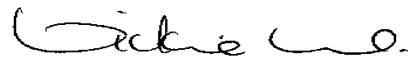


FURTHER AND HIGHER EDUCATION ACT 1992

THE FURTHER EDUCATION CORPORATIONS (FORMER FURTHER EDUCATION COLLEGES) (REPLACEMENT OF INSTRUMENTS AND ARTICLES OF GOVERNMENT) ORDER 2006

The Secretary of State for Education and Skills makes the following Order in exercise of the powers conferred by section 22(2) and (3) of the Further and Higher Education Act 1992^a. In accordance with section 22(3)(b) of that Act, she has consulted the Learning and Skills Council for England and the further education corporations listed in Schedule 3 to this Order (“the colleges”).

1. This Order may be cited as the Further Education Corporations (Former Further Education Colleges) (Replacement of Instruments and Articles of Government) Order 2006 and shall come into force on 1 May 2006.
2. The Instrument of Government set out in Schedule 1 and the Articles of Government set out in Schedule 2 shall replace the Instrument and Articles of Government for each of the colleges.
3. Accordingly the Further Education Corporations (Former Further Education Colleges) (Replacement of Instruments and Articles of Government) Order 2001 and the Instrument and Articles of Government for each of the colleges which had effect immediately before 1 May 2006 are revoked.



27 March 2006
With Modification Direction 1 January 2007

Team Leader,
Governance and Organisation Team
Further Education and the Learning and
Skills Performance Group
Department for Education and Skills

^a 1992 c.13; subsection (2) was amended by paragraph 23 of Schedule 9 to the Learning and Skills Act 2000 (c.21).

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) “business member”, “community member”, “co-opted member”, “local authority member”, “parent member”, “staff member” and “student member” have the meanings given to them in clause 2;
- (c) “the Clerk” means the Clerk to the Corporation;
- (d) “the Corporation” means any further education corporation to which this Instrument applies;
- (e) “this Instrument” means this Instrument of Government;
- (f) “the LSC” means the Learning and Skills Council for England;
- (g) “LSC member” means a member of the Corporation appointed by the LSC under section 11 of the Learning and Skills Act 2000(a);

a 2000 c.21.

- (h) “meeting” includes a meeting at which the members attending are present in more than one room, provided that by the use of video-conferencing facilities it is possible for every person present at the meeting to communicate with each other;
- (i) “the previous Instrument of Government” means the Instrument of Government relating to the Corporation which had effect immediately before 1 May 2006;
- (j) “the institution” means the institution which the Corporation is established to conduct and to any institution for the time being conducted by the Corporation in exercise of its powers under the Further and Higher Education Act 1992(a);
- (k) “a variable category” means any category of members whose numbers may vary according to clauses 2 and 3;
- (l) “the Secretary of State” means the Secretary of State for Education and Skills;
- (m) “specified skills and experience” means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for members to have, having first consulted voluntary bodies which nominate under clause 2(1)(b) and local authorities which nominate under clause 2(1)(d);
- (n) “staff matters” means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff;
- (o) “the students’ union” means any association of students formed to further the educational purposes of the institution and the interests of students, as students;
- (p) “voluntary body” includes any association not conducted for profit.

The Composition of the Corporation

2.—(1) Subject to the transitional arrangements set out in clause 4, the Corporation shall consist of—

- (a) not more than seven members who have at any time been engaged or employed in business, industry, a profession or in any other field of employment relevant to the activities of the institution (“business members”);
- (b) at least one and not more than three members, (“community members”), who have been nominated by a voluntary body, which appears to the other members of the Corporation to represent the interests of a section of the local community;
- (c) not more than three members who have been co-opted by the members of the Corporation (“co-opted members”);
- (d) at least one and not more than three members who have been nominated by those local authorities that the Corporation has proposed (“local authority members”);
- (e) up to two LSC members (if appointed);
- (f) not more than two members, who are parents of students under the age of 19 years attending the institution, who have been nominated and elected by other

a 1992 c.13.

parents, or if the Corporation so decides, by a recognised association representing parents (“parent members”);

- (g) the Principal of the institution, unless the Principal chooses not to be a member;
- (h) 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 (3),(4) or (5) (“staff members”);
- (i) 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, or if the Corporation so decides, by a recognised association representing such students (“student members”).

(2) A person who is not for the time being enrolled as a student at the institution, shall nevertheless be treated as a student during any period of authorised absence from the institution for study, travel or for carrying out the duties of any office held by that person in the institution’s students’ union.

(3) 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.

(4) Where the Corporation has decided or decides 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.

(5) 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.

(6) The appointing authority, as set out in clause 5, will decide whether a person is eligible for nomination, election and appointment as a member of the Corporation under paragraph (1).

How membership numbers are determined

3.—(1) Subject to paragraph (2) and the transitional arrangements in clause 4, the number of members of the Corporation, other than LSC members, and the number of members of each variable category shall be that decided by the Corporation in the most recent determination made under the previous Instrument of Government.

