



# Rules and Regulations

(Previously known as the Standing Orders)

## Background

1.1 The College is a statutory body incorporated under the Further and Higher Education Act 1992. The principal powers of the Corporation under the Act are set out at Appendix A.

1.2 Under the 1992 Act, the Secretary of State set out in statutory Instrument and Articles (I&A) detailed arrangements for the governance of FE Colleges, including the statutory duties of the Corporation, the Principal and the Clerk. Until 2011 these were common to all Further Education (FE) Colleges. Under the 2011 Education Act however, while certain core statutory requirements were preserved, Corporations were granted a continuing right to amend, add or eliminate large parts of their I&A. The College exercised this right by significantly simplifying the I&A in December 2012. Many detailed provisions previously in the I&A have now been included in the following Governance Rules and Procedures, sometimes in amended form. Some are being dealt with in specific administrative policies. Others have been dropped altogether.

1.3 The College is also an Exempt Charity under the 1993 and 2006 Charity Acts. The Principal Regulator for this purpose is the Secretary of State (although some matters, e.g. Governor Remuneration, will be regulated directly by the Charity Commission).

1.4 With financial matters – and particularly with the use of Government grants - the College continues to be regulated by the Education and Skills Funding Agency (ESFA) through a Financial Memorandum between the College and the ESFA, a Code of Audit Practice applicable to all General FE and Land-based Colleges, and the annual Accounts Direction governing the contents and format of Corporations' Annual Report and Accounts. The College is also required to comply with the Statement of Recommended Practice (SORP) applicable to FE and HE Institutions.

1.5 The College is also required by ESFA to have regard to the Financial Reporting Council's Corporate Governance Code for companies listed on the London Stock Exchange or to the Code of Governance for English FE Colleges drawn up by the

Association of Colleges (AoC). The Corporation has adopted the AoC Code with effect from September 2016 and adopted the AoC Colleges Senior Post Holder Remuneration Code in February 2019.

### **Status of the Governance Rules and Procedures**

2.1 These rules and procedures are prepared in accordance with the Instrument of Government. They supplement the provisions of the Further and Higher Education Act 1992 and the I&A. In the event of any conflict between these Rules and Procedures and either the Act or the I&A (or both), the Act and the I&A shall prevail.

2.2 Every member of the Corporation and of its Committees, together with the Principal and the Clerk, shall be bound by these Rules and Procedures.

2.3 The Rules and Procedures shall be reviewed by the Corporation at three-yearly intervals, and more frequently as required. The Chair (on the advice of the Clerk and after consulting with the Principal) has delegated authority to approve minor changes to these Rules and Procedures in response to legal requirements and audit recommendations.

### **IOG= Instrument of government AOG= Articles of government**

MEMBERSHIP/COMPOSITION OF CORPORATION		
No.	Rule/Procedure	Authority
1	The Corporation determined to have not less than twelve and not more than twenty members.	IOG 2.1
2	The membership is made up as follows:  External members      Up to 16 Staff members          1-3 Student members        1-2 The Principal            1	IOG 2.1

Appointment of the members of the Corporation		
3	The Corporation must approve all appointments and reappointments of members.	IOG 3.1

4	<p>The Staff Governors will be nominated as follows:</p> <p>One by Academic Staff.</p> <p>One by Support Staff.</p> <p>The Corporation may decide to increase the number of Staff Governors to three and will specify whether they may be nominated by all staff or Academic Staff or Support Staff.</p> <p>Should a Staff Governor resign the position should be filled promptly.</p>	IOG 2.5 and 2.6
5	<p>One Student Governor will be nominated in accordance with the Student Union, representative capacity for all students FE and HE. In the event that the Student Union is not in operation the Student Governors will be nominated as follows:</p> <p>One by Further Education students</p> <p>One by Higher Education students.</p> <p>Student members should attend the College on what is designated as a full time course.</p>	IOG 2.1
6	<p>If a student member ceases to be a member in the course of an academic year, the vacancy will not normally be filled until the elections in the following academic year; but in the event that there is no student member with more than four months of the academic year to run, a new Student Governor will be nominated in accordance with the Student Union (In the event that the Student Union is not in operation, fresh elections will be held for the above two posts will be held) .</p>	Corporation
7	<p>The Clerk will maintain a register of the Corporation Memberships and terms of office.</p>	Corporation
8	<p>The Corporation delegates to the Search and Governance Committee responsibility for determining appropriate selection procedures for independent members, and for advising the Corporation on membership issues more generally, including seeking eligible and appropriate candidates for consideration for appointment by the Corporation, and evaluating the</p>	Corporation

