

INSTRUMENT OF GOVERNMENT

1. Interpretation of the terms used

1.1	<i>Articles</i>	Means these Articles of Government
	<i>Chair and Vice Chair(s)</i>	Means respectively the Chair and Vice Chair(s) of the Corporation
	<i>Chief Executive</i>	Means the Chief Executive Officer of West Suffolk College and shall include a person acting as Chief Executive
	<i>Clerk</i>	Means the Clerk to the Corporation (known as the Governance Professional) and shall include a person acting as Clerk
	<i>Corporation</i>	Means any Further Education Corporation to which this Instrument applies
	<i>External members</i>	Means members of the Corporation who are not the Chief Executive, staff or student members
	<i>Instrument</i>	Means this Instrument of Government
	<i>Institution</i>	Means the institution which the Corporation is established to conduct and any institution for the time being conducted by the Corporation in exercise of its powers under the Further and Higher Education Act 1992
	<i>Meeting</i>	Means a meeting at which the members attending are present irrespective of whether those present are in one or more rooms or present virtually (provided that by the use of video- or tele-conferencing it is possible for every person present at the meeting to communicate with each other and to vote)
	<i>Necessary skills</i>	Means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for members of the Corporation to have
	<i>Quorum</i>	Means the minimum number of members needed for a decision (vote) to be valid.
	<i>Secretary of State</i>	Means the Secretary of State with responsibility for oversight of the Further Education Sector
	<i>Senior post holder</i>	Means the post of Chief Executive
	<i>Staff matters</i>	Means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff
	<i>Staff and student members</i>	<i>Are defined in Clause 2</i>
	<i>The staff</i>	Means all staff who have a contract of employment with the Corporation
	<i>Government funding agency</i>	Means any government agency or department from which the Corporation receives a funding allocation
	<i>Variable category</i>	Means any category of members where numbers may vary
	<i>Written resolution</i>	Means a resolution agreed in writing by a simple majority of members who are entitled to vote upon it. This may refer to a decision within a meeting and written in the minutes or taken outside of a meeting and documented in writing (including via email). The resolution shall be effective provided that: (a) a copy of the proposed resolution has been sent to every eligible member; (b) a simple majority of the members have signified agreement to the resolution;

	<p>(c) it is a document authenticated by the Clerk; and</p> <p>(d) it is received at the specified address within the period of 28 days of the circulation date (the day on which copies of the written resolution are sent or submitted to members).</p>
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2. Composition of the Corporation and determination of membership numbers

- 2.1 The Corporation shall consist of:
- 2.1.1 At least seven and up to sixteen external members who are judged by the Corporation to have the necessary skills to ensure that the Corporation carries out its functions and responsibilities;
 - 2.1.2 The Chief Executive of the Institution, unless they chose not to serve;
 - 2.1.3 One staff member who has a contract of employment with the Corporation, and who has been appointed by the Corporation;
 - 2.1.4 At least one and up to two student members who are enrolled as students at the Institution and have been nominated and elected by their fellow students, or if the Corporation so decides, by the recognised body representing such students;
 - 2.1.5 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 on behalf of a body representing students.
- 2.2 The number of members of the Corporation, and the number of members of each variable category within Clause 2.1, shall be decided by the Corporation.
- 2.3 No determination under Clause 2.2 shall terminate the appointment of any person who is already a member of the Corporation at the time when the determination is made.
- 2.4 The Corporation, as the appointing authority, will decide whether a person is eligible for nomination, election and appointment as a member of the Corporation under Clause 3 and 4.
- 2.5 The quorum for a meeting of the Corporation, and any vote on any matter thereat, shall be any four Governors or, where greater, any one third (rounded up to a whole number) of the total number of Governors holding office at the date of the meeting, who are in each case present at the meeting and entitled to vote on the matters to be resolved.