(2) The Corporation may at any time vary the determination referred to in paragraph (1) and any subsequent determination under this paragraph provided that -

- (a) the number of members of the Corporation, other than LSC members, shall not be less than twelve or more than twenty;
- (b) the numbers of members of each variable category shall be subject to the limit which applies to that category set out in Clause 2; and
- (c) the number of business members shall be equal to one third of the total number of members, other than LSC members, rounding up the number of business members to the nearest whole number, where necessary.

(3) No determination under this clause shall terminate the appointment of any person who is already a member of the Corporation at the time when the determination is made.

Transitional arrangements

4. Where, following the last determination under the previous Instrument of Government, the membership of the Corporation does not conform in number to that determination—

- (a) nothing in clauses 2 and 3 of this Instrument shall require the removal of members where the previous Instrument would not have required their removal; but
- (b) the Corporation shall ensure that any new appointments are made so that its composition conforms to the determination as soon as possible.

Appointment of the members of the Corporation

5.—(1) Subject to paragraph (2) the Corporation is the appointing authority in relation to the appointment of its members other than LSC members.

(2) If the number of members falls below the number needed for a quorum, the Secretary of State is the appointing authority in relation to the appointment of those members needed for a quorum.

(3) The appointing authority may decline to appoint a person as a community or local authority member if the person does not have the specified skills and experience.

(4) The appointing authority may decline to appoint a person as a community, local authority, parent, staff or student member if—

- (a) it is satisfied that the person has been removed from office as a member of a further education corporation in the previous ten years; or
- (b) the appointment of the person would contravene any rule or bye-law made under article 26 of the Articles of Government relating to the number of consecutive terms for which a member may hold office, provided that such rules or bye-laws make the same provision for each category of members appointed by the appointing authority; or

(c) the person is ineligible to be a member of the corporation because of clause 8.

(5) Where the office of any member becomes vacant the appointing authority shall as soon as practicable take all necessary steps to appoint a new member to fill the vacancy.

Appointment of the Chair and Vice-Chair

6.—(1) The members of the Corporation shall appoint a Chair and a Vice-Chair from among themselves.

(2) Neither the Principal nor any staff or student member shall be eligible to be appointed as Chair or Vice-Chair or to act as Chair in their absence.

(3) If both the Chair and the Vice-Chair are absent from any meeting of the Corporation, the members present shall choose someone from among themselves to act as Chair for that meeting.

(4) The Chair and Vice-Chair shall hold office for such period as the Corporation decides.

(5) The Chair or Vice-Chair may resign from office at any time by giving notice in writing to the Clerk.

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

(7) If the Corporation is satisfied that the Vice-Chair is unfit or unable to carry out the functions of office, it may give written notice, removing the Vice-Chair from office and the office shall then be vacant.

(8) At the last meeting before the end of the term of office of the Chair, or following the Chair's resignation or removal from office, the members shall appoint a replacement from among themselves.

(9) At the last meeting before the end of the term of office of the Vice-Chair, or following the Vice-Chair's resignation or removal from office, the members shall appoint a replacement from among themselves.

(10) At the end of their respective terms of office, the Chair and Vice-Chair shall be eligible for reappointment.

(11) Paragraph (10) is subject to any rule or bye-law made by the Corporation under article 26 of the Articles of Government concerning the number of terms of office which a person may serve.

Appointment of the Clerk to the Corporation

7.—(1) The Corporation shall appoint a person to serve as its Clerk, but the Principal may not be appointed as Clerk.

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

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

(4) Subject to clause 14, the Clerk shall be entitled to attend all meetings of the Corporation and any of its committees.

(5) The Clerk may also be a member of staff at the institution.

Persons who are ineligible to be members

8.—(1) No one under the age of 18 years may be a member, except as a student member.

(2) The Clerk may not be a member.

(3) A person who is a member of staff of the institution may not be, or continue as, a member, except as a staff member or in the capacity of Principal.

(4) Paragraph (3) does not apply to a student who is employed by the Corporation in connection with the student's role as an officer of a students' union.

(5) Subject to paragraphs (6) and (7), 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^a, or if that person has made a composition or arrangement with creditors, including an individual voluntary arrangement.

(6) Where a person is disqualified by reason of having been adjudged bankrupt or by reason of being the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking, that disqualification shall cease—

- (a) on that person's discharge from bankruptcy, unless the bankruptcy order has before then been annulled; or
- (b) if the bankruptcy order is annulled, at the date of that annulment; or
- (c) if the bankruptcy restrictions order is rescinded as a result of an application under section 375 of the Insolvency Act 1986, on the date so ordered by the court; or
- (d) if the interim bankruptcy restrictions order is discharged by the court, on the date of that discharge; or
- (e) if the bankruptcy restrictions undertaking is annulled, at the date of that annulment.

(7) Where a person is disqualified by reason of having made a composition or arrangement with creditors, including an individual voluntary arrangement, and then pays the debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition, arrangement or individual voluntary arrangement are fulfilled.

(8) Subject to paragraph (9), a person shall be disqualified from holding, or from continuing to hold, office as a member if—

- (a) within the previous 5 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

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

- (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.

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

(10) Upon a member of the Corporation becoming disqualified from continuing to hold office as a result of bankruptcy restrictions under paragraph (5) or because of a conviction under paragraph (8), the member shall immediately give notice of that fact to the Clerk.