	contribution of candidates for reappointment. The terms of reference of the Search and Governance Committee, and the processes by which it conducts appointments, shall be published on the College's website.	
9	A member of staff employed under a contract of employment with the College is not eligible for appointment as an independent member. A governor who during his or her term of office becomes a member of staff shall immediately offer their resignation. The Search and Governance Committee, after consulting the governor concerned, shall consider whether the offer should be accepted (and, if so, from what date) or declined; and shall make a recommendation to the Corporation accordingly.	IOG 7.3
10	An independent member may enrol as a student at the College, provided all parties agree that the appointment or reappointment is unlikely to cause a significant conflict of interest.	Corporation
11	In considering the appointment of an independent member the Search and Governance Committee and the Corporation shall have regard to: (a) the individual skills, experience and attributes of the candidate and the extent to which they are likely to help the Corporation achieve its strategic goals and its statutory duties on a sustainable basis. These skills may include professional, vocational, or educational expertise; insights into the educational and training needs of the communities and employers served by the College; and networking and ambassadorial skills. (b) the personal contribution that the candidate could make towards the strong governance of the College including their time availability, enthusiasm and commitment; their ability constructively to challenge and hold management to account; and their potential to chair Committees and lead other collective governor activities. (c) achieving a beneficial diversity within the Corporation in terms of e.g. gender, age and geographical spread, but also an appropriate balance of professional, vocational, and educational skills, experience and knowledge.	Corporation
	Search and Governance Committee may make	

	<p>recommendations to Corporation to co-opt persons who are not Governors to serve as Co-opted Members of Corporation or Co-Opted Members of a Committee. Co-opted Members of Corporation may be invited to attend full Corporation meetings where appropriate. Co-opted members of a committee will be invited to attend all meetings of the committee.</p>	
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	<b>Eligibility for Membership</b>	
12	The eligibility of each member 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 annually by the Clerk.	IOG 7
13	Disclosure and Barring Service (DBS) checks will be carried out at the time of appointment on all independent governors.	Corporation

	<b>Remuneration of Members</b>	
14	Members may not be remunerated for their services as Members without the express agreement of the Charity Commission.	Charities Act 2011
15	Members may be reimbursed for travel and subsistence expenses associated with attending meetings, training events and conferences. Expenses for significant journeys should be agreed with the Clerk in advance. All claims for expenses, supported by receipts where possible, shall be submitted to the Clerk as soon as reasonably practical, using the College's claim form.	Charities Act 2011 and IOG 19.1
16	Members may only claim expenses at rates contained in the staff handbook (except that car journeys shall be recorded as from home rather than from the College site). Members will need to provide evidence of car insurance for business use in order for mileage costs to be reimbursed. 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.	Corporation
17	Members may be reimbursed for childcare costs associated with attending meetings, training events and conferences. Such childcare expenses should be agreed	Charities Act 2011

	with the Clerk in advance, but the individual Member remains responsible for the choice of provider. Childcare costs arising may be reclaimed by the Member, supported by receipts where possible, using the College's claim form, or may be paid directly to the provider where an invoice is raised.	
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	<b>Induction and Continuing Development of Governors</b>	
18	Under its terms of reference the Search and Governance Committee shall develop and recommend to the Corporation policies and procedures for the induction of new Corporation members and their continuing development, both individually and collectively.	Corporation
19	Governors shall highlight each year those areas of the college's business where they would find it most helpful to develop their understanding, together with a note on how far the areas they identified the previous year have been met; and the Clerk will discuss with the individual governors how best their training needs can be fulfilled.	Corporation
20	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 and any other relevant information.	Corporation

	<b>Terms of Office</b>	
21	Members of the Corporation will serve for a term of office of not more than four years.	IOG 8.1
22	Members are eligible for reappointment at the end of their term subject to an evaluation by the Search and Governance Committee of their performance, effectiveness, and individual contribution. The maximum of terms is normally two (eight years). The Search and Governance Committee shall consider recommending a reappointment for a third or subsequent term. Third or subsequent terms should normally be for a maximum period of two years, except in the case of a newly appointed Corporation Chair	IOG 8.2

	where, in the interests of stable leadership, the membership of the new Chair will normally be renewed for a full four-year term.	
23	Where a retiring member has skills and attributes of continuing value to the College the Search and Governance Committee may consider with them their on-going informal involvement with the College as a non-member. This may include co-option to membership of the Corporation or a Committee.	Corporation

	<b>Termination of Appointments</b>	
24	Where the Corporation is minded to terminate the appointment of a member, the matter shall be considered as an agenda item at a Corporation meeting. 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.	IOG 9.2

	<b>Appointment of Corporation Chair and Vice-Chair</b>	
25	The Chair and one or more Vice-Chair shall be appointed (or re-appointed) by the Corporation. The Corporation may appoint more than one Vice-Chair where it seems to the members advantageous to do so for the better discharge of business or for purposes of succession management.	Corporation and IOG 4
26	Chair and Vice-Chair shall be appointed for terms not exceeding one year, and are eligible for re-appointment at the end of that period. Chair and Vice-Chair should normally serve no more than five consecutive one-year terms as Chair or Vice-Chair. The Search and Governance Committee shall be asked to advise on the re-appointment of a Chair or Vice-Chair for a sixth or subsequent term, and shall set out in writing its reasons for recommending such an exceptional re-appointment.	Corporation
27	At a Corporation meeting where the agenda includes the appointment or re-appointment of a Chair or Vice-Chair, the Clerk shall circulate nomination forms in advance of the meeting to provide an opportunity for members to nominate and second members for the	Corporation

