

The Co-operative College

**Instrument and
Articles of
Government**

16 June 2010

This Instrument and Articles of Government
were approved by the Secretary of State
for Business, Innovation and Skills
on 16 June 2010

Vickie Wood
Team Leader
Policy Lead: FE Governance
Further Education and Skills Directorate
Department for Business, Innovation and Skills

INSTRUMENT

SCHEDULE 1

INSTRUMENT OF GOVERNMENT

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Interpretation of the terms used

1. In this Instrument of Government—
 - (a) “independent Chair” means the Chair of the Board of Governors appointed by the Trustee;
 - (b) any reference to “the Chief Executive and Principal” shall include a person acting as Chief Executive and Principal;
 - (c) “the Clerk” means the Clerk to the Board of Governors;
 - (d) “the Board of Governors” means the Board of Governors of The Co-operative College (Registered Charity No 106008) to which this Instrument applies;
 - (e) the institution” means the The Co-operative College which the Board of Governors is established to conduct;
 - (f) “the Trustee” means Co-operatives UK Limited acting as the corporate Trustee;
 - (g) “this Instrument” means this Instrument of Government;

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- (h) “meeting” includes a meeting at which the members attending are present in more than one room, provided that by the use of video-conferencing or telephone conferencing facilities it is possible for every person present at the meeting to communicate with each other;
- (i) “the Scheme” means the Scheme for the regulation of the College made by the Charity Commissioners for England and Wales on 23rd June 2004
- (j) “necessary skills” means skills and experience, other than professional qualifications, specified by the Board of Governors as appropriate for members to have;
- (k) “Trustee member”, “staff member” and “student member” have the meanings given to them in clause 2;
- (l) “Associates” means people selected by the College for their specialist skills, expertise and knowledge to fulfil specific contracts;
- (m) “The previous Instrument of Government” means the Instrument of Government relating to the Board of Governors which had effect immediately before 16 June 2010;
- (n) “the Secretary of State” means the Secretary of State for Business, Innovation and Skills;
- (o) “staff matters” means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff;
- (p) a “variable category” means any category of members whose numbers may vary according to clauses 2 and 3.

Composition of the Board of Governors

2.—(1) The Board of Governors shall consist of—

- (a) an independent Chair (who shall not be a member appointed under paragraphs (b) to (g));
- (b) not more than four members appointed by, and from, the Trustee of which at least two shall be directors of organisations within membership of Co-operatives UK Limited (“Trustee members”)
- (c) not more than seven members drawn from organisations, communities and learners with which the College and its mission are linked and who appear to the Trustee to have the necessary skills to ensure that the Board of Governors carries out its functions under article 3 of the Articles of Government, to include:
 - two members drawn from the consumer co-operative movement of which one member shall be nominated by the Co-operative Group and one by other consumer co-operatives
 - member(s) drawn from other co-operative sectors
 - member(s) drawn from other types of mutual organisation
 - member(s) drawn from the Adult and Lifelong Learning community
 - members(s) drawn from higher education

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- (d) the Chief Executive and Principal of the institution, unless the Chief Executive and Principal of the institution chooses not to be a member;
 - (e) not more than one member who is a member of the institution's staff (to include Associates) nominated and elected by the staff of the institution, including Associates, or in such a manner as the Trustee may determine ("staff member"); and
 - (f) not more than one member who is a student/learner at the institution nominated and elected by the students/learners at the institution, or if the Trustee so decides, by a recognised association representing such students/learners ("student member")
 - (g) up to two additional members ("co-opted members").
- (2) Each Board member shall be a member of a co-operative or mutual organisation.
- (3) The Board shall, as far as possible, reflect an appropriate balance of men and women.
- (4) The Board shall, as far as possible, reflect an appropriate balance of lay and professional persons.
- (5) The appointing authority, as set out in clause 4, will decide whether a person is eligible for nomination, election and appointment as a member of the Board of Governors under paragraph (1).
- (2)** A member nominated by the Board of Co-operatives^{UK} Limited shall be a member of the Board and shall hold office until replaced by or ceasing to be a member of the nominating body.

