

SCHEDULE 2

Regulation 2

ARTICLES OF GOVERNMENT

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Interpretation

1. In these Articles of Government—
 - “the Academic Board” means the body constituted in accordance with article 4,
 - “the Articles” means these Articles of Government,
 - “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,
 - “Chair” and “Vice Chair” means respectively the Chair and Vice Chair of the Corporation appointed under clause 6 of the Instrument of Government,
 - “the clerk” means the Clerk to the Corporation,
 - “the Corporation” and “the Secretary of State” have the same meaning as in the Instrument of Government,
 - “the Council” means the Learning and Skills Council for England,

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“operative date” has the same meaning as in the Thurrock and Basildon College (Incorporation) Order 2001(1),

“senior post” means the post of Principal and such other senior posts as the Corporation may determine for the purposes of these Articles,

“the staff” means all the staff of the institution,

“the Students' Union” means any association of the generality of students formed to further the educational purposes of the institution and the interests of students as students.

Conduct of the Institution

2. The institution shall be conducted in accordance with the provisions of the Education Acts (as defined in section 578 of the Education Act 1996), any subsequent Education Acts, the Learning and Skills Act 2000, any relevant regulations, orders or directions made by the Secretary of State and subject thereto, 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 Corporation, Principal and Academic Board

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

- (a) the determination of the educational character and mission of the institution and for the oversight of its activities;
- (b) the effective and efficient use of resources, the solvency of the institution and the Corporation and for 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, his appointment, grading, suspension, dismissal and determination of pay in his capacity as member of staff);
- (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—

- (a) making proposals to the Corporation about the educational character and mission of the institution, and for implementing the decisions of the Corporation;
- (b) the organisation, direction and management of the institution and leadership of the staff;
- (c) 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 he is also a member of the staff;
- (d) the determination, after consultation with the Academic Board, of the institution's academic activities, and the determination of its other activities;
- (e) 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;
- (f) maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds, and implementing decisions to expel students for academic reasons.

(3) Subject to—

(1) [S.I.2001/1497](#).

- (a) the provisions of these Articles;
- (b) the overall responsibility of the Corporation; and
- (c) the responsibilities of the Principal,

the Academic Board shall be responsible for advising the Principal on the standards, planning, co-ordination, development and oversight of the academic work of the institution, including arrangements for the admission, assessment and examination of students and the procedures for the expulsion of students for academic reasons.

Academic Board

4.—(1) There shall be an Academic Board of no more than 30 members, comprising the Principal (who shall be chair) and such other members of staff and students as may from time to time be approved by the Corporation. The Principal may nominate a deputy chair from among the members of the Academic Board to take the chair in his place. The period of the appointment of members and the selection or election arrangements shall be subject to the approval of the Corporation.

(2) The Academic Board may establish such committees as it considers necessary for the purpose of enabling it to carry out its responsibilities provided that in each case the establishment of a committee first approved by the Principal. The number of members of any such committee, and the terms on which they are to hold and vacate office, shall be determined by the Academic Board, and any such committee may include persons who are not members of the Academic Board.

Delegation of Functions and Committees

5.—(1) Subject to the following provisions of this article, the Corporation may establish a committee of the Corporation for any purpose or function, other than those assigned elsewhere in these Articles to the Principal or to the Academic Board, and may delegate powers to—

- (a) such a committee;
- (b) the Chair or, in his absence, the Vice Chair; or
- (c) the Principal.

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

(3) The Corporation shall establish a committee, to be known as the Search Committee, to—

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

(4) 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,

unless it has first considered the advice of the Search Committee in relation thereto. The Corporation may make rules specifying the procedures for the conduct of the Search Committee and a copy of any such rules, together with the remit of the Search Committee and its advice to the Corporation, shall be available for inspection by any member of the public during normal office hours.

(5) The Corporation shall establish a committee, to be known as the Audit Committee, to advise on matters relating to the Corporation's audit arrangement and systems of internal control. The committee shall consist of at least 3 persons and may include employees of the Corporation other than those in senior posts, and shall operate in accordance with any requirements of the Council.

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(6) Any committee established by the Corporation (other than the Special Committee referred to in article 12) may include persons who are not members of the Corporation.

(7) The Corporation shall not, however, delegate the following—

- (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 12(9)) 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 his appointment or, subject to article 12(9), dismissal in his capacity as member of staff); and
- (f) the modification or revocation of these Articles.

(8) The Corporation may not delegate to the Principal the power to determine an appeal in connection with the dismissal of a member of staff under article 13(3) unless the Principal has previously delegated his power under article 13(1) to dismiss a member of staff to a holder of a senior post.

(9) The Corporation shall ensure that a written statement of their 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 during normal office hours at the institution to any person wishing to inspect it.

(10) The Principal may delegate any of his functions other than the management of budget and resources to the holder of any other senior post.

Appointment and Promotion of Staff

6. Each member of staff shall serve under a contract of employment with the Corporation.

7.—(1) Upon the occurrence of 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) (where a vacancy is for the post of Principal) at least 5 members of the Corporation including the Chair or the Vice Chair (or both the Chair and the Vice Chair) or
 - (ii) (where the vacancy is for any other senior post) the Principal, and at least 3 other members of the Corporation.