	<p>post. 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 any appointment, a vote may be taken. Voting shall be by secret ballot using a form prepared by the Clerk. A governor who is not standing for the post of Chair or Vice-Chair will chair the meeting for these agenda items.</p>	
28	<p>Should the Chair resign unexpectedly between meetings, the Vice-Chair will take on the role of Acting Chair, until a vote can take place at a Corporation meeting.</p>	Corporation

	<p><b>Appointment, Suspension, and Dismissal of the Principal and the Clerk</b></p>	
29	<p>Where there is a vacancy or expected vacancy in the post of Principal, the Corporation shall promptly establish a Selection Panel to oversee the selection process and recommend a candidate to the Corporation for appointment. The Panel shall comprise at least three members and be chaired by a member, but it may also co-opt non-members with relevant expertise.</p>	Corporation
30	<p>The Selection Panel may appoint recruitment advisers and advertise the post in the way they consider most appropriate within a budget agreed by the Corporation. The Panel shall consult other members on the criteria for the appointment, and in the light of their responses decide on the arrangements and criteria for selecting the applicants for interview, interview the candidates, and, where they consider it appropriate, recommend to the Corporation one candidate for appointment and the remuneration and terms and conditions of employment that should be offered. 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, or if the preferred candidate withdraws before taking up post, the Corporation may make an appointment itself of a person from amongst those interviewed, or it may require the Selection Panel to repeat the process, with or without re-advertising the vacancy.</p>	Corporation



31	<p>Where there is a vacancy or expected vacancy in the post of Clerk, the Chair of the Corporation and the Principal shall consult other members on the specification of the post, and in the light of their responses decide on the arrangements for advertising the post and the criteria for selecting the candidates for interview, shall interview the candidates, and where they consider it appropriate, shall recommend to the Corporation one candidate for appointment and the remuneration and other terms and conditions of employment that should be offered. Where the Clerk will also be a member of staff at the College, the Corporation will also determine the remuneration and other terms and conditions of their non-Clerk employment in the light of recommendations by the Principal.</p>	Corporation
32	<p>Where there is a vacancy in the post of Principal or Clerk, or in the event of sustained absence of the Principal or Clerk is temporarily absent, the Corporation may appoint a member of staff or another person with the required expertise to act as acting Principal or Clerk; and that acting Principal or temporary Clerk shall have all the duties and responsibilities of the Principal or Clerk under the I&amp;A during the period of the vacancy or temporary absence. The Principal and Clerk will review annually with the Search and Governance Committee the standing arrangements for carrying out their respective functions when they are temporarily absent, eg on holiday.</p>	IOG 5.2 and 6.2
33	<p>The Corporation shall ensure that its procedures for handling staff grievances, for suspension of staff, and for disciplinary and dismissal procedures for staff shall include grievances by, and suspension, disciplining or dismissal of, the Principal and the Clerk. Suspension, disciplining, or dismissal of the Principal and Clerk (including for this purpose suspension, disciplining or dismissal of the Clerk in respect of their functions as a member of staff) shall be a matter for the Corporation to decide.</p>	AOG 9.1
34	<p>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 and the Clerk's performance shall be considered by the</p>	Corporation

	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.	
35	Where there is a change in the position of Chair or Clerk, the Principal will notify the ESFA or delegate this responsibility to the Clerk; where there is a change in the position of Principal, the Clerk will notify the ESFA.	

	<b>Governance Structure</b>	
	Standing Committees	
36	The formal business of the Corporation is conducted at meetings of the Corporation or its Committees. The Corporation has established three standing committees: Search and Governance , Remuneration, and Audit. The Corporation may establish additional committees as it sees fit, including Task and Finish Groups.	AOG 6.1
37	The Corporation shall: a) determine written terms of reference for each Committee, Sub-committee and Task and Finish Group, including quoracy, and review these annually in the light of the Committee's self-assessment; the current terms of reference are set out on the College's website. b) appoint the Chair and Vice-Chair of each Committee,Sub-committee and Task and Finish Group and determine its membership (which may include co-opted non-governors) from time to time on the advice of the Search and Governance Committee; and c) regularly receive the minutes of Committee, Sub-committee and Task and Finish Group meetings and reports by the Committee Chairs, and consider Committee Sub-committee and Task and Finish Group recommendations.	Corporation
38	Each of the Corporation's standing committees may establish sub-Committees or working groups for the more effective or efficient despatch of its business.	Corporation
39	The Clerk shall attend all meetings of the Corporation and of the Committees, except for discussion in the Remuneration Committee about his or her	Corporation

	remuneration.	
40	<p>The Corporation and each Committee shall review their individual performance over the preceding year with a view to improving the effectiveness and efficiency with which they conduct business. In addition the Corporation should regularly consider:</p> <ul style="list-style-type: none"> <li>• The performance of the College as a whole in meeting its strategic objectives, benchmarking its performance against that of comparable colleges wherever possible through the use of key performance indicators, and publishing its overall assessment of performance in its Annual Report;</li> <li>• The reputation of the College and the views of stakeholders;</li> <li>• The performance of the Chair and of other members holding office or undertaking defined roles within the governance structure.</li> </ul>	Corporation/Code of Governance

	<b>Panels of Governors</b>	
41	The Corporation or the Chair of the Corporation may establish panels of governors for ad hoc tasks such as the appointment of a Principal or the hearing of staff or student disciplinary appeals.	Corporation