The term of office of a member

9.—(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.

(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.

(3) Paragraph (2) is subject to any rule or bye-law made by the Corporation under article 26 of the Articles of Government concerning the number of terms of office a person may serve.

Termination of membership

10.—(1) A member may resign from office at any time by giving notice in writing to the Clerk.

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

the Corporation may by notice in writing to that member remove the member from office and the office shall then be vacant.

(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 and the office shall then be vacant.

(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,

and the office shall then be vacant.

Members not to hold interests in matters relating to the institution

11.—(1) Except with the written approval of the Secretary of State, no member shall acquire or hold any interest in any property that is held or used for the purposes of the institution.

(2) A member to whom paragraph (3) 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 (3) 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 (3) is to be considered, where required to do so by a majority of the members of the Corporation or committee present at the meeting.

(3) This paragraph applies to a member who—

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

(4) 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.

(5) 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.

(6) 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.

Meetings

12.—(1) The Corporation shall meet at least once in every term, and shall hold such other meetings as may be necessary.

(2) Subject to paragraph (4), all meetings shall be called by the Clerk, who shall, at least seven calendar days before the date of the meeting, send to the members of the Corporation written notice of the meeting and a copy of the proposed agenda.

(3) If it is proposed to consider at any meeting the remuneration, conditions of service, conduct, suspension, dismissal or retirement of the Clerk, the Chair shall, at least seven calendar days before the date of the meeting, send to the members a copy of the agenda item concerned, together with any relevant papers.

(4) A meeting of the Corporation, called a “special meeting”, may be called at any time by the Chair or at the request in writing of any five members.

(5) Where the Chair, or in the Chair’s absence the Vice-Chair, decides that there are matters requiring urgent consideration, the written notice convening the special meeting and a copy of the proposed agenda may be given within less than seven calendar days.

(6) 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, together with any LSC members.

(2) If the number of members present for a meeting of the Corporation does not constitute a quorum, the meeting shall not be held.

(3) If during a meeting of the Corporation there ceases to be a quorum, the meeting shall be terminated at once.

(4) If a meeting cannot be held or cannot continue for lack of a quorum, the Chair may call a special meeting as soon as it is convenient.

Proceedings of meetings

14.—(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.

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

(3) A member may not vote by proxy or by way of postal vote.

(4) No resolution of the members may be rescinded or varied at a subsequent meeting unless consideration of the rescission or variation is a specific item of business on the agenda for that meeting.

(5) Except as provided by articles 16, 17 and 18 of the Articles of Government, a member of the Corporation who is a member of staff at the institution, including the Principal, shall withdraw—

- (a) from that part of any meeting of the Corporation, or any of its committees, at which staff matters relating solely to that member of the staff, as distinct from staff matters relating to all members of staff or all members of staff in a particular class, are to be considered;
- (b) from that part of any meeting of the Corporation, or any of its committees, at which that member's reappointment or the appointment of that member's successor is to be considered;
- (c) from that part of any meeting of the Corporation, or any of its committees, at which the matter under consideration concerns the pay or conditions of service of all members of staff, or all members of staff in a particular class, where the member of staff is acting as a representative (whether or not on behalf of a recognised trade union) of all members of staff or the class of staff (as the case may be); and
- (d) if so required by a resolution of the other members present, from that part of any meeting of the Corporation or any of its committees, at which staff matters relating to any member of staff holding a post senior to that member's are to be considered, except those relating to the pay and conditions of all staff or all staff in a particular class.

(6) A Principal who has chosen not to be a member of the Corporation shall still be entitled to attend and speak, or otherwise communicate, at all meetings of the Corporation and any of its committees, except that the Principal shall withdraw in any case where the Principal would be required to withdraw under paragraph (5).

(7) 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.

(8) Except as provided by rules made under article 21(3) of the Articles of Government relating to appeals and representations by students in disciplinary cases, a student member shall withdraw from that part of any meeting of the Corporation or any of its committees, at which a student's conduct, suspension or expulsion is to be considered.

(9) In any case where the Corporation, or any of its committees, is to discuss staff matters relating to a member or prospective member of staff at the institution, a student member shall—

- (a) take no part in the consideration or discussion of that matter and not vote on any question with respect to it; and
- (b) where required to do so by a majority of the members, other than student members, of the Corporation or committee present at the meeting, withdraw from the meeting.

(10) The Clerk—

- (a) shall withdraw from that part of any meeting of the Corporation, or any of its committees, at which the Clerk's remuneration, conditions of service, conduct, suspension, dismissal or retirement in the capacity of Clerk are to be considered; and

(b) where the Clerk is a member of staff at the institution, shall withdraw in any case where a member of the Corporation is required to withdraw under paragraph (5).

(11) If the Clerk withdraws from a meeting, or part of a meeting, of the Corporation under paragraph (10), the Corporation shall appoint a person from among themselves to act as Clerk during this absence.

(12) If the Clerk withdraws from a meeting, or part of a meeting, of a committee of the Corporation, the Corporation shall appoint a person from among themselves to act as Clerk to the committee during this absence.

