

*Further Education Colleges*  
*Instrument and Articles of Government*  
*Marked Version*

*The Education (Government of Further Education Corporations) (Former Further Education Colleges) Regulations 1992 (1992/1963) as amended by The Further Education Corporations (Former Further Education Colleges) (Instrument of Government) (Modification) (No. 2) Order 1999 and by The Further Education Corporations (Former Further Education Colleges) (Instrument of Government) (Modification) (No. 3) Order 1999 and by The Further Education Corporations (Former Further Education Colleges) (Articles of Government) (Modification) Direction 1999 and by The Further Education Corporations (Former Further Education Colleges) (Articles of Government) (Modification) (No. 2) Direction 1999*

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## INSTRUMENT OF GOVERNMENT

### Index

- 1 Interpretation
- 2 Composition of the Corporation
- 3 Numbers
- 4 Transitional Arrangements
- 5 Appointments
- 6 Appointment of Chairman and Vice-Chairman
- 6A Appointment of the Clerk to the Corporation
- 7 Persons Ineligible to be Members
- 8 Term of Office
- 9 Determination of Membership
- 10 Members not to be financially interested in the Institution
- 11 Meetings
- 12 Quorum
- 13 Proceedings of Meetings
- 14 Minutes
- 15 Public Access to Meetings
- 16 Publication of Minutes and Papers
- 17 Allowances to Members
- 18 Copies of Instrument of Government
- 19 Change of Name
- 20 Application of Seal
- 21 Accounts and Audit
- 22 Amendment of Instrument of Government

## Interpretation

- 1 In this Instrument of Government:
- (a) “the Corporation” means any further education corporation to which this Instrument applies;  
“this Instrument” means this Instrument of Government;  
“the Secretary of State” means the Secretary of State for Education and Employment;
  - (b) “business member”, “co-opted member”, “staff member” and “student member” have the meanings ascribed to them in clause 2;
  - (c) references, in relation to the Corporation, to the institution are references to the institution which the Corporation is established to conduct and to any institution for the time being conducted by the Corporation in exercise of their powers under the Further and Higher Education Act 1992;
  - (d) references, in relation to the Corporation, to a variable category are references to any category of members in relation to which the number applicable in accordance with clauses 2 and 3 is subject to variation;
  - (e) unless the context otherwise requires, a reference to:
    - (i) a numbered clause is a reference to the clause so numbered in this Instrument; and
    - (ii) a numbered paragraph is a reference to the paragraph so numbered in the clause in which the reference appears; and
  - (f) words importing one gender shall import all genders, the singular number shall include the plural and vice versa (unless the context otherwise requires) and the headings are included for convenience only and shall not affect the construction of this Instrument.

## Composition of the Corporation

- 2 (1) The Corporation shall consist of:
- (a) not more than 7 members who are, or have been, engaged or employed in business, industry or any profession or in any other field of employment relevant to the activities of the institution (to be known as “business member”);
  - (aa) *not more than 2 members nomination by the Further Education Funding Council for England;*

- (b) not more than 3 members (to be known as "co-opted members") co-opted by the members of the Corporation who are not co-opted members;
  - (c) at least one and not more than 3 members who are members of the staff of the institution elected and nominated as specified in paragraph (4) (to be known as "staff members");
  - (d) at least one and not more than 3 members who are students at the institution elected and nominated by the students at the institution or (as the Corporation may determine) by a recognised association representing the students at the institution (to be known as student members");
  - (e) not more than 2 members who are parents of students under the age of 19 years at the institution elected and nominated by other such parents or (as the Corporation may determine) by a recognised association representing such parents;
  - (f) at least one and not more than 3 members nominated by such local authorities as the Corporation may nominate;
  - (g) at least one and not more than 3 members nominated by a body or bodies within the local community nominated by the other members of the Corporation; and
  - (h) the Principal of the institution (unless he chooses not to be a member).
- (2) For the purposes of this Instrument, a person who is not for the time being enrolled as a student at the institution shall be treated as such a student during any period when he has been granted leave of absence from the institution for the purposes of study or travel or for carrying out the duties of any office held by him in any students' union at the institution.
- (3) It shall be for the appointing authority, defined in clause 5, to determine any question as to whether any person is qualified in accordance with the preceding provisions of this clause for appointment as a member of the Corporation of any description or category.
- (4) Every staff member shall be elected and nominated by the staff of the institution, save that where paragraph (5) applies:
- (a) one may be a member of the academic staff elected and nominated only by the academic staff; and
  - (b) the other or (as the case may be) one other may be a member of the staff other than the academic staff elected and nominated only by the staff other than the academic staff.