	<b>Informal Meetings</b>	
42	<p>Corporation members may also meet informally from time to time in a workshop or seminar format, and in particular:</p> <ul style="list-style-type: none"> <li>a) to review each year the College's long-term strategy and objectives, and at not more than three-yearly intervals its educational character and mission;</li> <li>b) to develop their collective understanding of particular issues affecting the business.</li> </ul>	Corporation
43	The Chair and Vice-Chair of the Corporation shall meet the , the Principal and the Clerk up to three times a year to review, prioritise, and coordinate the forward schedule of Corporation and Committee business.	Corporation
44	In addition individual Governors are expected to carry out a range of informal activities, e.g. Learning Walks	Corporation

	and in advising particular departments as Link Governors or in representing the College externally. The allocation and effectiveness of this activity shall be regularly reviewed by the Search and Governance Committee.	
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<b>Procedural Arrangements For Conducting Business</b>		
45	The Corporation shall meet at least nine times in each calendar year, and may hold other meetings as necessary.	IOG 12.1
46	All Standing Committees shall meet at least once every calendar year. The Audit Committee shall meet at least three times a year.	Corporation
47	Meetings of the Corporation and of Committees shall be held at the College's Plumpton campus or such other place as the Corporation or the Committee shall determine.	Corporation
48	The Clerk shall submit to Committee Chairs and the Principal up to three times a year a draft schedule of Corporation and Committee meetings for the twelve months ahead, including the days and times and proposed agenda items for each meeting; and if the updated schedule is agreed by the Committee Chairs and the Principal, the Clerk will put the schedule on the Governors' Website.	Corporation
49	Apart from scheduled meetings, additional meetings of the Corporation may also be called at any time by the Chair if the Chair decides that there are matters requiring urgent consideration, or at the request in writing of any five members.	Corporation

<b>Agendas and Papers for meetings</b>		
50	Further to the agreed meeting schedule, the specific agenda for meetings of the Corporation will be drawn up by the Clerk in consultation with the Principal and the Chair of the Corporation; and the specific agenda for meetings of each Committee will be drawn up by the Clerk in consultation with the Principal and the	Corporation

	relevant Committee Chair. 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.	
51	Written agendas will be circulated in advance by the Clerk for all meetings of the Corporation and its Committees. The agendas will be circulated seven days prior to the meetings	Corporation
52	Items of additional urgent business should be notified to the Clerk before the Corporation or Committee meeting and may be raised at the Chair's discretion under Any Other Business.	Corporation
53	Corporation or Committee discussion of agenda items will normally be on the basis of papers circulated by the Clerk in advance, unless the Committee Chairs and the Principal have agreed otherwise in reviewing the schedule of business, or the Corporation (or Committee) Chair has agreed that discussion of a specific agenda item may proceed on the basis of an oral report.	Corporation
54	Papers should normally be circulated with the agenda seven calendar days before the meeting, papers exceeding 10 paged shall be accompanied by an executive summary. Late papers may be tabled in exceptional circumstances with the agreement of all members concerned; where a late paper seeks decisions, the Chair shall allow reasonable time at the meeting itself for members to digest it or request a response outside of the meeting.	Corporation
55	All papers should make clear who is presenting the paper and what action is sought, (i.e. simply to note or to decide a specific course of action).	Corporation

	<b>Quoracy, Participation, and Attendance at Meetings</b>	
56	Meetings of the Corporation shall be quorate if 40% or more of the Corporation's members participate.. In the case of the Audit, Search and Governance and Remuneration Committees a quorum shall be three	IOG 13.1 and Corporation

	members including co-optees.	
57	If the number of members participating in a Corporation or Committee meeting does not constitute a quorum (or if during the course of a meeting the number of members present ceases to constitute a quorum), no decisions shall be taken. The Corporation may however take note of papers not requiring a decision, and nothing shall prevent the continuation of informal discussion and briefing amongst the remaining members.	Corporation
58	A member is deemed not to participate in a Corporation or Committee meeting for the purposes of quoracy or voting, unless they are present in person, or are able to communicate by the use of telephone, video conferencing or other electronic facilities with every other participant. A member may nevertheless be deemed to participate for the purposes of quoracy and voting in respect of a particular matter on the agenda to be decided, if he or she has submitted a vote by proxy or by way of a postal/email vote in accordance with the procedures at paragraphs 72 and 73 below.	Corporation
59	The participation of every member participating in a meeting of the Corporation or a Committee shall be recorded in the minutes of the meeting, including whether they participated in person or by a particular electronic means. A member will be recorded as "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.	Corporation
60	The Clerk will maintain a register of those participating in all meetings of the Corporation and its Standing Committees and will submit to the Corporation twice-yearly for information. The participation of each member will be published in the Corporation's Annual Report.	Corporation
61	Corporation members are entitled to attend, as an observer, a meeting of any Committee of which they are not a member and may participate in discussion if invited to do so by the Committee Chair.	Corporation

