corporation, or any members of the Corporation, would enter into any contract, or would incur any debt or liability, whether immediate, contingent or otherwise.

## **Minutes**

16.1 Written minutes of every meeting of the Corporation shall be prepared.

16.2 Minutes of a meeting shall be taken as an agenda item at a subsequent meeting, and, where agreed to be accurate, shall be signed as a true record by the Chair of the meeting.

16.3 The Corporation may set rules governing the confidentiality of the minutes of particular agenda items.

#### **Public access to meetings**

17.1 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.

#### **Publication of minutes and papers**

18.1 Subject to paragraph (2), the Corporation shall ensure that a copy of—

- (a) the agenda for every meeting of the Corporation;
- (b) the signed minutes of every such meeting; and
- (c) any report, document or other paper considered at any such meeting,

18.2 Shall as soon as possible be made available during normal office hours at the institution to any person wishing to inspect them.

18.3. There shall be excluded from any item made available for inspection any material relating to—

18.4 any material relating to any matter which, by reason of its nature, the Corporation is satisfied should be dealt with on a confidential basis.

18.5 The Corporation shall ensure that a copy of the signed minutes of every meeting of the Corporation, under paragraph 18.1, 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.

18.6 The Corporation shall review regularly all material excluded from inspection under paragraph 18.2 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.

#### **Payment of allowances to members**

19.1 The Corporation may pay to its members such travelling, subsistence or other allowances as it decides.

#### **Copies of the Instrument of Government**

20.1 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**

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

#### **Application of the seal**

22.1 The application of the seal of the Corporation shall be authenticated by—

- (a) the signature of either the Chairman or of some other member authorised either generally or specially by the Corporation to act for that purpose; and
- (b) the signature of any other member.

### **Modification or replacement of the Instrument and Articles of Government**

23.1 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 person who, in the Corporation's view, are likely to be affected by the proposed changes.

23.2 The Corporation shall not make changes to the instrument and articles of government that would result in the body ceasing to be a charity.

### **Dissolution of the Corporation**

24.1 the Corporation may by resolution dissolve itself and provide for the transfer of its property, rights and liabilities.

24.2 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.

## SCHEDULE 2 ARTICLES OF GOVERNMENT

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### **Interpretation of the terms used**

1.1 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) “Chairman” and “Vice-Chairman” mean respectively the Chairman and Vice-Chairman of the Corporation appointed under clause 6 of the Instrument of Government;
- (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) “staff member” and “student member” have the same meanings as in the Instrument of Government;
- (g) “the Secretary of State” means the Secretary of State for Business Innovation and Skills.
- (h) “the staff” means all the staff who have a contract of employment with the institution;
- (i) “the students’ union” has the same meaning as in the Instrument of Government.

### **Conduct of the institution**

2.1 The institution shall be conducted in accordance with the provisions of the Instrument of Government, these Articles and any rules made under the Instrument of Government or these Articles

### **Responsibilities of the Corporation**

3.1 The Corporation shall be responsible for the following functions—

- (a) the determination and periodic review of the strategic objectives including 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 the financial strategy and annual budgets

(e) The corporation shall obtain the views of staff and students on the determination and periodic review of the strategic objectives including educational character and mission of the institution and the oversight of its activities:

(f) The Corporation will ensure that the arrangements for obtaining the views of obtaining the views of staff and students are published.

### **Responsibilities of the Principal**

4.1 Subject to the responsibilities of the Corporation, the Principal, and shall be responsible for the following functions-

(a) making proposals to the Corporation about the strategic objectives, quality assurance, 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 financial strategies and 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 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.

### **Responsibilities of the Clerk**

5.1 The Corporation shall specify the Clerks responsibilities.

### **The establishment of committees and delegation of functions generally**

6.1 The Corporation may establish committees for any purpose or function and may delegate powers to-

(a) such committees;

(b) the Chairman, or in the Chairman's absence, a Vice-Chairman; or

(c) the Principal.

(d) 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.

6.2 Any committee established by the Corporation, may include persons who are not members of the Corporation.

6.3 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<sup>(3)</sup> governing such arrangements.

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(3) 2006 c. 40.

## **Access to committees by non-members and publication of minutes**

7.1 The Corporation shall ensure that:—

- (a) a written statement of its policy regarding attendance at committee meetings by persons who are not committee members; and
- (b) the signed minutes of Corporation committee meetings, if they have been approved by the Committee, are published on the institution's website and made available for inspection at the institution by any person, during normal office hours.

## **Academic freedom**

8.1 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**

9.1 After consultation with staff, the Corporation shall make rules setting out

- (a) grievance procedures for staff;
  - (b) procedures for the suspension of staff; including the Principal and Clerk.
  - (c) disciplinary and dismissal procedures for staff; including the Principal and Clerk.
- and such procedures shall be subject to the provisions of article 5.1.
- (d) Any rules made under paragraph 9.1 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.
  - (e) Any rules made under paragraph 9.1 (c) 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.

## **Students**

10.1 Any students' union shall conduct and manage its own affairs and funds 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.

10.2 Any students' union shall present audited accounts annually to the Corporation.

10.3 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).

## **Accounts and audit of accounts**

11.1 The Corporation shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare and publish a statement of accounts for each financial year of the Corporation.

11.2 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 Secretary of State 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.

11.3 The accounts and the statement of accounts shall be audited by external auditors appointed by the Corporation in respect of each financial year.

#### **Rules relating to the government and conduct of the institution**

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

#### **Copies of Articles of Government and rules**

13.1 A copy of these Articles, and of any rules, 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.