Determination of membership numbers

- 3.—(1)** Subject to paragraph (2) and the transitional arrangements in clause 4, the number of members of the Board of Governors, and the number of members of each variable category, shall be that decided by the Trustee in the most recent determination made under the previous Instrument of Government.
- (2) The Trustee may at any time vary the determination referred to in paragraph (1) and any subsequent determination under this paragraph provided that -
- (a) the number of members of the Board of Governors, shall not be less than twelve or more than seventeen; and
 - (b) the numbers of members of each variable category shall be subject to the limit which applies to that category set out in Clause 2.
 - (c) No determination under this clause shall terminate the appointment of any person who is already a member of the Board of Governors at the time when the determination is made.

Appointment of the members of the Board of Governors

- 4.—(1)** Subject to paragraph (2) the Trustee is the appointing authority in relation to the appointment of members of the Board of Governors.

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(2) The Trustee shall consider recommendations for appointment received from the Board of Governors following the advice received from the Board's Search Committee.

(3) If the number of members falls below the number needed for a quorum, the Trustee is the appointing authority in relation to the appointment of those members needed for a quorum.

(4) The appointing authority may decline to appoint a person as a staff or student member if—

- (a) it is satisfied that the person in the previous 10 years has been removed from office as a member of a Co-operative Society board or from a further education Board of Governors in the previous ten years; or
- (b) the appointment of the person would contravene any rule or bye-law made under article 23 of the Articles of Government concerning the number of terms of office which a person may serve, provided that such rules or bye-laws make the same provision for each category of members appointed by the appointing authority; or
- (c) the person is ineligible to be a member of the Board of Governors because of clause 7.

(5) 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.

Appointment of the Chair and Vice-Chair

5.—(1) The Trustee shall appoint the Chair of the Board of Governors.

(2) The members may appoint a Vice-Chair from among the other members of the Board.

(3) Neither the Chief Executive and Principal nor any staff or student member shall be eligible to be appointed as Chair or Vice-Chair or to act as Chair in their absence.

(4) If both the Chair and the Vice-Chair are absent from any meeting of the Board of Governors, the members present shall choose someone from among themselves to act as Chair for that meeting.

(5) The Chair and Vice-Chair shall hold office for such period as the Trustee decides.

(6) The Chair or Vice-Chair may resign from office at any time by giving notice in writing to the Clerk to the Trustee.

(7) If the Trustee is satisfied that the Chair is unfit or unable to carry out the functions of office, it may give written notice, removing the Chair from office and the office shall then be vacant.

(8) If the Trustee is satisfied that the Vice-Chair is unfit or unable to carry out the functions of office, it may give written notice, removing the Vice-Chair from office and the office shall then be vacant.

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(9) The Trustee will take steps to enable an appointment to be made to the role of Chair six months prior to the conclusion of the incumbent Chair's term of office.

(10) At the last meeting before the end of the term of office of the Vice Chair, or at the first meeting following the Vice-Chair's resignation or removal from office, the members shall appoint a replacement from among themselves.

(11) At the end of their respective terms of office, the Chair and Vice-Chair shall be eligible for reappointment.

(12) Paragraph (11) is subject to any rule or bye-law made by the Trustee (Chair) and Board of Governors (Vice Chair) under article 23 of the Articles of Government concerning the number of terms of office which a person may serve.

Appointment of the Clerk to the Board of Governors

6.—(1) The Board of Governors shall appoint a person to serve as its Clerk, but the Chief Executive and Principal may not be appointed as Clerk.

(2) In the temporary absence of the Clerk, the Board of Governors shall appoint a person to serve as a temporary Clerk, but the Chief Executive and Principal may not be appointed as temporary Clerk.

(3) Any reference in this Instrument to the Clerk shall include a temporary Clerk appointed under paragraph (2).

(4) Subject to clause 13, the Clerk shall be entitled to attend all meetings of the Board of Governors and any of its committees.

(5) The Clerk may not be employed in another capacity at the institution either as a member of staff or as an Associate.

Persons who are ineligible to be members

7.—(1) No one under the age of 18 years may be a member, except as a student member.