62	The Corporation shall decide whether a non-member should be allowed to attend any of its meetings. The Corporation shall ensure that a written statement shall be published of its policy regarding attendance at Committee meetings by persons who are not Committee members. It is the Corporation's policy that non-members should not attend meetings of the Corporation or Committees except by invitation in order to inform or advise the members regarding matters on their agenda. Any exceptions to this rule shall require the prior approval of the Corporation or relevant Committee Chair, and may be subject to conditions on confidentiality.	IOG 10.1
63	Certain members of staff are sometimes required to attend Corporation or Committee meetings in an advisory capacity, some on a regular basis under a standing invitation, others at the invitation of the Clerk (after discussion with the Chair) to attend a particular meeting or for a particular agenda item. Any non-member attending a Corporation or Committee meeting shall be recorded as being "in attendance" in the minutes.	Corporation

	<b>Withdrawal from Meetings</b>	
64	A member who has a financial or other interest in business being discussed 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 member. 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 or Committee 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.	IOG 10.1
65	The Principal, Clerk and staff members shall withdraw	Corporation

	<p>from any part of a Corporation or Committee meeting which is discussing their own remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement, unless the Chair of the meeting, after consulting other members, decides that they should not withdraw. A staff member shall also 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. Where the Principal, Clerk, or staff member withdraws for confidential items, they shall not be entitled to receive copies of the minutes or papers relating to those items.</p>	
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	<b>Voting</b>	
66	<p>Decisions at meetings of the Corporation or 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.</p>	Corporation
67	<p>If a formal vote is taken, the question will be determined by a majority of the votes of the members participating in the meeting (including co-opted members in the case of Committee meetings). Votes may be cast in person, by telephone or other electronic means, by proxy, or by postal vote. A student member who is under the age of 18 shall not, vote on certain financial or contractual questions. In the event of a tie, the Chair shall have a second or casting vote. The minutes will record the number voting for and against or abstaining. 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</p>	<p>Corporation</p> <p>IOG 15.3</p>
68	<p>For a proxy to be valid it must be notified to the Clerk in advance of the meeting. The notification must set out the specific question or questions to which the vote relates and the name of the participating member to whom the proxy has been given. The Clerk shall notify the meeting of any proxies which have been given before the relevant vote has been taken.</p>	Corporation



69	For a postal vote to be valid it must have been received by the Clerk in advance of the meeting, and the Clerk shall notify the meeting of any postal votes cast before the relevant vote is taken.	Corporation
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	<b>Decisions taken by Written Procedure or under the Chair's Delegated Authority</b>	
70	Where there are matters for Corporation decision of a routine and non-controversial nature (e.g. updates of college policies), the Chair of the Corporation after consulting with the Principal and the Clerk may agree that the matter should be approved under Written Procedure. The Clerk shall circulate the paper and the matter to be decided to all Corporation members with a request for Members' written agreement to the proposal by a given date, which shall not be less than five working days from the date of circulation. If by, or after, that date 40% of Corporation members have given their written agreement, the decision shall be deemed to have been taken; except that any member may request that the matter should be referred to the following meeting of the Corporation for discussion before approval.	Corporation
70	The Chair of the Corporation, or in his or her absence a Vice-Chair, may from time to time be required: (a) to take urgent action on behalf of the Corporation on matters where the delay involved in calling a Corporation meeting or obtaining approval under Written Procedure would be detrimental; or (b) to authorise details relating to the implementation of action already agreed by Corporation.	Corporation
71	Before taking such action the Chair (or Vice-Chair) should consult with the Principal and Clerk.	Corporation
72	Likewise the Chair of a Standing Committee may, after consulting with the Principal and Clerk and, where time allows, the Chair of the Corporation, authorise action between meetings on matters within the Committee's terms of reference and delegated authority on which urgent decisions are required.	Corporation
73	Where decisions have been taken under the Written	Corporation

	Procedure or under the Chair's delegated authority, the details (including the reason for using the Chair's delegated authority) shall be reported to the next meeting of the Corporation or the respective Committee; and the decision shall be recorded in the minutes of that meeting.	
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	<b>Minutes</b>	
74	All decisions of the Corporation and Committees shall be duly minuted, together with a summary of the discussion that led up to the decision, and a note of who has responsibility for the action points flowing from it.	IOG 14.2
75	Draft minutes of Corporation and Committee meetings shall 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, normally at the next meeting.	Corporation
76	Agendas, supporting papers and signed copies of the minutes shall be retained by the Clerk.	IOG 18.1

	<b>Public Access to Papers and Minutes</b>	
77	The Clerk will: (a) make available on request the agenda and papers considered at each meeting of the Corporation, provided they are not considered confidential. (b) place on the College's website for a minimum period of 12 months minutes of Corporation meetings provided they are not confidential, but not minutes of any other Committees or ad hoc governor groups.	IOG 18.1
78	Minutes and papers falling into the following categories will usually be regarded as confidential and will not normally be released, even if they have not been	Corporation

	<p>marked as Confidential at the time:</p> <ul style="list-style-type: none"> <li>(a) personal information relating to an individual;</li> <li>(b) information provided in confidence by a third party who has not authorised its disclosure;</li> <li>(c) legal advice received from or instructions given to the College's legal advisers</li> <li>(d) information planned for publication in advance of that publication</li> <li>(e) information relating to the negotiating position of the College in staff relations matters;</li> <li>(f) commercially sensitive information, including on procurement decisions, joint ventures, development of new initiatives in competed areas, etc.</li> </ul>	
79	<p>The Clerk will review all minutes and papers withheld at intervals of not less than three years and make recommendations to the Chair of the Corporation 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 papers to confirm the date that the information became available to the public. The declassified papers will not be placed on the College's website.</p>	IOG 18.1

