

Instrument & Articles of Government

Instrument of Government

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1 Interpretation of the Terms Used

- i) In this Instrument of Government:
 - a) any reference to 'the Principal' will include a person acting as Principal;
 - b) 'the Clerk' means the Corporation Secretary;
 - c) 'the Corporation' means the Governing Body of the Trafford College Group;
 - d) "electronic form" means a document that is sent or supplied by electronic means (including e-mail) or by any other means within an electronic form (for example, sending a disc by post). A document that is sent or supplied by electronic form must be sent by or supplied in a form, and by a means, that the sender or supplier reasonably considers will enable the recipient to read it and retain a copy of it;
 - e) 'the Institutions' 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;
 - f) 'this Instrument' means this Instrument of Government;
 - g) '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 or tele-conference facilities it is possible for every person present at the meeting to communicate with each other. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no such group, where the Chair of the meeting is;
 - h) 'necessary skills' means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for members to have;
 - i) 'Secretary of State' means the Secretary of State for Education or their successor from time to time;
 - j) staff member and student member have the meanings given to them in clause 2;
 - k) 'staff matters' means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff.
 - l) "the Students' Union" means any association of students formed to further the educational purposes of the Institution and the interests of students, as students.
 - m) "written" includes electronic form.

2 Composition of the Corporation

- i) The Corporation will consist of:
 - a) 17 members who appear to the Corporation to have the necessary skills to ensure that the Corporation carries out its functions under article 3 of the Articles of Government;
 - b) the Principal of the Institution, unless the Principal chooses not to be a member;
 - c) one member, who is a member of the Institution staff and has a contract of employment with the Institution and who have been nominated and elected as set out in paragraphs (2 ii) ("staff member"); and
 - d) two members enrolled as students of 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").
- ii) The staff member may be a member of the academic staff or the non-academic staff and shall be nominated and elected by all staff.

3 Appointment of the Members of the Corporation

- i) The Corporation is the Appointing Authority in relation to the appointment of its members.
- ii) 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.
- iii) Where the office of any member becomes vacant the Appointing Authority as soon as practicable take all necessary steps to appoint a new member to fill the vacancy.

4 Appointment of Chair and Vice Chair of the Corporation

- i) Members of the Corporation should appoint a Chair and Vice Chair from amongst themselves, but neither the Principal nor any staff or student member will be eligible to be appointed as Chair or Vice Chair or to act as Chair in their absence.
- ii) Arrangements for the appointments of the Chair and Vice Chair of the Corporation will be contained in the College's standing orders.

5 Appointment of the Clerk to the Corporation

- i) The Corporation shall appoint a person to serve as its Clerk, but the Principal may not be appointed as Clerk.
- ii) 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.
- iii) Any reference in this Instrument to the Clerk shall include a temporary clerk appointed under paragraph 5 ii).
- iv) The Clerk shall be entitled to attend all meetings of the Corporation and any of its committees but shall withdraw for 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 are to be considered.
- v) The Clerk may also be a member of staff at the Institution but will be independent of college management and will have no management duties or responsibilities.

6 Persons who are ineligible to be members

- i) The following persons are ineligible to be appointed as a member of, or from continuing to be a member of, the Corporation:
 - a) anyone under the age of 18 years, except as a student member;
 - b) the Clerk;
 - c) a person who is a member of staff of the Institution, except as a staff member or in the capacity of Principal.
- ii) No person who is disqualified from being a trustee of a charity in accordance with Section 178-184 of the Charities Act 2011 (as amended from time to time) shall be a member. The relevant provisions of the Charities Act 2011 are available on request from the Clerk. ;
- iii) Any person who is unable to satisfactorily complete a Disclosure and Barring Service check where this is required by law and/or by the College shall not be appointed or remain as a member.

7 Termination of membership

- i) A member may resign from office at any time by giving notice to the Clerk.
- ii) If at any time the Corporation is satisfied that any member:
 - a) is unfit or unable to discharge the functions of a member; or that it is not in the best interest of the Corporation for the member to continue to hold office;
 - b) has been absent from meetings of the Corporation for a period longer than six consecutive months without 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.