(2) The Clerk may not be a member.

(3) A person who is a member of staff of the institution, or an Associate at the institution, may not be, or continue as, a member, except as a staff member or in the capacity of Chief Executive and Principal.

(4) Subject to paragraphs (6) and (7), a person shall be disqualified from holding, or from continuing to hold, office as a member, if that person has been adjudged bankrupt or is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking within the meaning of the Insolvency Act 1986⁽¹⁾, or if that person has made a composition or arrangement with creditors, including an individual voluntary arrangement.

(5) Where a person is disqualified by reason of having been adjudged bankrupt or by reason of being the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking, that disqualification shall cease—

¹ 1986.c.45 as amended by the Enterprise Act 2002 (c. 40)

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- (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.
- (6) Where a person is disqualified by reason of having 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.
- (7) Subject to paragraph (8), a person shall be disqualified from holding, or from continuing to hold, office as a member if—
- (a) within the previous five years that person has 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
 - (b) within the previous twenty years that person has been convicted as set out in sub-paragraph (a) and has received a sentence of imprisonment, whether suspended or not, for a period of more than two and a half years; or
 - (c) that person has at any time been convicted as set out in sub-paragraph (a) and has received a sentence of imprisonment, whether suspended or not, of more than five years.
- (8) For the purpose of this regulation there shall be disregarded any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in the United Kingdom, would not have constituted an offence under the law then in force anywhere in the United Kingdom.
- (9) Upon a member of the Board of Governors becoming disqualified from continuing to hold office under paragraphs (5) or (7), the member shall immediately give notice of that fact to the Clerk to the Board.

The term of office of a member

- 8.—(1)** A member of the Board of Governors shall hold and vacate office in accordance with the terms of the appointment, but the length of the term of office shall not exceed three years.
- (2) Members retiring at the end of their term of office shall be eligible for reappointment, and clause 4 shall apply to the reappointment of a member as it does to the appointment of a member.

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(3) The Trustee has the absolute power of appointment and removal of members of the Board of Governors. Paragraph (2) is subject to any rule or bye-law made by the Trustee under article 23 of the Articles of Government concerning the number of terms of office which a person may serve.

Termination of membership

9.—(1) A member may resign from office at any time by giving notice in writing to the Clerk of the Board.

(2) If at any time the Board of Governors is satisfied that any member –

- (a) is unfit or unable to discharge the functions of a member; or
- (b) has been absent from meetings of the Board of Governors for a period longer than six consecutive months without the permission of the Trustee,

the Board of Governors shall recommend to the Trustee that the member, by notice in writing, be removed from office and the office shall then be vacant.

(3) Any person who is a member of the Board of Governors by virtue of being a member of the staff, or as an Associate, at the institution, including the Chief Executive and Principal, shall cease to hold office upon ceasing to be a member of the staff, or Associate, and the office shall then be vacant.

(4) A student member shall cease to hold office—

- (a) after ceasing to be a student or as the Board of Governors may decide; or
- (b) if expelled from the institution,

and the office shall then be vacant.

Members not to hold interests in matters relating to the institution

10.—(1) Except with the written approval of the Charity Commission, no member shall acquire or hold any interest in any property that is held or used for the purposes of the institution.

(2) A member to whom paragraph (3) applies shall -

- (a) disclose to the Board of Governors the nature and extent of the interest; and
- (b) if present at a meeting of the Board of Governors, or of any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (3) 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 Board of Governors, or any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (3) is to be considered, where required to do so by a majority of the members of the Board of Governors or committee present at the meeting.

(3) This paragraph applies to a member who—

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- (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 Board of Governors in any matter relating to the institution.

(4) This clause shall not prevent the members considering and voting upon proposals for the Board of Governors to insure them against liabilities incurred by them arising out of their office or the Board of Governors obtaining such insurance and paying the premium.

(5) Where the matter under consideration by the Board of Governors or any of its committees relates to the pay and conditions of all staff, or all staff in a particular class, a staff member—

- (a) need not disclose a financial interest; and
- (b) 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 Board of Governors as a whole and does not seek to represent the interests of any other person or body, but
- (c) 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) The Clerk shall maintain 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 institution to any person wishing to inspect it.