	<b>Statements to the Media</b>	
80	<p>All enquiries from the press, radio, television or other electronic media about the College or the proceedings of the Corporation or its Committees 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 at public meetings, or to the press or media, or through social media, about the proceedings of the Corporation or its Committees without the prior agreement of the Principal. Particular care should be taken not to criticise the views that other members have expressed at meetings, nor to reveal them ahead of publication of the minutes on the College's website.</p>	Corporation

	<b>Corporation Accountabilities</b>	
	<b>Accountability for Governance</b>	
81	The Corporation is accountable for the effective	

	<p>governance of the College. The primary vehicle for this is the Corporate Governance section of the College's Annual Report. This section shall meet the requirements of the Code of Good Governance for English Colleges. , including an explanation of matters where the Corporation does not comply with the Code. The section shall report on:</p> <ul style="list-style-type: none"> <li>• composition of the Corporation, including changes during the year and an assessment of the Corporation's diversity;</li> <li>• a description of its main strategic planning and control processes</li> <li>• membership and functions of committees;</li> <li>• attendance record of individual Governors;</li> <li>• Governor training and development during the year;</li> <li>• informal governor activities (e.g. Link Governor arrangements)</li> <li>• a balanced assessment of its own performance and areas identified for improvement.</li> </ul>	Code of Good Governance for English Colleges
82	<p>The Annual Report shall aspire to reflect best practice within the sector as well as with compliance with the requirements of any Accounts Direction issued by funding bodies. Apart from the Corporate Governance section the Annual Report should set out:</p> <ul style="list-style-type: none"> <li>• the Strategic Objectives and supporting Aims in the Corporation's Strategic Plan;</li> <li>• progress achieved during the year towards them and prospects for further progress including the main strategic risks and the Corporation's risk appetite;</li> <li>• a review of the College's internal control and risk management processes, particularly in respect of quality and finance.</li> </ul>	Accounts Direction, SORP and Charities Act.
83	<p>The Annual Report and Accounts will be placed on the College website immediately after they are approved by the Corporation. The Corporation does not hold an Annual General Meeting.</p>	Corporation

	<b>Accountability to Stakeholders</b>	
84	<p>Apart from its own stewardship of the College, the Corporation is accountable for all aspects of the College's performance. It is accountable to its students</p>	Accountability Review and Code of Good Governance for English

	and staff, and to the wider community it serves. It is also accountable for the proper, regular and effective use of public funds.	Colleges
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<b>Accountability to Students and Staff</b>		
85	The Corporation must publish arrangements for obtaining the views of staff and students on the determination and periodic review of the College's strategic objectives (including its educational character and mission) and the Corporation's oversight of its activities.	AOG 23.1
86	<p>The Corporation will review its strategic objectives annually and its mission statement at no more than three-yearly intervals.</p> <p>All staff are engaged in the development of detailed action plans relating to the strategic objectives and targets on an annual basis through the Operational Development plan. A whole college plan is produced in the spring by the college management team from which objectives and actions cascade into divisional and departmental teams.</p> <p>Corporation will approve the Annual Operational Development plan in July each year and monitor progress against objectives and targets regularly through the year. In addition to monitoring the whole college Operational plan at Corporation meetings, Link governors will monitor departmental and divisional operational plans.</p> <p>The Corporation will regularly review the risk register which is aligned to the Strategic Plan.</p>	Corporation
87	It is the Corporation's policy that student surveys take place at least twice a year; and that the results are reported to Corporation Each academic Department is expected to have in place student liaison arrangements to identify and address student concerns about their experience.	Corporation

	<b>Accountability to the Wider Community</b>	
88	The Corporation will ensure that the College engages regularly, proactively and effectively with the various communities it serves, in order to identify and prioritise those communities' needs for education and training and to ensure that discussions take place with them on how they can best be met.	Accountability Review and Code of Good Governance for English Colleges

	<b>Financial Accountability</b>	
89	The Corporation is responsible for the effective and efficient use of the College's resources, its solvency, and the safeguarding of its assets. The Corporation is primarily accountable to the Secretary of State (as Principal Regulator under the Charity Acts) for these functions. The effective and efficient use of resources and college's solvency is managed through the business and financial planning and control processes (see below). As regards the safeguarding of assets, the Corporation will review at intervals of no more than three years the adequacy of the insurance cover for the College's tangible assets; will review annually the governance arrangements of any major joint ventures and partnerships in which the College is involved; and will ensure that a register is maintained of significant contingent assets and rights.	AOG 3.1
90	The Corporation is responsible for approving the financial strategy and annual budgets for the College. The Corporation fulfils these responsibilities by: <ul style="list-style-type: none"> <li>• Considering each year (usually at its strategic workshop) business and financial projections for the following 7 years (in order to ensure that any borrowings can be repaid within that period and hence that solvency can be maintained).</li> <li>• Preparing annually financial forecasts (both revenue and capital) covering at least the next three years; the projection for the first year will correspond to the Corporation's agreed budget for that year; these forecasts will form the basis of the forecast submitted to the Education and Skills Funding Agency (or successor body)</li> <li>• monitoring projected outturns against annual budget at least termly intervals,</li> <li>• Ensuring the provision to the Education and Skills</li> </ul>	AOG 3.1