3. Appointment of members of the Corporation

- 3.1 Subject to clause 3.2 the Corporation is the appointing authority in relation to the appointment of its members.
- 3.2 If the number of members falls below the number needed for a quorum, the Corporation, as the appointing authority, may be considered quorate for the sole purpose to appoint new External and Staff members.
- 3.3 The appointing authority may decline to appoint a person as staff or student member if:
- 3.3.1 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
 - 3.3.2 the appointment of the person would contravene any rule or bye-law made under the Articles of Government concerning the number of terms of office which a person may serve; or
 - 3.3.3 the person is ineligible to be a member of the Corporation pursuant to Clause 4.
- 3.4 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.
- 3.5 The term of office for a member of the Corporation and the rules by which they may be considered eligible for reappointment shall be determined by the Corporation.

4. Persons who are ineligible to be members

- 4.1 No-one under the age of 18 years may be a member, except as a student member.
- 4.2 The Clerk may not be a member.
- 4.3 A person who is a member of staff of the Institution may not be a member, except as a staff member or in the capacity of Chief Executive of the Corporation. This 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.
- 4.4 A person shall be disqualified from holding or continuing to hold office as a member if that person:
- 4.4.1 is disqualified from acting as a Charity Trustee under the Charities Act 2011 (as amended from time to time).
 - 4.4.2 has been adjudged bankrupt or by reason of being the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restriction 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.
 - 4.4.3 has 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.
 - 4.4.4 has (within the previous five years) 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
 - 4.4.5 has (within the previous twenty years) been convicted *as set out in subparagraph 4.4.5* and has received a sentence of imprisonment, whether suspended or not, for a period of more than two and a half years; or
 - 4.4.6 has at any time been convicted *as set out in subparagraph 4.4.5* and has received a sentence of imprisonment, whether suspended or not, of more than five years.
 - 4.4.7 is certified by a Registered Medical Practitioner as being physically or mentally incapable of discharging their duties and will remain so for 3 months or more and the Corporation resolves to remove that person from office;
 - 4.4.8 is unfit or unable to discharge their functions as a Governor or their conduct calls themselves or the Corporation into disrepute and the Corporation resolves to remove that person from office;
 - 4.4.9 is absent from meetings, without the consent of the Corporation, for 6 months or more and the Corporation resolves to remove that person from office;
 - 4.4.10 breaches the Corporation's Code of Conduct and the Corporation resolves to remove that person from office.

- 4.4.11 if they are not considered by the Institution or by its regulators to be a 'fit and proper person'. The Guidance issued by HMRC and the regulatory advice issued by the Office for Students will be used to determine whether a serving or prospective member is a 'fit and proper person'.
- 4.5 Upon a member becoming disqualified from continuing to hold office, the member shall immediately give notice of that fact to the Clerk.
- 5. Termination of membership**
- 5.1 A member may resign from office at any time by giving notice in writing to the Clerk.
- 5.2 If at any time the Corporation is satisfied that it would be in the best interest of the Corporation for a member's appointment to the Corporation to be terminated or that any member:
- 5.2.1 is unfit or unable to discharge the functions of a member; or
- 5.2.2 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 remove the member from office by notice in writing to that member and the office shall then be vacant.
- 5.3 Any person who is a member of the Corporation by virtue of being a member of the staff at the Institution, including the Chief Executive, shall cease to hold office upon ceasing to be a member of the staff and the office shall then be vacant.
- 5.4 A student member shall cease to hold office:
- 5.4.1 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
- 5.4.2 if expelled from the Institution. The office shall then be vacant.
- 6. Procedures and Conduct of the Corporation**
- 6.1 Every member shall act in the best interests of the Corporation, shall not be bound to speak or vote by mandates given by any other body or person, and shall understand and adhere to the Nolan principles of Public Life.
- 6.2 A member shall disclose to the Corporation the nature and extent of any conflict or relevant interest, and if present at a meeting of the Corporation or any of its committees, at which such supply, contract or other matter relating to the Corporation is to be considered shall:
- 6.2.1 not take part in the consideration or vote on any question with respect to that item 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;
- 6.2.2 withdraw where required to do so by a majority of the members of the Corporation or committee present at the meeting.
- 6.3 Clause 6 should 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.
- 6.4 Where the matter under consideration by the Corporation or any of its committees relates to the pay and conditions of all staff, a staff member:
- 6.4.1 need not disclose a financial interest; and
- 6.4.2 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
- 6.4.3 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.