Meetings

11.—(1) The Board of Governors shall meet at least four times each year, and shall hold such other meetings as may be necessary.

(2) Subject to paragraphs (4) and (5) and to clause 13(4), all meetings shall be called by the Clerk, who shall, at least seven calendar days before the date of the meeting, send to the members of the Board of Governors written notice of the meeting and a copy of the proposed agenda.

(3) 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.

(4) A meeting of the Board of Governors, called a “special meeting”, may be called at any time by the Chair or at the request in writing of any four members other than staff members.

(5) Where the Chair, or in the Chair’s absence the Vice-Chair, decides that there are matters requiring urgent consideration, the written notice convening

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the special meeting and a copy of the proposed agenda may be given within less than seven calendar days.

(6) A special meeting may, but need not, be held immediately before or after an ordinary meeting.

(7) Every member shall act in the best interests of the Board of Governors and shall not be bound to speak or vote by mandates given by any other body or person.

Quorum

12.—(1) Meetings of the Board of Governors shall be quorate when seven members, at least five of whom shall not be student or staff members, are present at the meeting and every matter shall be determined by a majority of the members present and voting on the question.

(2) If the number of members present for a meeting of the Board of Governors does not constitute a quorum, the meeting shall not be held.

(3) If during a meeting of the Board of Governors there ceases to be a quorum, the meeting shall be terminated at once.

(4) If a meeting cannot be held or cannot continue for lack of a quorum, the Chair may call a special meeting as soon as it is convenient.

Proceedings of meetings

13.—(1) Every question to be decided at a meeting of the Board of Governors shall be decided by a majority of the votes cast by members present and entitled to vote on the question.

(2) Where, at a meeting of the Board of Governors, there is an equal division of votes on a question to be decided, the Chair of the meeting shall have a second or casting vote.

(3) A member may not vote by proxy or by way of postal vote.

(4) No resolution of the members may be rescinded or varied at a subsequent meeting unless consideration of the rescission or variation is a specific item of business on the agenda for that meeting.

(5) Except as provided by procedures made pursuant to article 16 of the Articles of Government, a member of the Board of Governors who is a member of staff, or an Associate, at the institution, including the Chief Executive and Principal, shall withdraw—

- (a) from that part of any meeting of the Board of Governors, or any of its committees, at which staff matters relating solely to that member of the staff, as distinct from staff matters relating to all members of staff or all members of staff in a particular class, are to be considered;
- (b) from that part of any meeting of the Board of Governors, or any of its committees, at which that member's reappointment or the appointment of that member's successor is to be considered;
- (c) from that part of any meeting of the Board of Governors, or any of its committees, at which the matter under consideration concerns the pay or conditions of service of all members of staff, or all members of

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staff in a particular class, where the member of staff is acting as a representative (whether or not on behalf of a recognised trade union) of all members of staff or the class of staff (as the case may be); and

- (d) if so required by a resolution of the other members present, from that part of any meeting of the Board of Governors or any of its committees, at which staff matters relating to any member of staff holding a post senior to that member's are to be considered, except those relating to the pay and conditions of all staff or all staff in a particular class.

(6) A Chief Executive and Principal who has chosen not to be a member of the Board of Governors shall still be entitled to attend and speak, or otherwise communicate, at all meetings of the Board of Governors and any of its committees, except that the Chief Executive and Principal shall withdraw in any case where the Chief Executive and Principal would be required to withdraw under paragraph (5).

(7) Except as provided by rules made under article 18(2) of the Articles of Government relating to appeals and representations by students in disciplinary cases, a student member shall withdraw from that part of any meeting of the Board of Governors or any of its committees, at which a student's conduct, suspension or expulsion is to be considered.

(8) In any case where the Board of Governors, or any of its committees, is to discuss staff matters relating to a member or prospective member of staff at the institution, a student member shall—

- (a) take no part in the consideration or discussion of that matter and not vote on any question with respect to it; and
- (b) where required to do so by a majority of the members of the Board of Governors or committee present at the meeting, withdraw from the meeting.