	<p>Funding Agency of such financial information as the Agency may require.</p> <ul style="list-style-type: none"> <li>Assess the financial risks of the College and how these risks can be mitigated.</li> </ul>	
91	<p>The Corporation is accountable to the Education and Skills Funding Agency for the proper and regular use of Exchequer funding. It achieves this largely:</p> <ul style="list-style-type: none"> <li>through the appointment of an Accounting Officer (normally the Principal) with personal responsibility for ensuring compliance with the Financial Memorandum and all other terms and conditions of funding;</li> <li>by managing and developing its property having regard to good practice guidance within the sector (this will be considered as part of the annual review of the capital expenditure programme);</li> <li>by maintaining an effective system of internal control through tight budgetary control; a well-documented and regularly reviewed financial and other resource management policies and systems; use as appropriate sector models of good practice; and independent assurance through internal audit, projects undertaken by the external auditors or consultants.</li> </ul>	Financial Memorandum
92	<p>The Corporation is responsible for keeping proper accounts and for preparing and publishing annual accounts. These shall comply in format with the Accounts Direction set by the Secretary of State and the current Statement of Recommended Accounting Practice adopted by the FE sector. The Corporation will approve and publish its Annual Report and Accounts, and send a copy to the Education and Skills Funding Agency, within five months of the College's financial year-end.</p>	AOG 11.1 and Accounts Direction

## **CONDUCT OF MEMBERS**

This section should be read as a Code of Conduct for members.

1. All members owe a fiduciary duty to the College as trustees under charity law. This means they should show it the highest loyalty and act in good faith in its best interests. Each member should act honestly, diligently and subject to the provisions appearing in paragraph below relating to corporate responsibility, independently. The actions of members should promote and protect the good reputation of the College and the trust and confidence of those with whom it deals.

### **Skills, Care and Diligence**

2. In all their work for the college Members should exercise such skill as they possess and such care and diligence as would be expected from a reasonable person in the circumstances. This includes attending meetings of the Corporation and of those Committees to which the member has been appointed, reading the papers prepared for the meeting and participating in an informed way in the discussion, drawing appropriately on their background skills and knowledge.

### **Non-Executive Status**

3.1 Members of the Corporation other than the Principal have a Non-Executive status. Their function is to set longer-term objectives, aims, targets, and key performance indicators; the broad policy and budgetary framework for achieving them, including a clear delegation of financial authority and other powers to the Principal; and the degree of risk they are prepared to accept. The Corporation has chosen to retain essentially unchanged the duties of the Principal previously defined by statute in the Articles. It remains the Principal's role, as Chief Executive, to implement the Corporation's decisions and to manage the Corporation's affairs within the framework set by the Corporation. Members are encouraged to act as a "critical friend" to the management team; but they should be sensitive to the respective roles of non-executive members and the executive team led by the Principal.

3.2 The Chair of the Corporation (and to a lesser extent the Chairs of Committees) have a particularly important role in acting as a sounding board for management ideas on how to respond to new opportunities and threats, and should make themselves as accessible as possible for this purpose. The Chair also provides a channel for relaying to the Executive team the concerns of other Members. Although Members are encouraged to raise issues directly and freely with the Principal, it is good practice to keep the Chair informed.



## **Conflicts of Interest**

4.1 Each member, whether in the conduct of formal Corporation or Committee business or in their informal activities on behalf of the College, shall act for the benefit of the College as a whole and not for any improper purpose or for personal motive. The “benefit of the College” can be taken to mean, first and foremost, the interests of its current and potential future students and other users of the College's services and the continuing prosperity of the College. Members should have regard to those interests and must not allow any sectional interest to take precedence. In particular, Members are not appointed as “representatives” or “delegates” of any outside body, and may not lawfully be bound by mandates given by others.

4.2 Like other persons who owe a fiduciary duty, members should seek to avoid putting themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the Corporation that might interfere with the exercise of their independent judgement. Where conflicts do or may arise the member should act in accordance with paragraph 18.1 above.

4.3 Members must not receive gifts, hospitality or benefits from a third party of a kind or on a scale which might be seen to compromise their personal judgement or integrity. A reasonable test would be whether the gifts, hospitality or benefits are of a nature or scale that the College itself would offer. Any offers or receipts above this level should immediately be reported to the Clerk. Any accepted gift with a market value in excess of £25 will be recorded in the Gift Register kept by the Clerk.

4.4 The Clerk will maintain a Register of Members Interests which will be open for public inspection. Members are required to disclose routinely to the Corporation all business interests, financial or otherwise, which they or (so far as they are aware) their spouses or partners, children or other close relatives may have, and the Clerk will enter such interests on the Register. A copy of the Register of Interests will be made available on the College website. Members should inform the Clerk whenever their circumstances change and interests are acquired or shed. In deciding whether an interest should be disclosed, members should have regard to the potential for actual or perceived interference with the member's independent judgement.