- iii) 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.
- iv) 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.
- v) If at any time the Corporation is satisfied that it is not in the best interests of the Corporation for a member to continue in active office for any reason (including but not limited to pending the outcome of an investigation, whether internal or external) the Corporation may, by notice in writing to that member, suspend the member from office until further notice.

8 Members not to hold interest in matters relating to the Institution

- i) A member to whom paragraph 8 ii) applies will:
 - a) disclose to the Corporation the nature and extent of the interest; and
 - b) 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 8 ii) 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 supply, contract or other matter as is mentioned in paragraph 8 ii) is to be considered, where required to do so by a majority of the members of the Corporation or committee present at the meeting.
- ii) 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.
- iii) 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.
- iv) The Clerk shall maintain an interest of the members which has been disclosed and the register shall be made available during normal office hours to any person wishing to inspect it.

9 Meetings

- i) The Corporation shall meet at least once in every term and shall hold such other meetings as may be necessary.
- ii) Subject to clauses 9 iii), iv) and v) all meetings shall be called by the Clerk who shall at least seven calendar days before the meeting, send to the members of the Corporation notice of the meeting and a copy of the proposed agenda.
- iii) 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.
- iv) A meeting of the Corporation, may be called at any time by the Chair or at the request in writing to the Clerk by any four members.

- v) Where the Chair or in the Chair's absence the Vice Chair, decides that there are matters that require urgent consideration, the written notice convening the meeting and a copy of the proposed agenda may be given within less than seven calendar days.
- vi) 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.
- vii) A resolution in writing agreed by a simple majority of the members who would have been entitled to vote upon it had it been proposed at a meeting 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; and
 - (c) it is contained in a document authenticated by the Clerk which has been received at the address specified by the College for the receipt of documents within the period of [7] days beginning with the circulation date.
- viii) A resolution in writing may comprise several copies to which one or more members have signified their agreement.
- ix) A written resolution will lapse if it is not passed before the end of the period of [7] days beginning with the circulation date.
- x) For the purposes of clause 9 ix) "circulation date" is the day on which copies of the written resolution are sent or submitted to members or, if copies are sent or submitted on different days, to the first of those days.

10 Copies of the Instrument of Government

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.

11 Change of name of the Corporation

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

12 Application of the Seal

- i) The application of the Seal of the Corporation shall be authenticated by:
 - a) the signature of either the Chair or some other member authorised either generally or specially by the Corporation to act for that purpose; and
 - b) the signature of any other member.

Articles of Government

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1 Interpretation of the terms used

- i) 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) “Chair” and “Vice-Chair” mean respectively the Chair and Vice-Chair of the Corporation appointed under clause 4 of the Instrument of Government;
 - d) “the Clerk” has the same meaning as in the Instrument of Government;
 - e) “the Corporation” has the same meaning as in the Instrument of Government;
 - f) “staff member” and “student member” have the same meanings as in the Instrument of Government;
 - g) “the Secretary of State” means the Secretary of State for Education or their successor from time to time;
 - h) “senior post” means the post of Principal and such other senior posts as the Corporation may decide for the purposes of these Articles;
 - i) ESFA means the Education and Skills Funding Agency or any successor body from time to time;
 - 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.

2 Conduct of the Institution

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.

3 Responsibilities of the Corporation, the Principal and the Clerk

- i) The Corporation shall be responsible for the following functions:
 - a) the determination and periodic review of the educational character and mission of the Institution and the oversight of its activities;
 - b) publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the education character and mission of the Institution and the oversight of its activities;
 - c) the effective and efficient use of resources, the solvency of the Institution and the Corporation and safeguarding of assets;
 - d) approving annual estimates of income and expenditure;
 - e) 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.
- ii) Subject to the responsibilities of the Corporation, the Principal shall be the Chief Executive of the Institution and 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 and 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, 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, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.
- iii) The Clerk shall be responsible for the following functions:
 - a) advising the Corporation with regard to the operation of its powers;
 - b) advising the Corporation with regard to procedural matters;
 - c) advising the Corporation with regard to the conduct of its business; and
 - d) advising the Corporation with regard to matters of governance practice.