Minutes

15.—(1) Written minutes of every meeting of the Corporation shall be prepared, and, subject to paragraph (2), at every meeting of the Corporation the minutes of the last meeting shall be taken as an agenda item.

(2) Paragraph (1) shall not require the minutes of the last meeting to be taken as an agenda item at a special meeting, but where they are not taken, they shall be taken as an agenda item at the next meeting which is not a special meeting.

(3) Where minutes of a meeting are taken as an agenda item and agreed to be accurate, those minutes shall be signed as a true record by the Chair of the meeting.

(4) Separate minutes shall be taken of those parts of meetings from which staff members, the Principal, student members or the Clerk have withdrawn from a meeting in accordance with clause 14(5), (6), (8), (9) or (10) and such persons shall not be entitled to see the minutes of that part of the meeting or any papers relating to it.

Public access to meetings

16. The Corporation shall decide any question as to whether a person should be allowed to attend any of its meetings where that person is not a member, the Clerk or the Principal and in making its decision, it shall give consideration to clause 17(2).

Publication of minutes and papers

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

- (a) the agenda for every meeting of the Corporation;
- (b) the draft minutes of every such meeting, if they have been approved by the Chair of the meeting;
- (c) the signed minutes of every such meeting; and
- (d) any report, document or other paper considered at any such meeting,

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

(2) There shall be excluded from any item made available for inspection any material relating to—

- (a) a named person employed at or proposed to be employed at the institution;
- (b) a named student at, or candidate for admission to, the institution;
- (c) the Clerk; or

(d) any matter which, by reason of its nature, the Corporation is satisfied should be dealt with on a confidential basis.

(3) The Corporation shall review regularly all material excluded from inspection under paragraph (2)(d) and make any such material available for inspection where it is satisfied that the reason for dealing with the matter on a confidential basis no longer applies, or where it considers that the public interest in disclosure outweighs that reason.

Payment of allowances to members

18. The Corporation may pay to its members such travelling, subsistence or other allowances as it decides, but shall not without the written approval of the Secretary of State, pay allowances which remunerate the members for their services as members.

Copies of the Instrument of Government

19. 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

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

Application of the seal

21. The application of the seal of the Corporation shall be authenticated by—

- (a) the signature of either the Chair 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.

SCHEDULE 2
ARTICLES OF GOVERNMENT

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Interpretation of the terms used

1. In these Articles of Government—
 - (a) Any reference to “the Principal” shall include a person acting as Principal.
 - (b) “the Articles” means these Articles of Government;
 - (c) “business member”, “community member”, “co-opted member”, “local authority member”, “staff member” and “student member” have the same meanings as in the Instrument of Government;
 - (d) “Chair” and “Vice-Chair” mean respectively the Chair and Vice-Chair of the Corporation appointed under clause 6 of the Instrument of Government;
 - (e) “the Clerk” has the same meaning as in the Instrument of Government;

- (f) “the Corporation” has the same meaning as in the Instrument of Government;
- (g) “the LSC” means the Learning and Skills Council for England;
- (h) “the Secretary of State” means the Secretary of State for Education and Skills;
- (i) “senior post” means the post of Principal and such other senior posts as the Corporation may decide for the purposes of these Articles;
- (j) “the staff” means all the staff who have a contract of employment with the institution;
- (k) “the students’ union” has the same meaning as in the Instrument of Government.

How the institution is conducted

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

Responsibilities of the Corporation and the Principal

3.—(1) The Corporation shall be responsible for the following functions—

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

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

- (a) making proposals to the Corporation about the educational character and mission of the institution and implementing the decisions of the Corporation;
- (b) the determination of the institution’s academic activities and the determination of its other activities;
- (c) preparing annual estimates of income and expenditure for consideration and approval by the Corporation, and the management of budget and resources within the estimates approved by the Corporation;
- (d) the organisation, direction and management of the institution and leadership of the staff;
- (e) the appointment, assignment, grading, appraisal, suspension, dismissal and determination, within the framework set by the Corporation, of the pay and conditions of service of staff, other than the holders of senior posts or the Clerk, where the Clerk is also a member of the staff; and

- (f) maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.

The establishment of committees and delegation of functions generally

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

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

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

The search committee

5.—(1) The Corporation shall establish a committee, to be known as the "search committee", to advise on—

- (a) the appointment of the business, community and local authority members;
- (b) the co-option of the co-opted members; and
- (c) such other matters relating to membership and appointments as the Corporation may ask it to.

(2) The Corporation shall not-

- (a) appoint any person as a business, community or local authority member; or
- (b) co-opt any person as a member of the Corporation

without first consulting and considering the advice of the search committee.

(3) The Corporation may make rules specifying the way in which the search committee is to be conducted and a copy of these, together with the search committee's terms of reference and its advice to the Corporation, shall be available for inspection at the institution by any person during normal office hours.

The audit committee

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

(2) The audit committee shall consist of at least three persons and may include members of staff at the institution other than those in senior posts, and shall operate in accordance with any requirements of the LSC.

Composition of committees

7. Any committee established by the Corporation, other than the Special Committee referred to in article 17, may include persons who are not members of the Corporation.