(9) The Clerk shall withdraw from that part of any meeting of the Board of Governors, or any of its committees, at which the Clerk's remuneration, conditions of service, conduct, suspension, dismissal or retirement are to be considered.

(10) If the Clerk withdraws from a meeting, or part of a meeting, of the Board of Governors under paragraph (9), the Board of Governors shall appoint a person from among themselves to act as Clerk during this absence.

(11) If the Clerk withdraws from a meeting, or part of a meeting, of a committee of the Board of Governors, the Board of Governors shall appoint a person from among themselves to act as Clerk to the committee during this absence.

Minutes

14.—(1) The Board of Governors shall ensure that proper records of their meetings are kept and that copy minutes are circulated to the Trustee.

(2) Written minutes of every meeting of the Board of Governors shall be prepared, and, subject to paragraph (3), at every meeting of the Board of Governors the minutes of the last meeting shall be taken as an agenda item.

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(3) Paragraph (2) shall not require the minutes of the last meeting to be taken as an agenda item at a special meeting, but where they are not taken, they shall be taken as an agenda item at the next meeting which is not a special meeting.

(4) Where minutes of a meeting are taken as an agenda item and agreed to be accurate, those minutes shall be signed as a true record by the Chair of the meeting.

(5) Separate minutes shall be taken of those parts of meetings from which the staff member, the Chief Executive and Principal, student member or the Clerk have withdrawn from a meeting in accordance with clause 14(5), (6), (7), (8), (9) (10) or (11) and such persons shall not be entitled to see the minutes of that part of the meeting or any papers relating to it.

Public access to meetings

15. The Board of Governors shall decide any question as to whether a person should be allowed to attend any of its meetings where that person is not a member, the Clerk or the Chief Executive and Principal and in making its decision, it shall give consideration to clause 16(2).

Publication of minutes and papers

16.—(1) Subject to paragraph (2), the Board of Governors shall ensure that a copy of—

- (a) the agenda for every meeting of the Board of Governors;
- (b) the signed minutes of every such meeting; and
- (c) any report, document or other paper considered at any such meeting,

shall as soon as possible be sent to the Trustee and be made available during normal office hours at the institution to any person wishing to inspect them.

(2) There shall be excluded from any item made available for inspection any material relating to—

- (a) a named person employed at or proposed to be employed at the institution;
- (b) a named student at, or candidate for admission to, the institution;
- (c) the Clerk; or
- (d) any matter which, by reason of its nature, the Board of Governors is satisfied should be dealt with on a confidential basis.

(3) The Board of Governors shall review regularly all material excluded from inspection under paragraph (2)(d) and 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.

Payment of allowances to members

17. The Board of Governors may pay to its members such travelling, subsistence or other allowances as it decides, but shall not without the

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written approval of the Trustee and the written consent of the Charity Commissioner, pay allowances which remunerate the members for their services as members.

Copies of the Instrument of Government

18. A copy of this Instrument shall be given free of charge to every member of the Board of Governors 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.

Change of name of the Board of Governors

19. The Board of Governors may change its name only with the approval of the Trustee and the Charity Commissioner and subject to endorsement by the Secretary of State for Business, Innovation and Skills.

Amendment of Instrument of Government

20. This Instrument may be modified or replaced in accordance with the Scheme with the approval of the Trustee, the Board and the Secretary of State for Business, Innovation and Skills.

Notices

21. (1) Notices to be given under this Instrument shall be in writing and shall either be delivered personally or sent by first class or airmail pre-paid post or by telex, cable, facsimile transmission or other means of electronic telecommunication including e-mail and shall be deemed duly served:

- (a) in the case of a notice delivered personally, at the time of delivery;
- (b) in the case of a notice sent by first class or airmail prepaid post, two clear business days after the date of dispatch; and
- (c) in the case of telex, cable, facsimile transmission or other means of electronic telecommunication including e-mail, if sent during normal business hours then at the time of transmission and if sent outside normal business hours then on the next following day provided (in each case) that a confirmatory copy is sent by first class or airmail pre-paid post or by hand by the end of the next business day.

