

GOVERNING BODY INFORMATION PROCEDURES & STANDING ORDERS

BHASVIC

Number	Title
1.	Introduction
2.	Terminology
3.	Updating & review
4.	Induction, Training & Further Information
5.	General Principles of Governance
6.	Duties, Skills, Care & Diligence
7.	Powers of the Corporation
8.	Code of Conduct for Officers at BHASVIC
9.	Complaints to Corporation
10.	Confidentiality in Relation to Corporation Business
11.	Governor Role Description
12.	Induction Process for Governors
13.	Letter of Appointment
14.	Declaration of Eligibility
15.	Registration & Declaration of Interests
16.	Gifts and Hospitality
17.	Role Specification – Chair and Vice-Chair of Governors
18.	Liability of Governors
19.	Payment of Expenses, Allowances & Remuneration to Governors
20.	Attendance
21.	Policy for attending at Committee Meetings by Person who are not Committee Members
22.	Policy for the Publication of the Minutes of Corporation & Committee Meetings
23.	Press & Public Statements
24.	Procedure for the Election of Parent Members
25.	Procedure for the Election of Staff Members
26.	Procedure for the Election of Student Members
27.	Schedule of Delegations
28.	Style Guide For Corporation & Committee Papers
29.	Independence of the Clerk
30.	Governance: Procedure for Resolving Difficulties
31.	Urgent Action
32.	Standing Orders Corporation
33.	Terms of Reference Committees - General

BRIGHTON HOVE AND SUSSEX SIXTH FORM COLLEGE GOVERNING BODY INFORMATION/PROCEDURES AND STANDING ORDERS

1) INTRODUCTION

The purpose of this document is to bring together in one place a number of the paper elements that guide, structure and inform the Governing Body. Organisations require rules that determine how meetings are conducted. Such rules, normally referred to as standing orders, are drawn up and agreed by the Corporation and should be the basis on which the Chair of the Corporation and each of its Committees conducts business.

Policies set down the framework which has been agreed by the Corporation for dealing with specific circumstances. The College's policies are included in this document. The procedures are the details by which each policy is executed and usually these are included with the respective policy for Governors' information, but do not require Corporation approval.

The legitimacy of a Corporation's actions depends upon compliance with powers and procedures that are established in the 1992 Further and Higher Education Act (the Act) as subsequently amended, the Instrument and Articles of Government and in the Corporation's own standing orders. Further statutory changes were made by the Apprenticeships, Skills, Children and Learning Act 2009 following which the College was legally designated as a Sixth Form College in April 2010. Additional changes to the Instrument and Articles, brought about by the Education Act 2011 (Schedule 4) have also been introduced and advised to Governors via the Governance Committee and Corporation meetings.

The Corporation is also required to comply with guidance issued by the EFA including its Financial Memorandum, the Joint Audit Code of Practice and general legislation, including that relating to Employment Law, Health and Safety at Work, Child Protection/Safeguarding, Equality and Diversity, Freedom of Information, Data Protection Act and Charities Act. In the event of any conflict between these Standing Orders and the Act and/or the Instrument and Articles of Government, the Act and the Instrument and Articles, shall prevail.

2) TERMINOLOGY

The College Governors are Members of the Corporation. This may also be called the Governing Body and in some places Board of the Corporation. The Governors are similar to the Directors of a Company and the Corporation is the equivalent of the Board of Directors. The term Principal, is used in most Sixth Form Colleges, however the term Chief Executive is also used in many Further Education Colleges. The terms Governing Body and Corporation are used interchangeably.

The Further Education Funding Council (FEFC) was replaced by the Learning and Skills Council (LSC) in April 2001 and the LSC was replaced (for Sixth Form Colleges) by the Young People's Learning Agency (YPLA) in April 2010 and latterly the YPLA was succeeded by the Education Funding Agency (EFA) in April 2012.

3) UPDATING AND REVIEW

Review of the Standing Orders by the Corporation takes place annually via the Governance Committee (previously Chairs' Committee) normally during the Autumn Term.

Updates to the Policies and Procedures will be circulated to Governors and Committee Members once approved by Corporation, annually in the Autumn Term via disk. Executive Owners, as shown in the Policies File Contents schedule, are responsible for maintaining their respective sections. The policies on the Colleges' website are updated once approved by Corporation.

4) INDUCTION, TRAINING AND FURTHER INFORMATION (and refer section on Induction for Governors)

In order to ensure that new Governors and co-opted Committee Members are briefed effectively about the College, an induction process is followed. In this regard new Members are invited to meet with

the Clerk to the Corporation, Chair of Governors, Principal, Vice-Principal and Assistant Principals. New Members are expected to attend the FE Sussex Induction Course for New Governors, which normally operates twice per year or a similar course offered by another provider such as the AOSEC. New Members are also given an Induction pack which includes all the key governance documentation e.g. I & A, Standing Orders etc.

General training briefings for Corporation Members are usually arranged immediately prior to Corporation meetings or sometimes prior to Committee meetings. The Corporation, its Committees and individual Governors will review training needs annually during the Summer Term, via the Governance self-assessment process. Details arising from this are then considered at the Governance Committee in the next Autumn Term. Governors and Co-opted Committee Members are also invited to participate in a Strategic Planning Event which is organised approximately every three years. Other training events/courses offered by external providers (FE Sussex, AoC, AOSEC etc) are also made available to Governors.

5) GENERAL PRINCIPLES OF GOVERNANCE

The Principal has overall responsibility for the management of the College. Together with the Senior Management Team and other College Management, the Principal is expected to run the College in accordance with the Mission Statement, Strategic Plan, policies and budget, approved by Corporation. A separate document is available entitled "Governance v Management" which may assist Governors in understanding the differences between the two areas.

Governors are legally appointed members of a Sixth Form College Corporation. The Corporation is a statutory incorporated body formed under the Further and Higher Education Act 1992 that has its own legal identity. Governors serve as Members of the Corporation and with the exception of the Principal, are volunteers, present to represent the public interest, reflecting the highest professional and ethical standards and ensuring the effective and proper use of the College's resources. The Corporation is accountable for the financial solvency of the College, its sound management and quality of service provided.

6) DUTIES, SKILLS, CARE AND DILIGENCE (incl. Collective Responsibility)

Members should in all their work for the College, exercise such skills as they possess and such care and diligence as would be expected from a reasonable person in the circumstances.

Members should act in good faith and in the College's interests. Whatever decisions Members take at meetings of the Corporation and its Committees must be for the benefit of the College as a whole and not for any improper purpose or for personal motive. In particular Members are not appointed as representatives or delegates of any body and may not lawfully be bound by mandates given by others, i.e. Governors nominated by particular groups should not speak or vote at meetings as if they had been delegated by the group they represent. Members are required to take a view on each matter before them and reach a decision based on the merits of the issue. There is collective responsibility amongst Governors for decisions taken by the Corporation. Most decisions made at Corporation meetings are made by reaching a general consensus and without the need for a formal vote. Therefore it can be said that a decision of the Corporation, even when it is not unanimous, is a decision taken by the Governors collectively. This is the principle of collective responsibility and each individual Governor has a duty to stand by decisions made by the Corporation, even if they were not present at the meeting when the decision was taken.

The Corporation's responsibilities are defined in the College's Instrument and Articles of Government (article 3) and in summary these include:

- The determination and periodic review of the educational character and mission of the Institution and the oversight of its activities;
- Publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the Institution and the oversight of its activities;
- Approving the quality strategy of the Institution;

- The effective and efficient use of resources, the solvency of the Institution and the Corporation and safeguarding their assets;
- Approving annual estimates of income and expenditure;
- The appointment, grading, suspension, dismissal and determination of pay and conditions of service of the holders of senior posts (Principal, Vice-Principal, Assistant Principals and Clerk);
- Setting the framework for the pay and conditions of service of all other staff.