Access to committees by non-members and publication of minutes

8. The Corporation shall ensure that a written statement of its policy regarding—
- (a) attendance at committee meetings by persons who are not committee members; and
 - (b) the publication of the minutes of committee meetings,

is made available for inspection at the institution to any person wishing to inspect it, during normal office hours.

Delegable and non-delegable functions

9. The Corporation shall not delegate the following functions-
- (a) the determination of the educational character and mission of the institution;
 - (b) the approval of the annual estimates of income and expenditure;
 - (c) the responsibility for ensuring the solvency of the institution and the Corporation and for safeguarding their assets;
 - (d) the appointment or (subject to article 17) the dismissal of the Principal or holder of a senior post;
 - (e) the appointment or dismissal of the Clerk, (including, where the Clerk is, or is to be, appointed as a member of staff the Clerk's appointment or, subject to article 17, dismissal in the capacity of a member of staff); and
 - (f) the modification or revocation of these Articles.

10. — (1) The Corporation may not delegate—

- (a) the power to determine an appeal under articles 16(5)(a), 17(8), 17(14) , or 18(11) other than to a committee of members of the Corporation; or
- (b) to the Principal the power to determine an appeal in connection with the dismissal of a member of staff under article 18(6) unless the Principal has previously delegated his power under article 18(1) to dismiss a member of staff to a holder of a senior post.

(2) The Corporation shall make rules specifying the way in which a committee having functions under paragraph (1)(a) shall be established and conducted.

11. The Principal may delegate to the holder of any other senior post, functions that are necessary to enable the responsibilities of the Principal to be discharged properly, other than-

- (a) the management of budget and resources; and
- (b) any functions that have been delegated to the Principal by the Corporation.

Appointment and promotion of staff

12.—(1) Where there is a vacancy or expected vacancy in a senior post, the Corporation shall—

- (a) advertise the vacancy nationally; and
- (b) appoint a selection panel consisting of—
 - (i) at least five members of the Corporation including the Chair or the Vice-Chair or both, where the vacancy is for the post of Principal ; or

- (ii) the Principal and at least three other members of the Corporation, where the vacancy is for any other senior post.
- (2) The members of the selection panel shall—
- (a) decide on the arrangements for selecting the applicants for interview;
 - (b) interview the applicants; and
 - (c) where they consider it appropriate to do so, recommend to the Corporation for appointment one of the applicants they have interviewed.
- (3) If the Corporation approves the recommendation of the selection panel, that person shall be appointed.
- (4) If the members of the selection panel are unable to agree on a person to recommend to the Corporation, or if the Corporation does not approve their recommendation, the Corporation may make an appointment itself of a person from amongst those interviewed, or it may require the panel to repeat the steps specified in paragraph (2), with or without first re-advertising the vacancy.
- (5) Where there is a vacancy in a senior post or where the holder of a senior post is temporarily absent, until that post is filled or the absent post holder returns, a member of staff-
- (a) may be required to act as Principal or in the place of any other senior post holder; and
 - (b) shall have all the duties and responsibilities of the Principal or such other senior post holder during the period of the vacancy or temporary absence.
- (6) The Corporation shall seek the Secretary of State's consent before making any temporary appointment to the post of Principal or any other senior post, where it is intended that such a post holder will not have a contract of employment with the Corporation.
- 13.** The Principal shall have responsibility for selecting for appointment all members of staff other than-
- (a) senior post holders; and
 - (b) where the Clerk is also to be appointed as a member of staff, the Clerk in the role of a member of staff.

Rules relating to the conduct of staff

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

Academic freedom

15. In making rules under article 14, 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.

Suspension of staff

16.—(1) The Chair, or in the Chair's absence, the Vice-Chair—

- (a) may suspend from duty, with or without pay, the holder of a senior post for serious or gross misconduct; and
- (b) shall report such suspension in writing to the Corporation and the LSC within two working days or as soon after this as is practicable.

(2) The Principal may suspend from duty, with or without pay, any member of staff other than the holder of a senior post, for serious or gross misconduct.

(3) Anyone who is suspended from duty shall be entitled to receive from the Principal, or in the case of a holder of a senior post, from the Chair or the Vice-Chair, written notification of the suspension, setting out the grounds on which the decision to suspend has been taken and inviting that person to a meeting to discuss the issues.

(4) Nothing in this article authorises the suspension of a person without pay where such suspension is not expressly provided for under that person's contract of employment.

(5) Procedures for the suspension of staff for serious or gross misconduct shall be set out in rules made by the Corporation, after consultation with the staff, and such rules shall include provision that—

- (a) any person who has been suspended may appeal both in writing and orally to the Corporation against the suspension; and
- (b) any appeal made under sub-paragraph (a) shall be considered as soon as possible; and
- (c) the suspension shall continue to operate pending the determination of the appeal.

Dismissal of senior staff and the special committee

17.—(1) Subject to paragraphs (10) to (13), if the Chair, or in the Chair's absence the Vice-Chair, or a majority of the members consider that it may be appropriate for the Corporation to dismiss the holder of a senior post, then the Chair, Vice-Chair or Corporation, as appropriate, shall refer the matter to a Special Committee of the Corporation, which shall be convened as soon as possible to examine and determine the case for dismissal.