- 6.5 The Clerk shall retain 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 Corporation to any person wishing to inspect it.
- 6.6 Notice of meetings, agendas, written resolutions and other communications to members can be sent in writing or by electronic means.
- 6.7 The Corporation will approve the Code of Conduct for the Corporation.

7. Appointment of the Chief Executive

- 7.1 The Corporation shall appoint a person to serve as the Chief Executive of the Corporation.

8. Appointment of the Clerk to the Corporation

- 8.1 The Corporation shall appoint a person to serve as its Clerk.
- 8.2 In the temporary absence of the Clerk, the Corporation shall appoint a person to serve as a temporary Clerk.
- 8.3 The Chief Executive may not be appointed as Clerk or as temporary Clerk.
- 8.4 Subject to Corporation rules relating to proceedings of meetings, the Clerk shall be entitled to attend all meetings of the Corporation and any of its committees.
- 8.5 The Clerk may also be a member of staff of the Corporation.

9. Copies of the Instrument and Articles of Government

- 9.1 A copy of this Instrument and the Articles of Government 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.

10. Change of name of the Corporation

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

11. Application of the Corporation Seal

- 11.1 The application of the seal of the Corporation shall be authenticated by:
 - 11.1.1 the signature of the Chair, Vice Chair or other member with delegated authority of the Corporation for that purpose; and
 - 11.1.2 the signature of any other member (with the exception of the staff and student governors).

ARTICLES OF GOVERNMENT

1. The responsibilities of the Corporation

- 1.1 The Corporation shall be responsible for the following functions:
- 1.1.1 the determination and periodic review of the strategy, educational character and mission of the Institution and the oversight of its activities;
 - 1.1.2 publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the Institution and the oversight of its activities;
 - 1.1.3 approval of the overarching strategy for educational quality of the Institution;
 - 1.1.4 the effective and efficient use of resources, the solvency of the Institution and the Corporation and safeguarding its assets;
 - 1.1.5 approving and monitoring annual budgets of income and expenditure;
 - 1.1.6 the appointment, grading, grievance procedures, suspension, disciplinary and dismissal, and determination of the pay and conditions of service of the Chief Executive and the Clerk.

2. The responsibilities of the Chief Executive

- 2.1 Subject to the responsibilities of the Corporation, the Chief Executive shall be responsible for the following functions:
- 2.1.1 making proposals to the Corporation about the strategy, educational character and mission of the Institution and implementing the decisions of the Corporation;
 - 2.1.2 the determination of the Institution's academic and other activities;
 - 2.1.3 preparing annual estimates of income and expenditure for consideration and approval by the Corporation, and the management of approved budget and resources within the estimates approved by the Corporation;
 - 2.1.4 the direction and management of the Institution and leadership of the staff;
 - 2.1.5 ensuring student wellbeing and maintaining student discipline, making and applying rules concerning the conduct of students including suspending or expelling students on disciplinary grounds or expelling students for academic reasons;
 - 2.1.6 setting a framework for the pay and conditions of service, and the appointment, assignment, grading, appraisal, suspension, dismissal and determination of the pay and conditions of service of staff other than the Clerk, where the Clerk is also a member of the staff.
 - 2.1.7 ensuring the activities of the Corporation are compliant with all relevant regulations.
 - 2.1.8 establishing strategic partnerships, upon authorisation of the Corporation, to deliver the strategy of the Institution.

3. The responsibilities of the Clerk

- 3.1 The Clerk shall be responsible for:
- 3.1.1 advising the Corporation with regard to the operation of its powers;
 - 3.1.2 advising the Corporation with regard to procedural matters;
 - 3.1.3 advising the Corporation with regard to the conduct of its business; and
 - 3.1.4 advising the Corporation with regard to matters of governance practice.

