

## SCHEDULE 2

### ARTICLES OF GOVERNMENT

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Explanatory Note

### **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) “Chair” and “Vice-Chair” mean respectively the Chair and Vice-Chair of the Corporation appointed under clause 6 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) “the LSC” means the Learning and Skills Council for England;
  - (g) “parent member”, “staff member” and “student member” have the same meanings as in the Instrument of Government;
  - (h) “the Secretary of State” means the Secretary of State for Innovation, Universities 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;

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- (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.

### **Conduct of the institution**

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, the Principal and the Clerk**

- 3.—(1) 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) approving the quality strategy of the institution;
  - (c) the effective and efficient use of resources, the solvency of the institution and the Corporation and safeguarding their 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; and
  - (f) 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 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, 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.
- (3) 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.

### **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 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.

(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.

(3) The Corporation may also establish committees under collaboration arrangements made with other further education institutions or maintained schools (or with both), and such joint committees shall be subject to any regulations made under section 166 of the Education and Inspections Act 2006<sup>(1)</sup> governing such arrangements.

### **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 members (other than as a parent, staff or student member); and
- (b) such other matters relating to membership and appointments as the Corporation may ask it to.

(2) The Corporation shall not appoint any person as a member (other than as a parent, staff or student member) 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. A copy of these rules, together with the search committee's terms of reference and its advice to the Corporation, other than any advice which the Corporation is satisfied should be dealt with on a confidential basis, shall be published on the institution's website and shall be made available for inspection at the institution by any person during normal office hours.

(4) The Corporation shall review regularly all material excluded from inspection under paragraph (3) and shall 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.

### **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 with the exception of 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 committee referred to in article 10, may include persons who are not members of the Corporation.

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### **Access to committees by non-members and publication of minutes**

8. The Corporation shall ensure that:—

- (a) a written statement of its policy regarding attendance at committee meetings by persons who are not committee members; and
- (b) the minutes of committee meetings, if they have been approved by the Chair of the meeting,

are published on the institution's website and made available for inspection at the institution by any person, 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 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.

10.—(1) 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.

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

11. 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.

### **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) if so required, 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.

#### **Grievance, suspension and disciplinary procedures**

- 16.—(1)** After consultation with staff, the Corporation shall make rules setting out
- (a) grievance procedures for all staff;
  - (b) procedures for the suspension of all staff; and
  - (c) disciplinary and dismissal procedures for
    - (i) senior post-holders, and
    - (ii) staff other than senior post holders
- and such procedures shall be subject to the provisions of articles 3(1)(e), 3(2)(e), 9(d), 9(e), 10(1) and 17.
- (2) Any rules made under paragraph (1)(b) shall include provision that where a person has been suspended without pay, any appeal against such suspension shall be heard and action taken in a timely manner.

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(3) Any rules made under paragraph (1)(c)(i) shall include provision that where the Corporation considers that it may be appropriate to dismiss a person, a preliminary investigation shall be conducted to examine and determine the case for dismissal.

### **Suspension and dismissal of the Clerk**

17.—(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 article 16(1)(c).

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

### **Students**

18.—(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**

19. 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**

20. 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**

21.—(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 22.

### **Accounts and audit of accounts**

22.—(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—

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- (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 21.
- (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**

**23.** 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**

**24.** 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.