4 The establishment of committees and delegation of functions generally

- i) The Corporation may establish committees for any purpose or function, other than those assigned in these Articles to the Principal or Clerk and may delegate powers to:-
 - a) such committees;
 - b) the Chair, or in the Chair's absence, the Vice-Chair; or
 - c) the Principal.

5 The Search Committee

- i) The Corporation shall establish a Committee, to be known as the "Search Committee", to advise on:-
 - a) the appointment of members (other than as a staff or student member); and
 - b) such other matters relating to membership and appointments as the Corporation may ask it to.
- ii) The Corporation shall not appoint any person as a member (other than as, staff or student member) without first consulting and considering the advice of the Search Committee.

6 The Audit Committee

- i) 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.
- ii) The Audit Committee shall consist of at least three persons and may include members of staff at the Institution with the exception of those in senior posts, and shall operate in accordance with any requirements of the ESFA.

7 Delegable and non-delegable functions

- i) 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 of the Principal or holder of a senior post;
 - e) the appointment of the Clerk, (including where the Clerk is, or is to be, appointed as a member of staff the Clerk's appointment in the capacity of a member of staff) and;
 - f) the modification or revocation of these Articles.
- ii) The Corporation may not delegate:
 - a) the consideration of the case for dismissal, and
 - b) the power to determine an appeal in connection with the dismissal of the Principal, the Clerk or the holder of a senior post, other than to a committee of members of the Corporation.
- iii) The Corporation shall make rules specifying the way in which a committee having functions under paragraph 7i) shall be established and conducted.
- iv) The Principal may delegate functions to the holder of any other senior post other than:-
 - a) the management of budget and resources; and
 - b) any functions that have been delegated to the Principal by the Corporation.

8 Appointment and promotion of staff

- i) The Corporation shall appoint the Principal, Senior Post Holders and the Clerk in accordance with any applicable procedure as amended from time to time;
- ii) The Principal shall have responsibility for the appointment of all members of staff other than Senior Post Holders and the Clerk;

9 Internal Audit

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

10 Accounts and audit of accounts

- i) 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
- ii) 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 ESFA 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.
- iii) The accounts and the statement of accounts shall be audited by external auditors appointed by the Corporation in respect of each financial year.
- v) 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 9.
- vi) Auditors shall be appointed and audit work conducted in accordance with any requirements of the ESFA.
- vii) The "financial year" means the first financial year and, except as provided for in paragraph vii) each successive period of twelve months".
- vii) 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 ESFA's approval, that what would otherwise be the last two financial years, shall be a single financial year for the purposes of this article.

11 Students Union

In the event that there is a Students' Union at the College, the Corporation shall comply with its responsibilities under the Education Act 1994, including but not limited to the requirement that the Corporation take such steps as are reasonably practicable to secure that any students' union for students at the establishment operates in a clear and democratic manner and is accountable for its finances.

12 Rules and bye-laws

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.

13 Copies of Articles of Government and rules and bye-laws

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.

14 Modification or replacement of the Instrument and Articles of Government

- i) 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.
- ii) The Corporation shall not make any changes to the Instrument and Articles of Government that would result in the Body ceasing to be a Charity.

15 Academic Freedom

The Corporation shall have regard to the need to ensure that academic staff of the Group has the freedom within the law to question and test recorded wisdom and to put forward new ideas and controversial or unpopular opinions without putting themselves at risk of losing their jobs or any privileges that they may enjoy at the Group.

16 Dissolution of the Corporation

- i) The Corporation may by resolution dissolve itself and provide for the transfer of its property rights and liabilities.
- ii) 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.