In addition the College's financial memorandum (the funding agreement in place between the College and the Education Funding Agency (EFA)) places on the Corporation and its Members, financial responsibilities including the management of funds, the publication and auditing of accounts and the provision of student data.

The Governing Body is also responsible for monitoring its own performance to ensure it operates to a high standard.

Sixth Form Colleges are exempt charities within the meaning of Part 3 of the Charities Act 2011 which means that they are subject to the general requirements of charities' legislation, although they are not required to register as a Charity and submit the Annual Report and Financial Statements to the Charities Commission. The Governors, who are also the Trustees for the purposes of the Charities Act 2011, confirm within the Corporate Governance Statement in the Annual Report and Financial Statements, that they have had due regard for the Charity Commission's guidance on public benefit. From 1st September 2013 the College is regulated by the Secretary of State for Education as Principal Regulator. In setting and reviewing the College's strategic objectives the Governing Body must have had due regard for the Charity Commission's guidance on public benefit and particularly upon its supplementary guidance on the advancement of education. The guidance sets out the requirement that all organisations wishing to be recognised as charities must demonstrate, explicitly, that their aims are for the public benefit. In delivering its mission, the College has provided the following identifiable public benefits through the advancement of education:

- High quality teaching
- Widening participation and tackling social exclusion
- Excellent employment record for students
- Strong student support systems
- Links with employers, industry and commerce.

7) POWERS OF THE CORPORATION

PRINCIPAL POWERS

The powers of the 'Corporation' are specified in section 18 of the Further and Higher Education Act 1992 (as amended). In summary the Corporation is empowered to:

- a) Provide further and higher education
- b) Supply goods or services in connection with the provision of education

These powers are known as the Corporation's "principal powers".

SUPPLEMENTARY POWERS

Under section 19 of the 1992 Act as amended, the Corporation may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the exercise of any of the principal powers conferred by section 18 of the Act, including in particular the following:

- a) the power to acquire and dispose of land and other property;
- b) the power to enter into contracts, including in particular:

- i) contracts for the employment of teachers and other staff for the purposes of or in connection with carrying on any activities undertaken in the exercise of the Corporation's principal powers; and
- ii) contracts with respect to the carrying on by the Corporation of any such activities;
 - c) The power to borrow such sums as the Corporation think fit for the purposes of carrying on any activities they have power to carry on and, in connection with such borrowing, the power to grant any mortgage charge or other security in respect of any land or other property of the Corporation, subject to the requirements of the financial memorandum.
 - d) power to invest any sums not immediately required for the purposes of carrying on any activities the Corporation has power to carry on;
 - e) power to accept gifts or money, land or other property and apply it, or hold and administer it on trust for, any of those purposes;
 - f) power to do anything incidental to the conduct of an educational institution providing further or higher education, including founding scholarships or exhibitions, making grants or giving prizes and
 - g) The Corporation may also provide facilities of any description (including boarding accommodation and recreational facilities for students and staff and facilities for the purpose of or in connection with the carrying on of the principal powers).

The powers conferred by section 19 of the 1992 Act are known as "supplementary powers".

These powers are intended to be sufficiently broad to enable the Corporation to do everything which would normally be required to run the College. The Corporation is precluded from doing anything which lies outside this framework. If it does, there is a risk of legal challenge and possible claims against the Corporation.

8) CODE OF CONDUCT FOR HOLDERS OF OFFICES AT BHASVIC

Holders of office are requested and required to act in a manner consistent with this Code

A holder of office shall:

1. Support the aims and objectives of the College and promote the interests of the College and its students in the wider community.
2. Work co-operatively with the other holders of offices in the best interests of the College.
3. Express an honest view in the light of the known facts without regard to other conflicting interests.
4. Declare openly any conflict of interest promptly should it arise and resist temptation or outside pressure to benefit themselves or other parties, other than the College and follow the College's procedures regarding the receipt of hospitality and gifts.
5. Acknowledge that differences of opinion will arise during discussion of issues but, when a decision has been reached by the Corporation or any of its Committees, it shall be respected.
6. Respect the confidentiality of the Corporation's or a Committee's business.
7. Assist the Principal by providing relevant and cogent advice.

8. Draw the attention of the Principal and/or the Corporation to any perceived dangers arising from a proposed course of action.
9. Take each opportunity to enhance his or her effectiveness as a Governor or Committee Member, through participating in training events to increase knowledge of the College's activities and obligations and the wider educational environment.
10. Recognise the public accountability of the Corporation and that individual Governors and Committee Members do not have the right to make statements or express opinions on behalf of the Governing Body, unless previously approved by that Body.
11. Give priority as far as possible, to attendance at meetings of the Corporation and its Committees.

Holders of offices at BHASVIC are expected to uphold the seven principles of public life set out by the Nolan Committee on Standards in Public Life.

The holders of offices should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties.

1. Selflessness

The holders of office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

2 Integrity

The holders of offices should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of office should make choices on merit.

4. Accountability

The holders of offices are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate.

5. Openness

The holders of offices should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

6. Honesty

The holders of offices have a duty to declare any private interests relating to the public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

The holders of office should promote and support these principles by leadership and example.

The Corporation maintains a Register of Interests which all Governors are required to complete. In completing the Register, Governors are invited to register all business interests, financial or otherwise. The Register is open to public inspection (and refer item 16 below).

9) COMPLAINTS TO CORPORATION

Complaints to the Corporation will be handled in accordance with the College's Complaints Policy.

10) PROCEDURE FOR DEALING WITH CONFIDENTIAL BUSINESS AT GOVERNING BODY MEETINGS:

- 1) Clerk issues draft Reserved business Meeting Agenda to Chair and lead manager
- 2) Lead Manager (SMT member) advises Clerk/Chair whether they'll be any confidential business to report/discuss at the next meeting and provide details sufficient for the Chair to consider whether within the I & A rules listed below the Meeting should consider whether Staff/Student members should leave at that point, (a simple majority of members is required, although Chair's casting vote available).
- 3) The Chair must explain the reasons for the proposed withdrawal by Students/Staff Members, giving sufficient information to ensure understanding and may be assisted in his explanations by the lead Manager, Principal or other SMT member. Reference should also be made to the provisions given within the relevant section of the instrument and articles (see below).
- 4) If Staff/Student Governors withdraw from the meeting, the meeting may only continue if the required quorum is maintained (40% of Members re Corporation. Committee – refer to respective TOR).
- 5) Reference should also be made below to the Corporation's Confidentiality Procedures with regard to the issuance of confidential papers to Members.

Instrument & Articles – Instrument 14 Proceedings of Meetings:

(5)a member of the Corporation who is a member of staff at the institution, including the Principal, shall withdraw –

(a) from that part of any meeting of the Corporation, or any of its Committees, at which staff matters relating solely to that member of 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 Corporation, 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 Corporation, 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 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 in 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 Corporation or any of its Committees, at which staff matters relating to any member of staff holding a post senior to that members are to be considered, except those relating to the pay and conditions of all staff or all staff in a particular class.

8).....a Student member shall withdraw from that part of any meeting of the Corporation or any of its Committees, at which a student's conduct, suspension or expulsion is to be considered.

9) In any case where the Corporation, 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, other than student members, of the Corporation or Committee present at the meeting, withdraw from the meeting.

CONFIDENTIALITY IN RELATION TO CORPORATION BUSINESS (refer to instrument 17 Publication of Minutes and Papers).

It is the Corporation's policy that all agendas, papers and minutes should be in the public domain unless there is a good reason for confidentiality. Confidentiality will normally be expected where:

- An individual or a small group of identifiable individuals (whether staff, students, parents, prospective parents or others) is involved and the disclosure of information would be a breach of their rights to privacy;
- There is commercial sensitivity;
- There are legal reasons.

All Corporation and Committee meeting agendas, papers and minutes (other than confidential items) will be publicly available:

- On the College website (agendas and minutes only).
- On application to the Clerk of the Corporation.