(2) The members of the selection panel shall—

- (a) determine the arrangements for selecting the applicants for interview;
- (b) interview those 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

require the panel to repeat the steps specified in paragraph (2)(a) to (c), with or without first re-advertising the vacancy.

(5) Without prejudice to paragraph (1) a member of staff may be required to act as Principal or in any other senior post in the event of a vacancy or the temporary absence of the holder of that post, and shall have all the duties and responsibilities of the Principal or holder of such other senior post (as the case may be) during the period of the vacancy or temporary absence. Accordingly any reference in the Instrument of Government or in these Articles to the Principal shall include a person acting as Principal in accordance with this paragraph.

8. The Principal shall have general responsibility for selecting for appointment all members of staff other than—

- (a) appointments to senior posts,
- (b) where the clerk is to be appointed as a member of staff, his appointment as a member of staff.

Conduct of Staff

9. After consultation with the staff, the Corporation shall make rules relating to the conduct of the staff.

Academic Freedom

10. In making rules under article 9, the Corporation shall have regard to the need to ensure that academic staff of 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

11.—(1) The Chair or, in his absence, the Vice-Chair may suspend from duty, with or without pay, the holder of a senior post for misconduct or other good or urgent cause. The Chair or Vice-Chair shall report such suspension in writing to the Corporation and the Council within 2 working days or as soon thereafter as is practicable.

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

(3) Anyone who is suspended from duty under paragraph (1) or (2) 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.

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

(5) Procedures for the suspension of staff under paragraph (1) or (2) shall be specified in rules made by the Corporation after consultation with the staff. The rules shall include provision that—

- (a) any person who has been under suspension for 3 weeks or more may appeal in writing to the Corporation against the suspension, save that no such right of appeal shall lie if the person is the subject of a reference to a Special Committee under article 12(1) or has been notified of a proposal to dismiss pursuant to article 13(1) and (2);
- (b) any appeal made under sub-paragraph (a) above shall be considered as soon as is practicable;

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- (c) a suspension against which an appeal is made shall continue to operate pending the determination of the appeal.

Dismissal of Staff

12.—(1) Subject to paragraphs (9) to (12) if the Chair, or in his absence the Vice-Chair, or a majority of the members of the Corporation, consider that it may be appropriate for the Corporation to dismiss the holder of a senior post from a post on the staff, 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 is practicable to examine the case for dismissal and to make recommendations to the Corporation.

(2) The Special Committee shall hold its first meeting within 7 days of being convened.

(3) The person whose dismissal is to be considered by the Special Committee shall have the right to make representations to that Committee, including oral representations, for which purpose he may be accompanied and represented by a friend.

(4) After hearing or reading any such representations, the Special Committee shall prepare a written report for consideration by the Corporation, a copy of which shall be sent to the person to whom it relates.

(5) The written report referred to in paragraph (4) shall be prepared within two months of the date on which the special committee was convened; where however it is impracticable for the committee to prepare the report during that period they shall, during that period, prepare an interim report a copy of which shall be sent to the person to whom it relates and any interim report so prepared shall contain a timetable for the preparation of the report referred to in paragraph (4).

(6) The Corporation shall consider the recommendations of the Special Committee and the representations (if any) of the person concerned and take such action as it considers appropriate, which may include the dismissal of the person concerned; and the first meeting at which the recommendations of the Special Committee and any representations of the person concerned are to be considered shall be no later than 28 days after the date of the receipt of the report under paragraph (4).

(7) The person concerned shall have the right to make representations including oral representations to the Corporation with regard to the recommendations of the Special Committee and—

- (a) any written representations must be made within 14 days of the date of the receipt of the report under paragraph (4); and
- (b) for the purpose of making oral representations the person may be accompanied and represented by a friend.

(8) The Special Committee shall consist of at least 3 members of the Corporation. However, the Chair of the Corporation, the Vice Chair, the Principal and the staff and student members shall not be eligible for membership of the Special Committee.

(9) The Chair, or in his absence, the Vice Chair, may dismiss the holder of a senior post with immediate effect without any need for prior notice if the circumstances are such that such dismissal is justified by virtue of the conduct of that holder of a senior post, and in such a case paragraphs (1) to (8) of this article shall not apply.

(10) The holder of a senior post shall have the right to make representations (including oral representations for which purpose he may be accompanied by a friend) to the Chair or Vice Chair or to any other person appointed in accordance with rules made under paragraph (13) to investigate the matter and to make recommendations, before any decision to dismiss him pursuant to paragraph (9) is taken.

(11) Where a holder of a senior post has been dismissed pursuant to paragraph (9) that member of staff may within 14 days of the date of the dismissal appeal to the Corporation against the dismissal.

(12) The Corporation shall meet to consider the appeal within 14 days of the date on which the appeal was made or as soon as reasonably practicable thereafter.