(2) Each notice shall be addressed to the address of the party concerned at such address as that party shall have previously notified to the sender or as notified between the parties for the purpose of this clause.

ARTICLES

SCHEDULE 2

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Interpretation of the terms used

1. In these Articles of Government—
 - (a) any reference to “the Chief Executive and Principal” shall include a person acting as Chief Executive and Principal;
 - (b) “the Articles” means these Articles of Government;
 - (c) “the Scheme” means the Scheme for the regulation of the College made by the Charity Commissioners for England and Wales on 23rd June 2004;

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- (d) “Chair” and “Vice-Chair” mean respectively the Chair and Vice-Chair of the Board of Governors appointed under clause 5 of the Instrument of Government;
- (e) “the Clerk” has the same meaning as in the Instrument of Government;
- (f) “the Board of Governors” has the same meaning as in the Instrument of Government;
- (g) “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 Business, Innovation and Skills;
- (i) “senior post” means the post of Chief Executive and Principal and such other senior posts as the Board of Governors may decide for the purposes of these Articles;
- (j) “the staff” means all the staff who have a contract of employment with the institution and includes Associates engaged by the College;

Conduct of the institution

2. The institution shall be conducted in accordance with the provisions of the Instrument of Government, these Articles, any relevant regulations, orders or directions made by the Trustee and subject thereto and any rules or bye-laws made under these Articles and any trust deed regulating the institution.

Responsibilities of the Trustee, Board of Governors, the Chief Executive and Principal and the Clerk

- 3.—(1) The Trustee 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) safeguarding the assets of the institution including deciding on any proposal for the sale or disposal of property;
 - (c) ensuring that an annual funding agreement is made by Co-operatives^{UK} with the Board.
- (2) The Board of Governors shall be responsible for the following functions -
- (a) the effective and efficient use of resources and the solvency of the institution and maintenance of the Trustee’s property used by the institution;
 - (b) approving the quality strategy of the institution;
 - (c) approving annual estimates of income and expenditure prior to confirmation by the Trustee;
 - (d) the appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Clerk;

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- (e) setting a framework for the pay and conditions of service of all other staff;
 - (f) for making nominations to the Trustee for the appointment of members to the Board of Governors in accordance with the Instrument of Government;
 - (g) for the presentation of an annual report to the Trustee that will include –
 - (i) a rolling three year strategic plan
 - (ii) an annual operational plan demonstrating the linkage between proposed activity and the institution's educational character and mission
 - (iii) financial forecasts and budgets for the subsequent year;
 - (h) for arranging an annual meeting to report on the progress of the institution to its stakeholders.
- (3) Subject to the responsibilities of the Trustee and the Board of Governors, the Principal shall be the Chief Executive of the institution, and shall be responsible for the following functions-
- (a) making proposals to the Board of Governors, prior to recommendation of approval by the Trustee, about the educational character and mission of the institution and implementing the decisions of the Board of Governors;
 - (b) the determination, after consultation with the Board of Governors, of the institution's academic and other activities;
 - (c) preparing annual estimates of income and expenditure for the Board of Governors to enable recommendation of approval by the Trustee, and the management of budget and resources within the estimates approved by the Trustee;
 - (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 Board of Governors, of the pay and conditions of service of staff, other than the holders of senior posts or the Clerk;
 - (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.
- (4) The Clerk shall be responsible for the following functions: -
- (a) advising the Board of Governors with regard to the operation of its powers;
 - (b) advising the Board of Governors with regard to procedural matters;
 - (c) advising the Board of Governors with regard to the conduct of its business; and
 - (d) advising the Board of Governors with regard to matters of governance practice.

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The establishment of committees and delegation of functions generally

4.—(1) The Board of Governors may establish committees for any purpose or function, other than those assigned in these Articles to the Trustee, the Chief Executive and 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 Chief Executive and 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 Board of Governors.

(3) The Board of Governors 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⁽²⁾ governing such arrangements.