Were items relate to people then confidentiality will exist indefinitely. The items will be copied on pink paper and retained separately and securely. Copies will be made available to:

- Members of the respective Committees and Corporation other than certain Staff Members (dependent upon seniority) and Student Members;
- Senior Postholders including the Clerk to the Corporation (unless the matter involves another member of the Senior Management team and the disclosure would breach their personal rights);
- The Chair of the Corporation
- The Vice-Chair of the Corporation.

Other items which are regarded as confidential will also be copied on pink paper and retained separately and securely. The need for their continued confidentiality will be reviewed annually by the Clerk to the Corporation in consultation with SMT/Chairs' Committee and recommendations will be made to Corporation accordingly. Where there is reference to individual staff or students, then these items should remain confidential. Copies will be made available to:

- Members of the respective Committees and the Corporation other than Student Members (unless agreed by Corporation);
- Senior Postholders including the Clerk to the Corporation;
- The Chair of the Corporation;
- The Vice-Chair of the Corporation.

These arrangements may be varied in consultation with the Chair/Vice-Chair of Corporation of the respective Committee Chair as appropriate.

Pink items (reserved business) will be taken at the end of the respective Committee main business.

Confidential Papers to Governors

In most instances it is customary to table any confidential papers to Governors at the meeting at which the confidential business will be discussed. However if it is decided by the Chair that a paper/s should be circulated with the confidential Agenda prior to the meeting, all Members are entitled to receive papers except those members who would be automatically required to leave the meeting when such item is considered. The situation is different when there is no automatic requirement to withdraw and a resolution is required before the Member/s can be required to withdraw – refer to Instrument 14 detailed above.

11) GOVERNOR-ROLE DESCRIPTION

JOB TITLE: GOVERNOR

RESPONSIBLE TO: THE GOVERNING BODY

RESPONSIBILITIES: To take responsibility, as a member of the governing body, for

the determination of the educational character and mission of the institution and the oversight of its activities; publishing arrangements for obtaining the views of staff and student on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities; approving the quality strategy of the institution; for ensuring the effective and efficient use of its resources, the solvency of the institution and Corporation and safeguarding their assets; for approving annual estimates of income and expenditure; for the terms of employment (appointment, grading, suspension, dismissal and determination of pay and conditions of service) of Senior Post Holders (currently the Principal, Deputy Principal, Assistant Principal (Director of Resources) and Clerk to the Corporation) and for setting a framework for the pay and conditions of service of all other staff.

Person specification:

- To have an interest in further education;
- To empathise with the culture and ethos of a sixth form college;
- To be able to understand complex issues;
- To be willing to attend approximately eight evening meetings a year;
- To be willing to be involved in induction of approximately two half days;
- To be willing to be involved in other activities in the college for around two half days and four evenings a year;
- To be willing to read a considerable amount of paper;
- To be able to work as part of a team of governors for the benefit of the college and its various stakeholders;
- To have a willingness and ability to be challenging and enquiring but also to know when to be supportive of management and fellow Governors;
- To be willing to comply with the Code of Conduct for holders of offices at BHASVIC;
- To be willing to join at least one Corporation Committee.

12) INDUCTION PROCESS FOR GOVERNORS

The following is the proposed induction process for new Governors and Committee Members. It can also be regarded as applying to existing Members who wish to refresh or update themselves about the College. In this schedule reference to "joining the Corporation" includes those joining a Committee.

- a) On initial expression of interest by a potential member – meeting/discussion with Clerk and/or Chair to discuss informally the role and commitment required and to obtain information about the College (prospectus etc) before potential members commit themselves.
- b) Prior to appointment by the Corporation to a Committee (co-optee)/Corporation following Search Committee recommendation, induction meetings with **Clerk** (provide and explain Induction pack), **Chair/Principal** (to explain the role of Governors, the Corporation and Committees and process of Governance, understanding monitoring and effectiveness of various processes/management of College and link between Corporation and Management, College's

strategy, management structure, meetings of various Sussex consortia, sixth form and FE sector issues), **Vice-Principal (Director of Curriculum and Guidance)** (explain curriculum provision, explain pastoral system/guidance, **Assistant Principal (Director of Resources)** (HR funding and financial issues/support staff roles) **Assistant Principal (Director of Student Services)** (explain pastoral system/guidance,) and tour of College.

13) LETTER OF APPOINTMENT

All Members of the Corporation and Committees will receive a letter of appointment setting out, amongst other things, the start and end of the period of appointment, the nature of the appointment (e.g. External Governor, Parent, Staff etc), membership of Committee/s together with a copy of the induction pack and various forms for completion (Personal Details sheet/skills audit form, Register of Interests (ROI), Declaration of Eligibility (DOE), Disclosure and Barring Service, car parking permit, photo ID request) – refer to Induction Pack contents sheet. Standard Letter template – available on request from the Clerk to the Corporation.

14) DECLARATION OF ELIGIBILITY

Governors and Committee Members are required to complete a declaration of eligibility form as part of the appointment process and annually thereafter. Instrument 8 of the Instrument and Articles of Government set out those persons who are ineligible to be Members of the Corporation. "Governors should also make reference to the Anti-Bribery Policy clause 5 Responsibilities of Governors, co-opted Members and Staff."

15) REGISTRATION AND DECLARATION OF INTERESTS

Holders of office may be involved in decisions leading to the acquisition or disposal of assets, the awarding of contracts or appointments to the College staff.

If they become aware that they have a business or personal association with one of the firms or candidates being considered they should declare their interest and also offer to withdraw before any discussion or decision takes place.

The register invites holders of office to record as soon as is reasonably practicable after the interest arises: -

- remunerated directorships
- remunerated employment
- business connections with the college
- office, profession or other activity
- gifts and hospitality arising as a holder of an office at BHASVIC
- unremunerated posts, honorary positions and other connections which may give rise to a conflict of interest.
- members are invited to record relevant and known interests held by their spouse, partner or close family.

Governors and Committee Members are required to complete a Registration and Declaration of Interests Form as part of the appointment process and annually thereafter.

16) GIFTS AND HOSPITALITY

Governors are expected to comply with the guidelines on the receipt of hospitality and gifts:

Gifts and Hospitality in excess of £50.00 arising as a holder of an office at BHASVIC, should be disclosed as soon as possible after receipt to the Clerk to the Corporation. If there is any doubt about the propriety of accepting a gift or offer of hospitality, he/she should consult the Principal/Chair of Governors.

Governors should not accept corruptly any gift or consideration (or have them given to any close relative) as an inducement or reward for doing, or refraining from doing, anything in an official capacity or showing favour or disfavour to any person in an official capacity).

Gifts – the offer of casual gifts by contractors, suppliers, parents and students should be declined; the only exception being small personal gifts at Christmas/special occasions or gifts of a promotional nature given to a wide range of people. Gifts with a value in excess of £50 should be registered (refer above) and other gifts should be returned with a polite refusal and under no circumstances must a Governor accept an offer of cash. Where refusal of a small gift might give serious offence, it should be reported to the Principal/Chair of Governors, to determine whether it may be retained. The acceptance of gifts must be in accordance with the College's rules and regulations.

Hospitality – it is not always possible or desirable to reject offers of hospitality, for example, attending a function in an official capacity, or having a working lunch. Hospitality in these circumstances is defined as any seminar, conference, event, lunch/dinner or other form of entertainment provided free of charge by a body external to the College. Hospitality should only be accepted when it is reasonably incidental and appropriate in the circumstances. If in doubt about the propriety of accepting hospitality, Governors should consult with the Principal/Chair of Governors. The following rules will apply in determining the acceptability and extent of hospitality:

- Hospitality should be accepted only if directly relevant to the individual's responsibilities.
- Hospitality must not be accepted if this is seen as compromising the individual's position in connection with contractual commitments or negotiations.
- Hospitality may be accepted if it is considered beneficial to the College (e.g. projection of its role in a positive light or in connection with its role within the community and with its partner organisations e.g. EFA) .
- Hospitality must, if accepted, be reasonable in the light of its extent and nature and must not put in doubt the individual's integrity and impartiality.
- The acceptance of hospitality must be in accordance with the College's rules and regulations.
- A register of hospitality and gifts must be maintained and be available for inspection by the College's auditors or the Audit Committee.