(2) The Special Committee shall consist of at least three members of the Corporation, but, the Chair, Vice-Chair, Principal and staff and student members shall not be eligible for membership of it.

(3) The Special Committee shall hold its first meeting within seven days of being convened.

(4) The person whose proposed dismissal is to be considered and determined by the Special Committee shall be entitled to receive from that committee a written statement of the alleged conduct, characteristics or other circumstances which led to that person being considered for dismissal and that person shall be afforded a reasonable opportunity to respond to it.

(5) When sending the statement at paragraph (4), the Special Committee shall invite the senior post-holder to attend a meeting with that committee and no disciplinary action, except suspension, shall be taken against that person until that meeting has taken place.

(6) The senior post-holder shall have the right to make representations at the meeting referred to at paragraph (5), including oral representations, for which purpose that person may be accompanied by a colleague or union representative.

(7) After taking any representations into account, the Special Committee shall take such action as it considers appropriate, which may include dismissal, and communicate its decision to the senior post-holder concerned, notifying that person of that person's right to appeal against it, without unreasonable delay.

(8) The senior post-holder shall have the right to appeal to the Corporation against the decision of the Special Committee and must do so in writing within fourteen days of receipt of that decision.

(9) Where an appeal is made under paragraph (8), the senior post-holder must be invited to a meeting of the Corporation at which that person may make representations, including oral representations, and for the purpose of making oral representations that person may be accompanied by a colleague or union representative.

(10)

(11) The Corporation shall consider the decision of the Special Committee and any representations of the senior post-holder and take such action as it considers appropriate and communicate its decision to the senior post-holder and to the Special Committee.

(12) The Chair, or in the Chair's absence the Vice-Chair, may dismiss the holder of a senior post with immediate effect, without any need for prior notice and without referral to a Special Committee, where the circumstances are such that the Chair, or in the Chair's absence the Vice-Chair, is entitled to do so by reason of the serious or gross misconduct of the senior post-holder and in such a case paragraphs (1) to (11) of this article shall not apply.

(13) Where a senior post-holder has been dismissed pursuant to paragraph (12), the Chair or Vice-Chair, as appropriate, shall provide that person with a written statement of the alleged misconduct which has led to the dismissal and the reasons why the Chair or Vice-Chair, as appropriate, considers that that person was guilty of such misconduct and notifying that person of the right to appeal to the Corporation against the dismissal.

(14) The senior post holder shall have the right to appeal in writing to the Corporation within fourteen days of receiving a written statement under paragraph (13) and the Corporation shall, as soon as reasonably practicable after receipt of notification of such an appeal, invite that person to attend a meeting, at which that person may make representations, including oral representations and may be accompanied by a colleague or union representative.

(15)

(16) The Corporation shall determine the appeal, having taken any representations into account and shall notify in writing the senior post-holder of its decision without unreasonable delay.

(17) After consultation with senior post-holders, the Corporation shall make rules setting out procedures for—

- (a) the conduct of the Special Committee;
- (b) the dismissal of senior post-holders under paragraph (12) ; and

(c) the consideration of appeals under paragraph (14), including appropriate time limits where these are not already set out in this article.

(18) A failure by the Corporation or the Special Committee to take any action within a time limit set out in this article shall not relieve them of the duty to take that action.

(19) This article shall also apply to senior post-holders employed under fixed term contracts, which upon expiry, have not been renewed.

Dismissal of staff other than senior post-holders

18.—(1) The Principal may dismiss any member of staff other than the holder of a senior post, and that dismissal may take immediate effect, without any need for prior notice, where the circumstances are such that an immediate dismissal is warranted by reason of the serious or gross misconduct of that member of staff.

(2) Before any decision to dismiss a member of staff is taken, other than a decision to dismiss that person with immediate effect, the person whose proposed dismissal is to be considered and determined by the Principal shall be entitled to receive from the Principal a written statement of the alleged conduct, characteristics or other circumstances which led to that person being considered for dismissal and that person shall be afforded a reasonable opportunity to respond to it.

(3) When sending the statement referred to in paragraph (2), the Principal shall invite the member of staff to attend a meeting with the Principal and no disciplinary action, except suspension, shall be taken against the member of staff until that meeting has taken place.

(4) The member of staff shall have the right to make representations at the meeting referred to at paragraph (3), including oral representations, for which purpose that person may be accompanied by a colleague or union representative.

(5) After taking any representations into account, the Principal shall take such action as the Principal considers appropriate, which may include dismissal, and shall communicate this decision to the member of staff concerned, notifying the member of staff of the right of appeal against it, without unreasonable delay.

(6) The member of staff shall have the right to appeal to the Corporation against the Principal's decision and must do so in writing within fourteen days of receipt of that decision.

(7) Where an appeal is made under paragraph (6), the member of staff must be invited to a meeting of the Corporation, at which the member of staff may make representations, including oral representations and that person may be accompanied by a colleague or union representative.

(8)

(9) The Corporation shall consider the decision of the Principal and any representations of the member of staff and take such action as it considers appropriate and communicate in writing its decision to the member of staff and to the Principal without unreasonable delay.