(13) After consultation with holders of senior posts the Corporation shall make rules specifying procedures for the conduct of the Special Committee, for the dismissal of the holders of senior posts under paragraph (9) and for the consideration of appeals in accordance with paragraph (11) including appropriate time limits (other than those provided for in this article).

(14) A failure by the Corporation or the Special Committee to take any action within a time limit specified in this article shall not relieve the Corporation or Committee of the duty to take such action.

13.—(1) The Principal may dismiss any member of staff of the institution other than the holder of a senior post; and if the circumstances are such that he is entitled to do so by reason of the conduct of that member of staff, that dismissal may take immediate effect without any need for prior notice.

(2) The member of staff shall have the right to make representations (including oral representations, for which purpose he may be accompanied by a friend) to the Principal or to any person appointed in accordance with rules made under paragraph (5) to investigate the matter and to make recommendations before any decision to dismiss him is taken.

(3) Where a member of staff, other than the holder of a senior post, has been dismissed pursuant to paragraph (1) or a notice of dismissal has been issued, that member of staff may within 14 days of the date of dismissal or notice of dismissal as the case may be, appeal to the Corporation against the dismissal or notice of dismissal. In the case of an appeal against a notice of dismissal, the dismissal shall not take effect until the appeal has been determined.

(4) The Corporation shall meet to consider the appeal within 14 days of the date on which the appeal was made or as soon as practicable thereafter.

(5) After consultation with the staff, the Corporation shall make rules specifying procedures for the dismissal of staff by the Principal and for the consideration of appeals in accordance with paragraph (3), including appropriate time limits relating thereto (other than those provided for in this article).

Suspension and dismissal of clerk

14.—(1) For the purposes of articles 11 to 13 the clerk, where he is also a member of the staff, shall be treated as the holder of a senior post but references in these articles to the suspension and dismissal of the clerk are references to his suspension and dismissal as a member of the staff.

(2) Paragraph (1) is without prejudice to any action which the Corporation may take in relation to a clerk who is also a member of the staff by way of suspension from or termination of the appointment as clerk under the terms of any separate appointment as clerk.

Grievance Procedures

15. After consultation with the staff the Corporation shall make rules specifying procedures in accordance with which staff may seek redress of any grievances relating to their employment.

Students

16.—(1) Any Students' Union shall conduct and manage its own affairs and funds in accordance with a constitution approved by the Corporation and shall present audited accounts annually to the Corporation. No amendment to or rescission of that constitution, in part or in whole, shall be valid unless approved by the Corporation.

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(2) After consultation with representatives of the students, the Corporation shall make rules concerning the conduct of students, including procedures for suspension and expulsion (including expulsion for an unsatisfactory standard of work or other academic reason).

Financial Matters

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

Co-operation with Council Auditor

18. The Corporation shall co-operate with any person authorised by the Council to audit any returns of number of students or claims for financial assistance and shall in particular give any such person access to any documents or records held by the Corporation including records stored on computers.

Internal Audit

19.—(1) The Corporation shall, at such times as it considers appropriate, examine and evaluate (or arrange for the examination and evaluation on its behalf of) its systems of internal financial control to ensure that they contribute to the proper, economic, efficient and effective use of the Corporation's resources.

(2) The Corporation shall not appoint any persons ("internal auditors") to carry out the activities referred to in paragraph (1) on their behalf if such persons are appointed as external auditors under article 20.

Accounts and Audit of Accounts

20.—(1) The Corporation shall—

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

(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 the Corporation's income and expenditure and inflows and outflows of cash in the financial year; and
- (b) comply with any directions given by the Council 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 (including any statement prepared under this clause) shall be audited by persons ("external auditors") appointed by the Corporation (subject to paragraph (5)) in respect of each financial year.

(4) Such auditors shall be appointed and other audit work conducted, in accordance with any requirements of the Council.

(5) The Corporation shall not appoint persons as external auditors under paragraph (3) in respect of any financial year if those persons are also appointed as internal auditors under article 19.

(6) In this article in relation to the Corporation—

- (a) "financial year" means the first financial year and (except as provided for in subparagraph (c)), each successive period of 12 months;

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- (b) “the first financial year” means the period commencing with the date on which the Corporation is established and ending either with the second 31st July following that date or ending with some other date determined by the Corporation with the approval of the Council; and
- (c) if the Corporation is dissolved—
 - (i) the last financial year shall end on the date of dissolution of the Corporation; and
 - (ii) the Corporation may, with the approval of the Council, determine 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

21. The Corporation shall have the power to make rules and bye-laws concerning such matters with regard to the government and conduct of the institution as they shall think fit. Such rules and bye-laws shall be subject to the provisions of the Instrument of Government and these Articles.

Copies of Articles of Government, Rules and Bye-Laws

22. A copy of these Articles, and of any rules and bye-laws, shall be given to every member of the Corporation and shall be available for inspection upon request during normal office hours at the institution to every member of staff and every student.

Date of Articles of Government

- 23.** These Articles shall apply to—
- (a) the Corporation, on the date of establishment; and
 - (b) the institution, on the operative date.