17) ROLE SPECIFICATION - CHAIR OF GOVERNORS

The Governing Body is required to appoint a Chair from among its number.

The Principal and Staff or Student Members are not eligible for appointment. The Chair and Vice-Chair will each be elected for a period of three years or until the end of their term as a Governor, whichever is the shorter time. The Chair and Vice-Chair are eligible for re-election at the end of that period if they are still eligible as members.

The Governing Body must appoint a successor at any meeting, up to and including the last meeting before the expiry of the term of office, or following the resignation of the Chair or Vice-Chair. Appointment of the Chair will usually be decided at the July Governing Body meeting and office starts from the beginning of the academic year. If more than one nomination is received for the office of Chair or Vice-Chair, an election will take place at the meeting.

If both the Chair and Vice-Chair are absent from any meeting of the Governing Body, members present will choose one of their number to act as Chair for that meeting. The member chosen will not be the Principal or a Staff or Student Member.

The Chair or Vice-Chair may, at any time, resign by notice in writing to the Clerk.

If at any time the Governing Body is satisfied that the Chair or Vice-Chair is unable or unfit to discharge their function, the Governing Body may remove him or her from office by giving notice in writing and the office will then become vacant. Before the Chair or Vice-Chair can be removed, a resolution shall be put to the Governing Body by a member not personally involved, and the Chair or Vice-Chair concerned should have the opportunity to reply in writing or in person at a meeting of the Governing Body. The resolution will be passed on a simple majority vote of the members present.

The Chair of the Governing Body may not be a member of the Audit Committee.

ROLE SPECIFICATION – CHAIR

The Governing Body fulfils its duty as a collective decision-making body based on majority decisions by those present at meetings. The Chair's main function is to provide leadership to the Governing Body in carrying out its responsibilities.

The relationship between the Principal and Chair is very important in order to ensure that the Chair is kept informed about the College between meetings and that the views of the Governing Body are represented to the Principal so that business can progress.

The Chair's relationship with the Clerk is also important to facilitate the smooth and efficient operation of the Governing Body's business and to support Governing Body members' development needs.

Main Duties:

- Chair Corporation and other Committee meetings
- Convene special or additional meetings where necessary
- Exercise a casting vote at meetings
- Ensure the Corporation's focus on major strategic issues
- Making sure that there is a supportive working relationship between Governors and Managers through continuous dialogue with the Principal
- Maintaining awareness of the distinction between governance and management
- Appraisal of the Principal
- Appraisal of the Clerk and maintaining a three-way dialogue with the Principal and Clerk
- Ensuring regular self-appraisal of the Governing Body's performance
- Fostering effective governance through leadership and good practice
- Developing the Governing Body as a team, encouraging representation of a variety of skills
- Acting as a spokesperson and ambassador for the College
- Checking that actions are followed up between meetings and acting on behalf of the Governing Body between meetings where prior approval of the Governing Body has been given, including the signing of relevant College documents – any Chair's action should normally be agreed in advance and must be reported to the next meeting
- Leading on arrangements for selecting a new Principal, and ability to suspend from duty, or refer to a special committee for dismissal, a designated senior postholder.

Personal Characteristics:

- Integrity
- Ability to influence without domination
- Decisiveness with an insistence on getting things done
- Capacity for understanding, thinking and reasoning
- Authoritative – but being engaging and respectful at the same time
- Capacity to engage others in debate
- Capacity to challenge
- Ability to "steer" not "row" and to recognise the difference
- Ability to take a financial overview.

ROLE SPECIFICATION - VICE-CHAIR OF GOVERNORS

The role of the Vice-Chair is to support the Chair and act in the Chair's absence. This requires the Vice-Chair to Chair the occasional meeting in the absence of the Chair and to maintain a strategic overview and be prepared to lead with authority on key issues when the Chair is not present.

The personal characteristics are as given within the personal characteristics for the Chair (refer Role specification of Chair).

18) LIABILITY OF GOVERNORS

The lack of legal protection for College Governors being sued in certain (extreme) circumstances has been an area of contention between Colleges and Government for some years. The Learning and Skills Act 2000 provides a significant degree of protection through section 145. The following is an extract from a circular issued on the subject by the Association of Colleges (circular 4/00):

"In most circumstances, if there are major problems at a college which results in losses to a third party (such as a supplier) the aggrieved person is likely to sue the college as a legal entity. However, in certain situations, it would be possible for that person to sue individual governors on the basis that it was their action, or failure to act, which had resulted in, or contributed to, the loss. It might also be possible for a successor corporation to sue their predecessor individually on a similar basis. In such circumstances, if the governor is found to be liable his/her personal assets could be at risk. The Association has long taken the view that it is unfair that governors who undertake duties for no remuneration should be at risk in this way if they have acted honestly and reasonably. In essence Section 124 now provides that where a governor is faced with civil legal proceedings, or with the possibility of legal proceedings, s/he can apply to the court to be excused liability. If it satisfied that the governor has acted honestly and reasonably, the court is then empowered to make an order extinguishing, reducing or varying the liability. Relief would not however be available in respect of any criminal proceedings.

This approach to limiting liability is similar to that adopted in Section 727 of the Companies Act 1985 and in Section 61 of the Trustee Act 1925. Section 145 of the Learning and Skills Act does however go further than either of those, in that it extends coverage to all types of civil liability and to actions by third parties as well as by the corporation itself"

The college has Governors' liability insurance of £1m in a standard form which will provide protection for governors in the unlikely event of anyone suing them as a Governor of the College.

Reference may also be made to Eversheds briefing on Personal Liability of Governors dated January 2013 attached as an appendix to this document.

19) PAYMENT OF EXPENSES, ALLOWANCES AND REMUNERATION TO GOVERNORS (Instrument 18)

The Corporation may not, as a matter of law, remunerate governors for their services. This does not prevent the remuneration of Staff Governors or the Principal as employees of the College.

The Corporation will reimburse reasonable expenditure actually incurred by a Governor in the discharge of his/her duties as a Governor. Such expenditure must be authorised by a Governor, other than the Governor seeking authorisation (usually the Chair or the Chair of the Finance and General Purposes Committee, or the Principal, Assistant Principal (Director of Resources) or the Clerk. All expenditure must be authorised in advance of it being incurred and the reimbursement must similarly be approved.

Any variation to this policy can only be made by the Chair in consultation with the Chair of the Finance and General Purposes Committee and subject to it being reported to the next meeting of the Corporation.

A claim form (available from the Clerk to the Corporation) should be completed and signed as authorised above.

20) ATTENDANCE AT MEETINGS

Members of the Corporation are expected to achieve an attendance rate of at least 70% each academic year.

Attendance at Corporation and Committees of Corporation, will be recorded by Members signing the attendance schedule for each meeting convened, which will be maintained by the Clerk to the Corporation. Apologies should be sent to the Clerk to the Corporation as soon as possible, if a Governor is unable to attend a meeting.

Any Member not attending Corporation meetings for a period longer than six consecutive months without the permission of the Corporation will be contacted by the Chair of Governors to discuss their position on the Corporation. Reference should also be made to the Instrument 10 (Termination of Membership) in the Instrument and Articles.

The Clerk to the Corporation shall be entitled to attend all meetings of the Corporation and its Committees save in exceptional circumstances when a Committee votes that the Clerk be excluded (e.g. SPH Remuneration).