## **Acting within Powers**

5.1 Members must act at all times within the statutory powers of the Education Act, 1992, and observe the provisions of the Instrument and Articles, particularly those provisions enshrined in statute. They must also act in accordance with the provisions of charity law and regulation as it applies to Exempt Charities. If a member thinks that the Corporation is likely to exceed its powers by taking a particular decision, he should immediately refer the matter to the Clerk for advice.

## **Access to Independent Advice**

6.1 Corporation members shall have the right to take advice at the Corporation's expense from the Corporation's advisers or, if necessary, independent professional advisers on any matters concerning the exercise of their powers and responsibilities. This includes advice on legal, accounting and regulatory duties, but excludes advice to individual Corporation members concerning their own respective personal interests in relation to the Corporation.

6.2 A member who intends to seek advice under this procedure shall give prior written notice to the Clerk, with copies to the Chair and the Principal, including a summary of the issues on which advice is sought, having first established whether professional advice on the matter has already been obtained or commissioned by the College. If independent advice is sought (i.e. not from the Corporation's advisers) the member may put forward the name(s) of alternative advisers, but shall give reasons why consultation with the Corporation's advisers on the particular issue(s) is considered inappropriate.

6.3 The Chair has delegated authority to authorise payment by the College of up to £50,000 on reasonable costs of independent professional advice. The Chair shall, after consulting the Principal and the Clerk, decide whether to authorise such payment as soon as possible after receiving a copy of the notice seeking advice, but in any event within 10 working days. The Clerk will notify the Member in writing whether the costs for the professional advice are to be met by the College, and if they are not, the reasons in support of the decision.

6.4 Any advice obtained under this procedure shall be made available to all Corporation members.

## **Collective Responsibility**

7.1 The Corporation and its Committees operate by Members taking majority decisions at quorate meetings. Therefore a decision, even when it is not unanimous, is a decision taken by the Corporation (or Committee) members collectively and individual members have a duty to stand by it, whether or not they were present at the meeting when the decision was taken.

7.2 If a member disagrees with a decision taken by the Corporation or a Committee, their first duty is to have any disagreement discussed and minuted. If the Member strongly disagrees they should consult the Chair and if necessary then raise the matter with the Corporation when it next meets (or request that the matter be dealt with under written procedure). Ultimately, after consulting the Chair, the member may decide to tender his resignation from the Corporation.

## **Confidentiality**

8.1 It is important that the Corporation and its Committees have full and frank discussions in order to reach the most informed collective decisions. This requires trust between Members. Members should accordingly keep confidential any matter which, by reason of its nature, the Chair or members of the Corporation or its Committees are satisfied should be dealt with on a confidential basis. Attention is also drawn to the requirement at paragraph 23.1 not to publicise the proceedings of the Corporation or its Committees or to criticise the views expressed by other Members.

## **Miscellaneous**

### **Complaints Against the Corporation**

9.1 A complaint against the Corporation or an individual member of the Corporation should be addressed, or referred, to the Clerk in the first instance. A complaint against the Clerk should be forwarded to the Chair of the Corporation. The procedure for dealing with a complaint against the Corporation is available from the Clerk. The response will include details of the arrangements for pursuing the matter with an independent body if appropriate. The Clerk should bring any such complaint, and the proposed response, to the attention of Members at an early stage.

### **Financial Liability of Governors**

10.1 The College maintains insurance, of up to £3m 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. The insurance covers reasonable legal fees, costs and expenses incurred which are necessary to defend or appeal a claim. A note on the potential liability e.g. Governors is set out at Appendix B.

**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 (i.e. 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.

- (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.

## **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 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).

The FE insolvency regime was introduced by the Technical and Further Education Act 2017 (TFEA 2017), the Education Administration Rules 2018 and the Further Education Bodies (Insolvency) Regulations 2019. The legislation came into force on 31 January 2019. The new legislation applies aspects of insolvency law to FE and sixth form colleges that are statutory corporations, and introduces a new special administration regime (called education administration). New rules will allow the Secretary of State to appoint an education administrator to take over an insolvent college. The administrator will have wider duties than is normal in insolvencies because they are required to protect courses for learners alongside the duty to secure the best outcome for creditors.

Governors need to be aware that the new law extends the Company Director Disqualification Act to colleges. Director disqualification is a serious matter for those affected and can affect ability of those in professions like law and accountancy to practice. However, governors should note the following:

- Low probability of a referral: The statutory regime is intended to be used only in exceptional cases. Disqualification proceedings only start if the insolvency practitioner discovers conduct sufficiently bad to warrant a referral to the Insolvency Service. There are around one thousand company director disqualifications each year but very few covering charity trustees.
- High thresholds for enforcement action: The tests for disqualification require evidence of serious wrongdoing, generally involving a mixture of fraud, criminal activity, personal enrichment and failure to take professional advice.

Further details regarding governor liability can be found in the following publication:

DfE: Further education bodies: insolvency guidance:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/858896/Further\\_Education\\_Bodies\\_Insolvency\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/858896/Further_Education_Bodies_Insolvency_Guidance.pdf)