4. Corporation's delegable and non-delegable functions

- 4.1 The Corporation shall not delegate the following functions:
- 4.1.1 the determination of the educational character and mission of the Institution;
 - 4.1.2 the approval of the annual estimates of income and expenditure;
 - 4.1.3 the responsibility for ensuring the solvency of the Institution and for safeguarding their assets;
 - 4.1.4 the modification or revocation of these Instrument and Articles of Government.

The Corporation may not delegate:

- 4.1.5 the appointment of the Chief Executive;
 - 4.1.6 the appointment of the Clerk;
 - 4.1.7 the consideration of the case for dismissal of the Chief Executive or the Clerk; and
 - 4.1.8 the power to determine an appeal in connection with the dismissal, of the Chief Executive or the Clerk, other than to a committee of external members of the Corporation.
- 4.2 The Corporation shall make rules specifying the way in which a committee shall be established and conducted.

5. Committees

- 5.1 The Corporation may establish committees for any purpose or function, other than those assigned in these Articles. Any committee established by the Corporation may include persons who are not members of the Corporation.
- 5.2 The quorum for a committee meeting of the Corporation, and any vote on any matter thereat, shall be at least a third (rounded up to a whole number) of the total number of committee members holding office at the date of the meeting, who are in each case present at the meeting and entitled to vote on the matters to be resolved.

6. Appointment, promotion and conduct of staff and students

- 6.1 The Corporation will appoint the Chief Executive and the Clerk, and shall determine the arrangements for the advertisement, selection and appointment of a successor.
- 6.2 The Chief Executive shall have responsibility for selecting and appointment of all members of staff other than the Clerk, except where the Clerk is also to be appointed as a member of staff.
- 6.3 The Corporation shall review and approve rules relating to the conduct of staff, after consultation with staff.
- 6.4 The Corporation shall review and approve rules concerning the conduct of students, including procedures for their suspension and expulsion, after consultation with representatives of the students.

7. Co-operation with government funding agencies

- 7.1 The Corporation shall co-operate with any person authorised by the government funding agencies 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.

8. Internal audit

- 8.1 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.

9. Accounts and audit of accounts

- 9.1 The Corporation shall:
- 9.1.1 keep proper accounts and proper records in relation to the accounts; and
 - 9.1.2 prepare a statement of accounts for each financial year of the Corporation.
- 9.2 The statement shall:
- 9.2.1 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
 - 9.2.2 comply with any directions given by government funding agencies 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.
- 9.3 The accounts and the statement of accounts shall be audited by external auditors appointed by the Corporation in respect of each financial year.
- 9.4 Independent Auditors shall be appointed and audit work conducted in accordance with any requirements of government funding agencies.
- 9.5 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 government funding agency's approval.
- 9.6 If the Corporation is dissolved:
- 9.6.1 the last financial year shall end on the date of dissolution; and
 - 9.6.2 the Corporation may decide, with the government funding agency's approval, that what would otherwise be the last two financial years, shall be a single financial year for the purpose of this article.

10. Copies of Articles of Government, rules and bye-laws

- 10.1 The Corporation shall have the power to make rules and bye-laws relating to the government and conduct of the Corporation ("Standing Orders") which shall be subject to the provisions of the Instrument and Articles of Government.
- 10.2 A copy of these Articles, and of any Standing Orders, 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.

11. Modification or replacement of the Instrument and Articles of Government

- 11.1 Subject to paragraph 12.2 the Corporation may, by resolution of the members, modify or replace its Instrument and Articles of Government, after consultation with any other persons who, in the Corporation's view, are likely to be affected by the proposed changes.
- 11.2 The Corporation shall not make changes to the Instrument or Articles of Government that would result in the body ceasing to be a charity.

12. Dissolution of the Corporation

- 12.1 The Corporation may by resolution dissolve itself and provide for the transfer of its property, rights and liabilities.
- 12.2 The Corporation shall ensure that a copy of the draft resolution to dissolve the Corporation on a specified date shall be published at least one month before the proposed date of such resolution.