“Meeting” includes a meeting at which one or more Members attending are present in more than one room, provided that the Members participating in the meeting are able to communicate with everyone participating in the meeting by the use of telephone, video-conferencing or similar communication and shall be deemed to constitute presence in person in the meeting and as a consequence subject to the Instrument and Articles shall be entitled to be included in the quorum and be entitled to vote accordingly. The meeting venue will be where the majority of Members are present, or if no majority, where the Chair of the meeting is present (Instrument 1 (g) and Corporation Standing Orders, Meetings No. 7)

21) POLICY FOR ATTENDANCE AT COMMITTEE MEETINGS BY PERSONS WHO ARE NOT COMMITTEE MEMBERS (refer instrument 16 Public Access to Meetings)

The Principal has the right to attend all Committee meetings of which he is not in any case a Member saving meetings of the Remuneration Committee and the Audit Committee. The Principal **may** attend Remuneration Committee and Audit Committee on the invitation of the Chair. While other Senior Postholders do not attend Committee meetings as of right, it is the policy of the Corporation that they should be invited by the Chairs of Committees to attend those Committees which involve their areas of responsibility in the College. Members of staff who have been involved in the preparation of papers may be invited to attend for the particular agenda item/s by the Chair of the Committee.

Members of the public may submit a written request through the Clerk to attend Corporation meetings as observers. Their request should be made at least five days in advance, should outline the reasons and will be approved, if deemed appropriate by the Chair.

22) POLICY FOR THE PUBLICATION OF THE MINUTES OF CORPORATION AND COMMITTEE MEETINGS (refer instrument 17)

Minutes of Committee meetings are presented to meetings of the Corporation save where consideration of confidentiality requires otherwise in accordance with clause 15 of the Instrument of Government. The publication of the minutes of Corporation and Committees will therefore be dealt with in accordance with clause 17 of the Instrument of Government.

It should be noted that copies of non-confidential minutes, once approved by the Committee/Corporation and signed by the Chair, will be placed on the College's website for a minimum period of 12 months.

23) PRESS AND PUBLIC STATEMENTS

Members should not make statements to the press or media or at any public meeting relating to the proceedings of the Corporation or its Committees or the business of the College, without first having obtained the approval of the Chair or in the absence of the Chair, the Vice-Chair. It is not appropriate for members to publicly criticise, or reveal the views of other members which have been expressed at meetings of the Corporation or its Committees.

24) PROCEDURE FOR THE ELECTION OF PARENT MEMBERS

On there being a vacancy for a parent member whether following the expiry of the term of office, or on the resignation of the member or the member no longer being eligible then the following shall take place.

Within two weeks of the vacancy occurring a letter inviting nominations will be issued to each and every parent save that if this two week period would start after 1 June in the academic year, the letter of invitation will be held over until the start of the autumn term. **Where the College has parents' e mail addresses, details will be sent via this address and not hard copy. For those parents without e mail addresses or where the details are not yet received by the College, a hard copy will be sent to parents. The details will also be placed on the College's website.**

There will be a clear two week period for the receipt of nominations. **If received by hard copy**, all nominations must be signed by the nominee to accept the nomination. Nominations need not be proposed or seconded. This is so that interested parents are not disenfranchised purely because they do not know other parents.

In the event of more nominations than there are vacancies there will be an election. All nominees will be told that there is more than one nomination to confirm that they are content to take part in an election and each will be asked for a statement of not more than 100 words to be issued as part of the election papers. Election papers will be prepared within two weeks of the close of nominations and despatched to each parent either by hard copy or electronically if e mail addresses are available.

One clear week will be allowed for the receipt of voting papers (hard copy or electronic as above). The ballot box will be held at the college reception. E mailed ballot papers which will be returned to a specific e mail address for this exercise, will only be seen by the Clerk to the Corporation and from that point onwards will be kept confidential.

All periods of time will exclude any period outwith term time.

In the event of no or insufficient nominations to fill all of the vacancies, the process will be repeated.

In the first instance the results of the election will be notified to the candidates nominated and also confirmation obtained that those elected wish to accept the post. After this the results of any election will be notified to all Parents via the website/next College newsletter to Parents and to the next meeting of Corporation's Search Committee and then to Corporation for ratification.

25) PROCEDURE FOR THE ELECTION OF STAFF MEMBERS

On there being a vacancy for a staff member whether following the expiry of the term of office, or on the resignation of the member or the member no longer being eligible then the following shall take place.

Within two weeks of the vacancy occurring a letter inviting nominations will be issued electronically to each and every eligible staff member in the relevant constituency save that if this is within two weeks of the end of a term the matter will be deferred until the start of the next term. To be eligible a member of staff must be on a permanent or fixed term contract with the College and currently working at the College.

There will be a two week period for the receipt of nominations. All nominations must be signed by a proposer and seconder and must be signed by the nominee to accept the nomination.

In the event of more than one nomination for a vacancy there will be an election. All nominees will be told that there is more than one nomination to confirm that they are content to take part in an election.

Voting papers will be issued electronically within one week of the close of nominations and one week clear will be allowed for the receipt of voting papers (hard copy or electronic).. The ballot box will be held at reception for hard copy returns. E mailed ballot papers which will be returned to a specific e mail address for this exercise, will only be seen by the Clerk to the Corporation and from that point onwards will be kept confidential.

All periods of time will exclude any period outwith term time.

In the event of no nomination the outgoing and remaining members will be encouraged to seek a candidate.

In this case the period for receipt of nominations will remain open for one week after the receipt of any new nomination.

The result of any election will be notified to the next meeting of Search Committee.

26) PROCEDURE FOR THE ELECTION OF STUDENT MEMBERS

On there being a vacancy for a student member whether following the expiry of the term of office, or on the resignation of the member or the member no longer being eligible then the following shall take place.

The election for the student members will take place through the annual Student Union elections. The Student Union will identify that two members of their Committee will serve as Governors. After the elections have taken place the Union Committee will nominate two of their number to serve as Governors. The members will start their term of office once approved by Corporation at its Summer Term Meeting. Should a vacancy occur during the year then the Student Union Committee will be asked to propose a new Governor.

The result of any election will be notified to the next meeting of Search Committee.

27) SCHEDULE OF DELEGATIONS

Responsible Body(ies)	Permitted level of delegated authority
<p>Corporation</p>	<p>The Corporation shall be responsible for the following functions: (Article 3 (1))</p> <ul style="list-style-type: none"> (a) The determination and periodic review of the educational character and mission of the institution and the oversight of its activities; (aa) publishing the arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities; (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 including 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. <p>The Corporation shall not delegate the following functions (Article 9):</p> <ul style="list-style-type: none"> 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 or 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); f) the modification or revocation of these Articles. <p>The Corporation may not delegate (Article 10 (1)):</p> <ul style="list-style-type: none"> a) the consideration of the case for dismissal, and b) the power to determine an appeal in connection with the dismissal <p style="padding-left: 40px;">of the Principal, the Clerk or the holder of a senior post, other than to a Committee of Members of the Corporation.</p> <p>Article 10 (2) The Corporation shall make rules specifying the way in which a Committee having functions under paragraph (1) shall be established and conducted.</p> <p>Any of its functions not listed above and not assigned elsewhere in the Articles (see below) may be delegated to the Principal, Chair or a Committee.</p>
<p>Principal</p>	<p>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 (Article 3 (2)):</p> <ul style="list-style-type: none"> 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