- (5) This paragraph applies where the Corporation determine:
- (a) (pursuant to *clause 3(2)*) that there are to be 2 or 3 staff members; and
  - (b) that both or (as the case may be) 2 of those members are to be elected and nominated as specified in paragraph (4)(a) and (b).

### Numbers

- 3
- (1) At their first meeting after 1st August 1999 the Corporation shall make a determination with respect to their membership numbers, which shall be not less than 12 but not more than 20.
  - (2) Such a determination shall fix the number of members of each variable category of which the Corporation are to consist, subject to the limits applicable in relation to that category set out in clause 2.
  - (3) In making such a determination, the Corporation shall secure that the number of business members of the Corporation, when constituted in accordance with the determination, shall be equal to one-third of the total number of members rounded up to the nearest whole number.
  - (4) Such a determination shall not have effect so as to terminate the appointment of any person who is already a member of the Corporation at the time when it takes effect.
  - (5) Such a determination may be varied by a subsequent determination, to which paragraphs (1) to (4) shall apply.

### Transitional Arrangements

- 4
- If on the determination of the Corporation pursuant to clause 3(1) the membership of the Corporation does not conform in number and composition to that determination, the Corporation shall not require that removal of members but shall ensure that any new appointments are made with a view to ensuring that the composition conforms to the determination as soon as possible.

### Appointments

- 5
- (1) Subject to paragraph (2) the Corporation are the appointing authority in relation to the appointment of any member of the Corporation.
  - (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 such number of members as is required for a quorum.
  - (3) *Any appointment made pursuant to a nomination under clause 2(1)(aa) shall take effect notwithstanding anything in clause 3.*

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

- 6
- (1) The members shall appoint a Chairman and a Vice-Chairman from among their number
  - (2) Neither the Principal nor any staff or student member shall be eligible to be appointed Chairman or Vice-Chairman.
  - (3) The Chairman and Vice-Chairman shall hold office for such period as the Corporation may determine.
  - (4) If both the Chairman and Vice-Chairman are absent from any meeting of the Corporation, the members present shall choose one of their number to act as chairman for that meeting, provided that the member chosen shall not be the Principal or a staff or student member.
  - (5) The Chairman or Vice-Chairman may resign his office at any time by giving notice in writing to the Clerk to the Corporation.
  - (6) At the first meeting following the expiry of the term of office of the Chairman or the Vice-Chairman, or following the resignation of the Chairman or Vice-Chairman, the members shall appoint a new Chairman or Vice-Chairman, as the case may be, from among their number.
  - (7) The Chairman or Vice-Chairman retiring at the end of his term of office shall be eligible for reappointment.

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

- 6A
- (1) The Corporation shall appoint a person to serve as Clerk to the Corporation.
  - (2) The Clerk to the Corporation shall be entitled to attend all meetings of the Corporation (including meetings of any committee of the Corporation) but shall withdraw from that part of any meeting at which his remuneration, conditions of service, conduct, suspension, dismissal or retirement are to be considered, in which case the members of the Corporation shall appoint from their number a person to act as Clerk to the Corporation for the duration of such meeting or part of a meeting.

### **Persons Ineligible to be Members**

- 7
- (1) A person who is under the age of 18 years shall be ineligible for appointment as a member except as a student member.
  - (2) Subject to paragraph (3), no person who has attained the age of 70 years shall be eligible for appointment as a member of the Corporation.

- (3) A person over the age of 70 shall not by virtue of paragraph (2) be disqualified for appointment as a member of the Corporation where:
  - (a) the appointing authority in relation to the appointment is the Corporation and the members determine to make the appointment by a vote representing an absolute majority of all the members of the Corporation (whether or not taking part in the vote); or
  - (b) the appointing authority in relation to the appointment is the Secretary of State.
- (4) A person who is a member of staff of the institution shall be ineligible for appointment as a member except as a staff member or in his capacity as Principal.
- (5) A student at the institution shall be ineligible to be appointed as a member except as a student member. A person who is already a member other than a student member shall not be required to resign if during his term of office he enrolls on a part-time course at the institution but if he enrolls on a full-time course at the institution he shall cease to be a member of the Corporation and thereupon the office shall become vacant.
- (6) The Clerk to the Corporation shall be ineligible to be a member.
- (7) Subject to paragraphs (8) and (9), a person shall be disqualified for holding, or for continuing to hold, office as a member if that person has been adjudged bankrupt or has made a composition or arrangement with his creditors.
- (8) Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease:
  - (a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and
  - (b) if the bankruptcy order is so annulled, on the date of the annulment.
- (9) Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his 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 or arrangement are fulfilled.
- (10) A person shall be disqualified for holding, or for continuing to hold, office as a member if, within five years before his appointment would otherwise have taken effect, or since his appointment, he has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.