(10) Where a member of staff has been dismissed with immediate effect under paragraph (1), the Principal shall provide that person with a written statement of the alleged misconduct which has led to the dismissal and the reasons why the Principal considers that that person was guilty of such misconduct and notifying that person of the right of appeal to the Corporation against the dismissal.

(11) A member of staff shall have the right to appeal in writing to the Corporation within fourteen days of receiving a written statement under paragraph (10) and the Corporation shall, as soon as reasonably practicable after receipt of notification of such an appeal, invite that person to attend a meeting, at which that person may make representations, including oral representations, and may be accompanied by a colleague or union representative.

(12) The Corporation shall determine the appeal, having taken any representations into account, and shall notify in writing the member of staff and the Principal of its decision without unreasonable delay.

(13) After consultation with the staff, the Corporation shall make rules setting out procedures for—

- (a) the dismissal of staff by the Principal; and
- (b) the consideration of appeals under paragraph (12), including appropriate time limits where these are not already set out in this article.

(14) A failure by the Principal or the Corporation to take any action within a time limit set out in this article shall not relieve them of the duty to take that action.

(15) This article shall also apply to members of staff employed under fixed term contracts, which upon expiry, have not been renewed.

Suspension and dismissal of the Clerk

19.—(1) Where the Clerk is also a member of staff at the institution, the Clerk is to be treated as a senior post-holder for the purposes of articles 16 to 18.

(2) Where the Clerk is suspended or dismissed under articles 16 or 17, that suspension or dismissal does not affect the position of the Clerk in the separate role of Clerk to the Corporation.

Grievance procedures

20. The Corporation shall consult the staff and then make rules setting out procedures which the staff must follow if they wish to seek redress for any grievances relating to their employment.

Students

21.—(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.

(2) The students' union shall present audited accounts annually to the Corporation.

(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).

Financial matters

22. The Corporation shall set the policy by which the tuition and other fees payable to it are determined, subject to any terms and conditions attached to grants, loans or other payments paid or made by the LSC.

Co- operation with the LSC's auditor

23. The Corporation shall co-operate with any person who has been authorised by the LSC to audit any returns of numbers of students or claims for financial assistance and shall give any such person access to any documents or records held by the Corporation, including computer records.

Internal audit

24.—(1) The Corporation shall, at such times as it considers appropriate, examine and evaluate its systems of internal financial and other control to ensure that they contribute to the proper, economic, efficient and effective use of the Corporation's resources.

(2) The Corporation may arrange for the examination and evaluation mentioned in paragraph (1) to be carried out on its behalf by internal auditors.

(3) The Corporation shall not appoint persons as internal auditors to carry out the activities referred to in paragraph (1) if those persons are already appointed as external auditors under article 25.

Accounts and audit of accounts

25.—(1) The Corporation shall

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

(2) The statement shall—

- (a) give a true and fair account of the state of the Corporation's affairs at the end of the financial year and of its income and expenditure in the financial year; and
- (b) comply with any directions given by the LSC as to the information to be contained in it, the manner in which the information is to be presented, the methods and principles according to which it is to be prepared and the time and manner of publication.

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

(4) The Corporation shall not appoint persons as external auditors in respect of any financial year if those persons are already appointed as internal auditors under article 24.

(5) Auditors shall be appointed and audit work conducted in accordance with any requirements of the LSC.

(6) The "financial year" means the first financial year and, except as provided for in paragraph (8), each successive period of twelve months.

(7) The “first financial year” means the period from the date the Corporation was established up to the second 31st July following that date, or up to some other date which has been chosen by the Corporation with the LSC’s approval.

(8) If the Corporation is dissolved—

(a) the last financial year shall end on the date of dissolution; and

(b) the Corporation may decide, with the LSC’s approval, that what would otherwise be the last two financial years, shall be a single financial year for the purpose of this article.

Rules and bye-laws

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

Copies of Articles of Government and rules and bye-laws

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

SCHEDULE 3

Abingdon and Witney College
Accrington and Rossendale College
Amersham and Wycombe College
Askham Bryan College
Aylesbury College
Barking College
Barnet College
Barnfield College
Barnsley College
Basingstoke College of Technology
Bedford College
Berkshire College of Agriculture
Bexley College
Bicton College
Bishop Auckland College
Bishop Burton College
Blackburn College
Blackpool and The Fylde College
Bolton Community College
Boston College
Bournville College of Further Education
Bracknell and Wokingham College
Bradford College
Braintree College
Bridgwater College
Brockenhurst College
Bromley College of Further and Higher Education
Brooklands Technical College
Brooksby Melton College
Broxtowe College Nottingham
Burnley College
Burton College
Bury College
Calderdale College
Cambridge Regional College
Cannock Chase Technical College
Canterbury College
Capel Manor College
Carlisle College
Carshalton College
Central Sussex College
Chelmsford College
Chesterfield College
Chichester College