	<p>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</p> <p>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.</p> <p>Article 11: The Principal may delegate functions to the holder of any other senior post other than:</p> <p>(a) the management of budget and resources; and (b) any functions that have been delegated to the Principal by the Corporation.</p> <p>COLLEGE POLICIES: The Corporation delegates to the Principal responsibility for determining, promulgating and implementing the employment policies and other non-statutory policies as agreed by Corporation from time to time, as reflected in the Corporation Policy Review Schedule. The Principal is required to present to Corporation an Annual Report detailing any significant changes to any of the policies for which he has delegated authority.</p> <p>The Principal may take executive action on all matters except those specifically excluded by the Articles or by decision of the Corporation. Those matters on which the Principal may <u>not</u> exercise delegated authority by decision of the Corporation are as follows :</p> <p>i issues which reflect on the standing and good name of the College; ii decisions relating to major changes in the conditions of service for teaching and support staff; iii major changes in the use of College premises, eg closure or acquisition of buildings that require consultation with the relevant funding body (this value is currently set at capital sums of more than £1 million, or the rental equivalent) ; iv major changes in College structure, eg closure or amalgamation of sections of the College; v bids to, or allocations from, external sources for funding not set out in the annual estimates of income and expenditure greater than 0.5% of the total budget; vi contracts to a value to be determined by the Finance & General Purposes Committee (this value is currently set at more than £30,000 and up to a maximum of £50,000 – refer business procedures)</p>
Chair	<p>The Chair may deal with those matters delegated to him/ her by the Corporation. The Chair may <u>not</u> deal with any matters listed in article 9 (see above), or those responsibilities specifically delegated to the Principal under the Articles as follows</p> <p>i making proposals to the Corporation about the educational character and mission of the institution, and implementing the decisions of the Corporation; ii the determination of the institution's academic and other activities; iii 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; iv the organisation, direction and management of the institution and leadership of the staff; v 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; and vi maintaining student discipline and, within the rules and procedures provided for within the Articles, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.</p>
Clerk	<p>The Clerk shall be responsible for the following functions:</p> <p>a) advising the Corporation with regard to the operation of its powers;</p>

	<ul style="list-style-type: none"> 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.
Senior Post Holders* and Senior Management Team (SMT)	May deal with any of the Principal's functions which the Principal delegates to him/her.
Committees	May deal with any matters delegated to them by the Corporation, subject to any restrictions given within the Articles. The Corporation may not delegate to Committees any matters listed in Article 9 or those matters delegated to the Principal under Article 11. The Corporation has agreed terms of reference of each committee which set out those matters delegated to each Committee.

The senior post holders are currently the Principal, the Vice-Principal, Assistant Principal (Director of Resources), the Assistant Principal (Director of Student Services) (with effect from 1 September 2013) and the Clerk to the Corporation.

The Senior Management Team comprises: Principal, Vice-Principal, Assistant Principal (Director of Resources) and the Assistant Principal (Director of Student Services).

28) Style Guide for Corporation and Committee Papers

PURPOSE

The purpose of these notes is to set out standards for the production of corporation and committee papers. Its aim is to help governors identify the key issues in a paper, the decision being sought from the corporation and other important matters such as the resources involved, alternative courses of action, the benefits and risks, how the paper links with the delivery of the strategic plan and compliance matters.

STYLE GUIDANCE

All papers will be produced with a common style of heading which will aid orientation and familiarity. Pages will be numbered.

All papers will have a cover sheet which will summarise the purpose of the paper, the resources required and the action required by the corporation or committee.

In the main paper:

Accuracy, brevity and clarity are to be aimed for;

The purpose of the paper will be clear (eg to make decisions, to inform, to debate, to evaluate information or to draw conclusions);

Alternative courses of action and their associated costs, benefits and risks will be identified;

Any recommendations will be clearly stated;

Facts and figures will not be presented in isolation but will include explanations and guidance as to the trends and conclusions;

The link to the strategic plan for BHASVIC must be identified;

Jargon or unfamiliar language must be explained;

The name of the author must be at the end of the paper;

Unnecessary detail will be avoided but any necessary detail will be put into appendices to reduce the length and improve the flow of the main paper;

If the paper is lengthy a management summary must be included at the start;

Any compliance issues should be stated;

Abbreviations will be spelt out in full the first time they are used.

In addition agendas will be discussed with the respective chairs before the agenda is finalised.

This guidance should help improve the clarity and governor-friendliness of papers.

29) THE INDEPENDENCE OF THE CLERK

The Clerk is required to be able to act independently of college management should there be a need to do so to protect the college and the governing body.

The following arrangements are in place to achieve a balance between independence and involvement:

The Clerk is appraised annually by the Chair or Vice Chair;

The summary of the Professional Development Review (PDR) is reported to the Remuneration Committee and from there to the confidential (pink) section of Corporation business;

The PDR will include a review of the activities undertaken to ensure appropriate professional development and this will be included in the PDR summary;

The Clerk will participate in network meetings of the Sussex Clerks;

The Clerk receives specific administrative support;

The Clerk is authorised if he/she feels it appropriate, to seek confidential legal advice relating to the College from the Colleges solicitors with the (confidential) agreement of any of the Principal, the Chair, the Vice Chair, the Chair of the Audit Committee or the Chair of the Finance & General Purposes Committee;

The solicitors will be made aware of this arrangement;

The Clerk is authorised to seek confidential advice from the College's internal auditors relating to the College, subject to the reporting of this to the Chair, the Vice Chair, the Principal, the Chair of the Audit Committee or the Chair of the Finance & General Purposes Committee at the earliest appropriate opportunity;

The Clerk is required to complete the declaration in the register of interests including disclosing any relationship with a member of the Governing Body or Senior Manager of the College;

Should the Clerk have problems, however remote, in resolving difficulties the Clerk should meet informally with the Chair, the Vice Chair and the Principal; If an informal resolution cannot be achieved then the Clerk should put the concerns in writing and send them to the Chair, the Vice Chair, the Chair of the Audit Committee and the Principal (also refer to Governance Resolving Difficulties procedure);

Should the Clerk be unable to attend a meeting, where possible, a senior member of staff will take the minutes;

The current Clerk is qualified as an Associate of the Institute of Chartered Secretaries and Administrators and a Fellow of the Chartered Insurance Institute.

30) GOVERNANCE: PROCEDURE FOR RESOLVING DIFFICULTIES

The Clerk's role includes advising on proper procedure and, if necessary, intervening when s/he feels that the Corporation is acting inappropriately or beyond its powers. The Corporation has approved the following procedures it would expect to be followed in this situation.

1. The Clerk should make every effort to resolve the matter through the avenues available to him or her within the College and be certain that the reason for his or her concerns is understood.
2. Where the Clerk believes the Corporation or a Committee is minded, during a meeting, to act beyond its powers, s/he should raise the issue immediately.
3. The Clerk's advice should be discussed immediately. If the Corporation or Committee is still minded to act and the Clerk still gives the advice that such action would be beyond the powers of the Corporation or Committee, further discussion should be deferred until the next meeting of the Corporation or Committee, or to a special meeting called in accordance with Instrument 12(4) of the Instrument & Articles of Government.
4. Where the Clerk believes that the Corporation or Committee has acted beyond its powers, or an individual has acted beyond his/her powers, s/he should raise the matter in writing with the Chair of the Corporation as soon as possible. The Chair will ask the Principal (as Accounting Officer) for his/her written comments. Where the Chair is involved in the decision under dispute the Clerk should raise the issue with the chair of the Audit Committee.
5. Where appropriate, the Clerk may:
 - a) consult the EFA, DfE, Association of Colleges, SFCAs or other relevant regulatory body if he/she has concerns about a propriety matter
 - b) consult the College's internal or financial statements auditors
 - c) seek initial legal advice without the agreement of the College management or the Corporation to a maximum of £2,000, if there is disagreement about whether an action may be unlawful or ultra vires

6. The Clerk's concerns must be recorded in the minutes of the Corporation meeting at which they are discussed.
7. Any comments received from the Principal or Audit Committee chairman, and any advice given by any external source will be reported by the Clerk to the next ordinary or special meeting of the Corporation or Committee concerned or, in the case of an individual, to the Chair of the Corporation or chair of Audit Committee. The Corporation may decide to obtain further legal advice or seek advice from the EFA or other relevant bodies.
8. If no action results from the steps detailed above, and if the Clerk is of the opinion that the grounds for concern still present a threat to the proper governance of the College, then the Clerk is authorised to refer the matter to the EFA and inform the Chair and Principal that this has been done
9. The Corporation would not expect any such steps taken in good faith by the Clerk in these circumstances to be grounds for disciplinary action under the College's disciplinary procedures.
10. In the interests of transparency, where the written procedure has been invoked the substance and outcome of the matter will be reported in the Members' Annual Report.