The search committee

5.—(1) The Board of Governors shall establish a committee, to be known as the "search committee", to advise on—

- (a) the appointment of members (other than as a Trustee, staff or student member); and
- (b) such other matters relating to membership and appointments as the Board of Governors may ask it to.

(2) With the exception of the staff or student member, the Board shall not make any recommendations for membership of the Board of Governors to the Trustee without first consulting and considering the advice of the Search Committee.

(3) The Board of Governors 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 Board of Governors, other than any advice which the Board of Governors is satisfied should be dealt with on a confidential basis, shall be made available for inspection at the institution by any person during normal office hours.

(4) The Board of Governors 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 Board of Governors shall establish a committee, to be known as the "audit committee", to advise on matters relating to the Board of Governors' audit arrangements and systems of internal control.

(2) 2006 c. 40.

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(2) The audit committee shall consist of at least three persons and may include members of staff, including Associates, at the institution, with the exception of those in senior posts, and shall operate in accordance with any requirements of the Trustee, the Charity Commission and the Learning and Skills Council (or its successor body).

Composition of committees

7. Any committee established by the Board of Governors, other than the committee referred to in article 10, may include persons who are not members of the Board of Governors.

Access to committees by non-members and publication of minutes

8. The Board of Governors 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 made available for inspection at the institution by any person, during normal office hours.

Delegable and non-delegable functions

9. The Trustee shall not delegate the following functions –

- (a) after consultation with the Board of Governors, the determination and periodic review of the educational character and mission of the institution;
- (b) safeguarding of the assets of the College including deciding on any proposal for the sale or disposal of property;
- (c) ensuring that Co-operatives^{UK} makes an annual funding agreement with the Board
- (d) the appointment of members of the Board of Governors
- (e) annual approval, on the recommendation of the Board of Governors, of estimates of income and expenditure of the institution
- (f) the modification or revocation of these Articles in conjunction with the Board of Governors and the Secretary of State for Business, Innovation and Skills.

10.(1) The Board of Governors shall not delegate the following functions -

- (a) the consideration of the annual estimates of income and expenditure prior to recommendation of approval by the Trustee;
- (b) the responsibility for ensuring the solvency of the institution and the maintenance of the Trustee's property used by the institution;
- (c) the appointment of the Chief Executive and Principal or holder of a senior post;
- (d) the appointment of the Clerk;

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- (e) the modification or revocation of these Articles in conjunction with the Trustee and the Secretary of State for Business, Innovation and Skills.
- (f) the consideration of the case for dismissal, and
- (g) the power to determine an appeal in connection with the dismissal of the Chief Executive and Principal, the Clerk or the holder of a senior post, other than to a committee of members of the Board of Governors.

(2) The Board of Governors shall make rules specifying the way in which a committee having functions under paragraph 10(1)(g) shall be established and conducted.

11. The Chief Executive and 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 Chief Executive and Principal by the Board of Governors.

Appointment and promotion of staff

12.—(1) The institution is the employer operating under powers conferred by the Trustee. Each member of staff appointed by the institution shall serve under a contract of employment with the institution.

(2) Where there is a vacancy or expected vacancy in a senior post, the Board of Governors shall -

- (a) advertise the vacancy nationally; and
- (b) appoint a selection panel consisting of—
 - (i) five members of the Board of Governors including the Chair or the Vice-Chair or both, and not less than three Trustee members of the Board where the vacancy is for the post of Chief Executive and Principal ; or
 - (ii) the Chief Executive and Principal and at least three other members of the Board of Governors, to include at least two Trustee members, where the vacancy is for any other senior post.

(3) 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 Board of Governors for appointment one of the applicants they have interviewed.

(4) If the Board of Governors approves the recommendation of the selection panel, that person shall be appointed.

(5) If the members of the selection panel are unable to agree on a person to recommend to the Board of Governors, or if the Board of Governors does not approve their recommendation, the Board of Governors may make an appointment itself of a person from amongst those interviewed, or it may

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

(6) 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 Chief Executive and 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 Chief Executive and Principal or such other senior post holder during the period of the vacancy or temporary absence.