Cirencester Tertiary College
City and Islington College
City College, Birmingham
City College, Brighton and Hove
City College, Coventry
City College, Manchester
City of Bath College
City of Bristol College
City of Sunderland College
City of Westminster College
City of Wolverhampton College
Cleveland College of Art and Design
Colchester Institute
College of West Anglia
Cornwall College
Craven College
Cricklade College
Croydon College
Darlington College
Dearne Valley College
Derby College
Derwentside College
Dewsbury College
Doncaster College
Dudley College of Technology
Dunstable College
Ealing, Hammersmith and West London College
East Berkshire College
East Devon College
East Durham and Houghall Community College
East Riding College
East Surrey College, Redhill
Eastleigh College
Easton College
Enfield College
Epping Forest College
Evesham and Malvern Hills College
Exeter College
Fareham College
Farnborough College of Technology
Filton College
Furness College
Gateshead College
Gloucestershire College of Arts and Technology
Grantham College
Great Yarmouth College
Greenwich Community College
Grimsby Institute of Further and Higher Education
Guildford College of Further and Higher Education
Hackney Community College

Hadlow College
Halesowen College
Halton College
Harlow College
Harrow College
Hartlepool College of Further Education
Hartpury College
Hastings College of Arts and Technology
Havering College of Further and Higher Education
Henley College Coventry
Herefordshire College of Art and Design
Herefordshire College of Technology
Hereward College of Further Education
Hertford Regional College
Highbury College, Portsmouth
Hilderstone College
Hopwood Hall College
Huddersfield Technical College
Hugh Baird College
Hull College
Huntingdonshire Regional College
Joseph Priestley College
Keighley College
Kendal College
Kensington and Chelsea College
Kidderminster College
Kingston College
Kingston Maurward College
Knowsley Community College
Lakes College - West Cumbria
Lambeth College
Lancaster and Morecambe College
Leeds College of Art and Design
Leeds College of Building
Leeds College of Technology
Leeds Thomas Danby
Leek College of Further Education and School of Art
Leicester College
Lewisham College
Lincoln College
Liverpool Community College
Loughborough College
Lowestoft College
Macclesfield College
Manchester College of Arts and Technology
Matthew Boulton College of Further and Higher Education
Merton College
Mid-Cheshire College of Further Education
Middlesbrough College
Mid-Kent College of Higher and Further Education

Milton Keynes College
Moulton College
Myerscough College
Nelson and Colne College
New College Durham
New College Nottingham
New College Swindon
Newark and Sherwood College
Newbury College
Newcastle College
Newcastle-under-Lyme College
Newham College of Further Education
North Devon College
North East Surrey College of Technology
North East Worcestershire College
North Hertfordshire College
North Lindsey College
North Nottinghamshire College
North Trafford College of Further Education
North Warwickshire and Hinckley College
North West Kent College of Technology
Northampton College
Northbrook College, Sussex
Northumberland College
Norton Radstock College
Norwich City College of Further and Higher Education
Oaklands College
Orpington College of Further Education
Otley College of Agriculture and Horticulture
Oxford and Cherwell Valley College
Park Lane College, Leeds
Penwith College
Pershore Group of Colleges
Peterborough Regional College
Plumpton College
Plymouth College of Art and Design
Plymouth College of Further Education
Preston College
Reaseheath College
Redbridge College
Redcar and Cleveland College
Richmond Adult Community College
Richmond-upon-Thames College
Rodbaston College
Rotherham College of Arts and Technology
Royal Forest of Dean College
Runshaw College
Salford College
Salisbury College
Sandwell College

Selby College
Shipley College
Shrewsbury College of Arts and Technology
Skelmersdale College
Solihull College
Somerset College of Arts and Technology
South Birmingham College
South Cheshire College
South Devon College
South East Derbyshire College
South East Essex College of Arts and Technology
South Kent College
South Leicestershire College
South Nottingham College
South Thames College
South Trafford College
South Tyneside College
Southampton City College
Southgate College
Southport College
Southwark College
Sparsholt College Hampshire
St Helens College
Stafford College
Stamford College
Stanmore College
Stephenson College
Stockport College
Stockton Riverside College
Stoke-on-Trent College
Stourbridge College
Stratford-upon-Avon College
Strode College
Stroud College of Further Education
Suffolk College
Sussex Downs College
Sutton Coldfield College
Swindon College
Tameside College
Tamworth and Lichfield College
Telford College of Arts and Technology
Thanet College
The Bournemouth and Poole College
The College of North East London
The College of North West London
The Cooperative College
The Henley College
The Isle of Wight College
The Oldham College
The People's College, Nottingham

The Sheffield College
The South Downs College
Thurrock and Basildon College
Tower Hamlets College
Tresham Institute
Truro College
Tyne Metropolitan College
Uxbridge College
Wakefield College
Walford and North Shropshire College
Walsall College
Waltham Forest College
Warrington Collegiate
Warwickshire College, Royal Leamington Spa, Rugby and Moreton Morrell
West Cheshire College
West Herts College
West Kent College
West Nottinghamshire College
West Suffolk College
West Thames College
Westminster Kingsway College
Weston College
Weymouth College
Wigan and Leigh College
Wiltshire College
Wirral Metropolitan College
Worcester College of Technology
Yeovil College
York College
Yorkshire Coast College of Further and Higher Education