31) URGENT ACTION

There may arise exceptional circumstances where an urgent decision is required and the person who has delegated authority to act is not available, and/or it is not possible for a quorate meeting of the Corporation or relevant Committee to be convened at short notice. In such circumstances the Principal (or in his/her absence a Senior Postholder) should seek the approval of the Chair (or in his/her absence the Vice-Chair) of the Corporation. In reaching a decision the Principal (or Senior Postholder) and/or Chair (or Vice Chair) should seek where possible to consult with other Corporation members. Any such decisions must be reported as soon as possible to a quorate meeting of the Corporation or relevant Committee and, if applicable, to the person who normally has delegated authority for the decision making. Ratification of the action taken should be made at the next scheduled Corporation meeting. Reference should also be made to the Instrument and Articles, regarding the use of written resolution (Instrument 12).

32) Standing Orders Corporation

STANDING ORDERS CORPORATION
IOG= Instrument of government AOG= Articles of government

MEMBERSHIP/COMPOSITION OF CORPORATION		
No	Standing Order	Authority
1	The Corporation determined to have 17 members. Increased to 19 Reduced to 18	Corporation 14/9/1999 Corporation 11/12/2001 Corporation 2/4/14
2	The membership is made up as follows: External members 11 Parent members 2 Staff members 2 Student members 2 The Principal 1	Corporation 14/9/1999. Business Members amended 11/12/2001. Amended Corporation 26/3/08 re new I & A IOG (Clause 2 and 3) Amended Staff Members 2/4/14
3	The Local Authority nominated by the corporation is Brighton & Hove City Council.	Corporation 14/9/1999 Revoked by Corporation 26/3/08 re new I & A.
4	The Local Community body nominated by the corporation is the Sussex Muslim Society.	Corporation 11/12/2001 Revoked by Corporation 26/3/08 re new I & A.
5	Staff members will be nominated and elected as follows: One by all teaching staff One by all support staff	Corporation 14/9/1999 Revised Corporation

APPOINTMENTS/DETERMINATION OF MEMBERSHIP NUMBERS		
No	Standing Order	Authority
1	There will be one Staff Corporation Member nominated by the College Staff from each of the following two constituencies and appointed for a period of three years. The two constituencies being teaching Staff and non-teaching Staff.	IOG (Clause 2)

2	The procedure for selection of all Members shall be through the recommendation of the Search Committee.	
3	Members of the Corporation will serve for a term of office of not more than three years.	The term of office of a member IOG Clause 9
4	Members retiring at the end of their term of office shall be eligible for re-election and will normally not serve more than nine years.	The term of office of a member IOG Clause 9
5	The full Corporation is the appointing authority in relation to an appointment of a Member as soon as possible after the vacancy falling due.	10G (Clause 5 (1))
6	If the number of Members falls below the number needed for a quorum, the Secretary of State is the appointing authority.	IOG Clause 5 (2)
7	<p>The appointing authority may decline to appoint a person as a local authority or community member if the person does not have the specified skills and experience (other than professional qualifications specified by the Corporation as appropriate for Members of the Corporation after consultation with the nominated Local Authority/Voluntary Body).</p> <p>The appointing authority may decline to appoint a person as a parent, staff or student member if –</p> <ul style="list-style-type: none"> a) it is satisfied that the person has been removed from office as a member of a further education corporation in the previous ten year; or b) the appointment of the person would contravene any rule or byelaw 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 byelaws 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 corporation because of clause 10. <p>Where the office of any appointed Member becomes vacant the Corporation shall as soon as practicable take all necessary steps to appoint a new Member to fill the vacancy.</p>	<p>IOG Clause 5</p> <p>Revoked by Corporation 26/3/08 re new I & A</p> <p>IOG Clause 5 (1,2,3 and 4)</p>
8	<p>The appointment of a Chair and Vice Chair:</p> <ul style="list-style-type: none"> • shall take place at a meeting of the Corporation; • shall be for a three year term of office (subject to Membership term of office) • the Principal will chair the appointment meeting and invite nominations; • nominations, must be submitted to the Clerk in writing, in advance of the Corporation meeting and must be proposed and seconded and the nominee must agree to the nomination; • in the event of more than one nomination, a secret ballot will be conducted by the Clerk; • the Principal, student and the staff members are not eligible to be Chair or Vice Chair, although they may participate in the process of appointment. 	<p>Appointment of Chair and Vice-Chair - IOG Clause 6</p>

9	A Member may at any time resign their office by notice in writing to the Clerk.	10G (Clause 10 (1))
10	If at any time the Corporation is satisfied that any member – a) is unfit or unable to discharge the functions of a member; or b) b) has been absent from meetings of the Corporation for a period longer than six consecutive months without the permission of the Corporation, the Corporation may by notice in writing to that member remove the member from office and the office shall then be vacant.	10G (Clause 10 (2))
11	Any Staff Member, Student or the Principal, shall cease to be a Corporation Member if they cease to be a member of staff of the College or a student of the College and the office shall become vacant.	10G (Clause 10 (3 & 4))
12	The Principal, the Deputy Principal (Director of Quality and Curriculum), the Assistant Principal (Director of Resources) Assistant Principal (Director of Student Services) and the Clerk to the Corporation are designated Senior Post Holders.	

MEETINGS		
No	Standing Order	Authority
1	The Corporation shall meet at least once a term with other meetings as necessary.	10G (Clause 12 (1))
2	Items for agendas of Corporation meetings shall be given to the Clerk three weeks before the meeting and the papers should follow two weeks before the meeting in sufficient time to enable the Clerk to send out agendas and papers to members seven calendar days prior to the meeting.	
3	Any individual member may request that an item is included on the agenda. Such items are to be brought to the notice of the Chair, Principal and Clerk prior to finalisation of the agenda.	
4	All Corporation meetings will be summoned by the Clerk to the Corporation who shall send, to the members, written notice of the meeting and a copy of the agenda and papers at least seven calendar days ahead of the date of the meeting. However, if it is proposed to consider at any meeting the remuneration, conditions of service, conduct, suspension, dismissal or retirement of the Clerk to the Corporation, the Chair shall, at least 7 calendar days before the date of the meeting send to the Members a copy of the agenda item concerned together with any relevant papers.	10G (Clause 12 (2)) IOG (Clause 12 (3))
5	A special meeting of the Corporation may be called at any time by the Chair or at the request in writing of any five members. This meeting may be called with less than seven days' notice if the Chair (or in his absence, the Vice Chair) so directs, on the ground that there are matters demanding urgent consideration.	10G (Clause 12 (4)(5))
6	The Corporation may authorise the Chair or Vice Chair to act on its behalf in circumstances foreseen as necessary in specific cases. Such 'Chair's Action' to be reported to the Corporation at its next meeting and recorded in the minutes of that meeting.	