(7) The Board of Governors shall seek the Trustee's consent before making any temporary appointment to the post of Chief Executive and Principal or any other senior post, where it is intended that such a post holder will not have a contract of employment with the College.

13. The Chief Executive and Principal shall have responsibility for selecting for appointment all members of staff other than -

- (a) senior post holders; and
- (b) the Clerk.

Rules relating to the conduct of staff

14. After consultation with the staff, the Board of Governors shall make rules relating to their conduct.

Academic freedom

15. In making rules under article 14, the Board of Governors 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 Board of Governors shall make rules setting out

- (a) grievance procedures for all staff, including Associates;
- (b) procedures for the suspension of all staff, including Associates; and
- (c) disciplinary and dismissal procedures for
 - (i) senior post-holders, and
 - (ii) staff, including Associates, other than senior post-holders

and such procedures shall be subject to the provisions of articles 3(2)(d), 3(3)(e), 10(1)(f), 10(1)(g) and 10(2).

(2) Any rules made under paragraph (1)(b) shall include provision that -

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(a) where a person has been suspended without pay, any appeal against such suspension shall be heard and action taken in a timely manner;

(b) where a person has been suspended from duty he/she shall be entitled to receive from the Chief Executive and Principal (for staff other than senior post-holders) or Chair or Vice Chair (senior post-holders and Clerk) written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.

(3) Any rules made under paragraph (1)(c)(i) shall include provision that where the Board of Governors 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. The Clerk is to be treated as a senior post holder for the purposes of Article 16.

Students

18.—(1) In view of the distinct nature of the institution there is no students' union. If at any time there is a proposal to establish a students' union any students' union shall conduct and manage its own affairs and funds in accordance with a constitution approved by the Board of Governors and no amendment to, or rescission of, that constitution, in part or in whole, shall be valid unless approved by the Board of Governors.

(2) The Board of Governors 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 Board of Governors 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 any funding bodies.

Co-operation with the Charity Commission auditors

20. The Board of Governors shall co-operate with any person who has been authorised by the Charity Commission to audit any aspect of the Charity and shall give any such person access to any documents or records held by the Board of Governors, including computer records.

Internal audit

21.—(1) The Board of Governors 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 Board of Governors' resources.

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(2) The Board of Governors may arrange for the examination and evaluation mentioned in paragraph (1) to be carried out on its behalf by internal auditors.

(3) The Trustee 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 Board of Governors 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 institution.

(2) The statement shall—

- (a) give a true and fair account of the state of the institution'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 Charity Commission 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 Trustee in respect of each financial year.

(4) The Trustee 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 Charity Commission.

(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 Board of Governors was established up to the second 31 December following that date, or up to some other date which has been chosen by the Board of Governors with the Charity Commission's approval.

(8) If the Board of Governors is dissolved—

- (a) the last financial year shall end on the date of dissolution; and
- (b) the Board of Governors may decide, with the Charity Commission'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. With the exception of any rules or bye-laws relating to the appointment of the Chair, the Board of Governors 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, these Articles and any trust scheme.

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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 Board of Governors 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.

Amendment of Articles of Government

25. These Articles may be modified or replaced in accordance with the Trust Scheme with the approval of the Trustee, the Board of Governors and the Secretary of State for Business, Innovation and Skills.

Notices

26. – (1) All notices to be given under these Articles shall be in writing and shall either be delivered personally or sent by first class or airmail pre-paid post or by telex, cable, facsimile transmission or other means of electronic telecommunication including email and shall be deemed duly served:

- (a) in the case of a notice delivered personally, at the time of delivery;
- (b) in the case of a notice sent by first class or airmail prepaid post, two clear business days after the date of dispatch; and
- (c) in the case of a telex, cable, facsimile transmission or other means of electronic telecommunication including email, if sent during normal business hours then at the time of transmission and if sent outside normal business hours then on the next following business day provided (in each case) that a confirmatory copy is sent by first class or airmail pre-paid post or by hand delivery by the end of the next business day.

(2) Each notice shall be addressed to the address of the party concerned at such address as that party shall have previously notified to the sender or as notified between the parties for the purposes of this clause.