7	Meeting includes a meeting at which one or more members attending are present in more than one room, provided that the members participating in the meeting are able to communicate with everyone participating in the meeting (via telephone/video-conferencing facilities or similar communications equipment) and shall be deemed to constitute presence in person in the meeting and as a consequence subject to the Instrument and Articles shall be entitled to be included in the quorum and be entitled to vote accordingly. The meeting venue will be where the majority of members are present or if no majority, where the Chair of the meeting is present.	IOG 1 (g)
8	A resolution in writing, signed by a simple majority of Corporation members who would have been entitled to vote upon the resolution, had it been proposed at a meeting of the Corporation, shall be passed, subject to the following: a) a written resolution may comprise more than one copy to which one or more member/s has/have signed as agreed and dated on signing; b) the written resolution shall be passed on the date of last member's signature; c) the written resolution will lapse if the last member signature has not been made within 30 days after the date of issuance; d) all members of the Corporation have had sight of, and opportunity to vote for or against, the resolution prior to its adoption. Written resolutions should be brought to the next scheduled Corporation meeting for ratification and recording.	IOG 12 (7)
QUORUM		
NO	Standing Order	Authority
1	40% of all Members must be present (including vacancies). Determined membership is 18 therefore the quorum is 8	10G (Clause 13 (1))
2	A meeting must remain quorate for its full duration. Should Members arrive late or leave for any reason, quoracy must be maintained. If the meeting becomes inquorate, it should be ended as the subsequent decisions would be invalid. Informal discussion can continue with the agreement of all members present and notes will be made of this informal meeting. The Chair may then decide to call a Special Meeting to undertake the remaining business.	10 G (Clauses 13 (2), (3), (4))

VOTING/PROCEEDINGS OF MEETINGS		
NO	Standing Order	Authority
1	Every question to be decided at the meeting of the Corporation shall be determined by a majority of the votes of the Members present and voting on the question. Where there is an equal division of votes, the Chairman of the meeting shall have a second or casting vote.	10G (Clause 14 (1),(2))
2	Where, at a meeting of the Corporation, 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.	IOG (Clause 14 (2))
3	Proxy or Postal votes on behalf of absent Governors are not permitted.	10G (Clause 14 (3))
4	No resolution may be rescinded or varied unless its reconsideration appears as a separate item in the agenda of a subsequent meeting, i.e. it cannot be	IOG (Clause 14 (4))

	changed under Matters Arising.	
5	Numbers for and against should be recorded in the minutes.	
6	The Members themselves decide whether a secret ballot should be held or whether names of those voting for and against should be taken.	
7	Dissenting Members have the right to have their disagreement recorded in the minutes.	
8	Members shall act in the best interests of the Corporation and accordingly shall not be bound in their speaking and voting by mandates given to them by other bodies or persons.	10G (Clause 12 (6))
9	Discussion on any item on the agenda shall not exceed 20 minutes, unless a majority of the members present vote that the discussion continue. If there is no vote that the discussion continue, the matter shall then be put and the Members asked to consider the recommendations or defer the matter.	
10	<p>Except as provided by Article 16 of the Articles of Government, a Member of the Corporation who is a Member of staff of the institution (including the Principal) shall withdraw –</p> <p>From that part of any Meeting of the Corporation, 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;</p> <p>From that part of any Meeting of the Corporation, or any of its Committees, at which that member's reappointment or the appointment of that member's successor is to be considered;</p> <p>From that part of any meeting of the Corporation, 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 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) or all members of staff or the class of staff (as the case may be); and</p> <p>If so required by a resolution of the other Members present, from that part of any meeting of the Corporation or any of its Committees, at which staff matters relating to any member of staff holding a post senior to that members are to be considered, except those relating to the pay and conditions of all staff or all staff in a particular class.</p>	IOG 14 (5)

11	<p>A Student Member who is under the age of 18 shall not vote (whether at a Meeting of the Corporation or at a Meeting of any Committee of the Corporation) on any question concerning any proposal:</p> <p>For the expenditure of money by the Corporation; or</p> <p>Under which the Corporation or any Members of the Corporation, would enter into any contract, or would incur any debt or liability (whether immediate, contingent or otherwise).</p> <p>Except as provided by rules made under Article 18 (3) 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 Corporation or any Committee of the Corporation at which his conduct, suspension or expulsion is to be considered.</p> <p>Where the Corporation or any Committee of the Corporation is to discuss staff matters relating to a member or prospective member of staff of the institution, a Student Member shall –</p> <p>Take no part in the consideration or discussion of the matter in question and not vote on any question with respect to that matter;</p> <p>Where required to do so by a majority of the Members, other than Student Members, of the Corporation or Committee present at the Meeting, withdraw from the Meeting.</p>	<p>IOG 14 (7)</p> <p>IOG 14 (8)</p> <p>IOG 14 (9)</p>
12	<p>The Clerk to the Corporation shall withdraw from that part of any Meeting of the Corporation or any Committee of the Corporation at which her remuneration, conditions of service, conduct, suspension, dismissal or retirement in her capacity as Clerk are to be considered.</p> <p>If the Clerk to the Corporation withdraws from a Meeting or part of it under the above paragraph, the Corporation shall appoint from their number a person to act as Clerk to the Committee, for the duration of such a Meeting or part of a Meeting.</p>	<p>IOG 14 (10)(11)(12))</p>
CONDUCT		
NO	Standing Order	Authority
1	<p>If at a meeting of the Corporation, any Member of the Corporation, in the opinion of the Chair, misconducts himself by persistently disregarding his ruling or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Corporation, the Chair shall notify the Corporation accordingly.</p> <p>Following notification by the Chair, he or a member of the Corporation may move 'that the Member named be not further heard' or 'that the Member named leave the meeting' and the motion if seconded shall be put and determined without discussion.</p>	
2	<p>In the event of a general disturbance which, in the opinion of the Chair, makes the due and orderly despatch of business impossible, the Chair may without question adjourn the meeting for such period as he considers expedient.</p>	
3	<p>In accordance with the College's no smoking policy, smoking is not allowed at Corporation meetings.</p>	

MOTIONS		
NO	Standing Order	Authority
1	Where possible discussion will be reached by consensus and agreement.	
2	An amendment "is a motion which seeks to alter and improve the original motion". <ul style="list-style-type: none"> • to add words to the original motion; • to delete or remove words from the motion; • to delete certain words only and to substitute other words in the motion; • to delete practically the whole of the motion and substitute a counter proposal; • to amend an amendment. 	
3	An amendment is subject to the same general principles as any other motion. It must be removed and seconded.	
4	An amendment must be directly relevant to the original motion and must not be frivolous or seek deliberately to mutilate a motion. The Chair may make a decision on this.	
5	A simple direct negative, eg inserting 'not' or 'no' into the original motion, is not an amendment.	
6	Several amendments may be moved to the same original motion. Usually those amendments dealing with the first part of the motion will be put first. One amendment must be taken at a time.	
7	After the amendment has been moved, seconded and discussion has taken place, the mover of the original motion has the opportunity to reply. The amendment will then be put to the vote.	
8	If the majority vote is against the amendment, it is declared lost and, if necessary, a further amendment may be moved. If the majority supported the amendment, it is declared carried and displaces the original motion, No vote will, therefore, be taken on the original motion.	
9	When an amendment has been carried, it is referred to as the 'substantive motion' or the 'amended motion'. This amended motion can in its turn be amended.	
10	After all the amendments have been taken, the final amended motion is put to the vote as the main question and, if carried, becomes a resolution.	
11	Usually a debate over a motion is finished by the Chair. However, there are three other main ways of closing a debate:	

11.1	<p><u>Motion for an Immediate Decision (a 'Closure' Motion)</u></p> <p>Anyone who has not already spoken any move 'that the question be now put', or 'I move the vote'. The 'closure' is not an amendment but a distinct motion and takes precedence over all other business. It must be seconded and put to the meeting immediately. No discussion may be allowed. If the closure is carried, the vote on the original motion must be put, the mover being given the opportunity to reply to the discussion. When an amendment is before the meeting and the closure is moved, it applies to that amendment only and not to the original motion.</p>	
11.2	<p><u>Motion Shelving the Subject indefinitely</u></p> <p>This motion dismisses the subject under discussion without a vote being taken on the main question. The usual way of dealing with this move 'that the meeting proceeds to the next business'. Unlike a closure motion, it raises a new issue and there may be a discussion on it. Speeches must be directed to the need for proceeding to the next business. If next business is carried, no vote is taken on the main question and the meeting proceeds to the next item on the agenda.</p>	
11.3	<p><u>Motion Postponing a Decision</u></p> <p>Moved for adjourning the debate on a particular item or adjourning the meeting as a whole. Either of these motions may be moved at any time even though an amendment is before the meeting.</p> <p>To move the adjournment of debate a member will say "I move that the debate on this subject be now adjourned". If the adjournment is carried after a short discussion, the meeting proceeds to the next item.</p> <p>A motion for the adjournment of the meeting is usually moved in the form 'that the meeting be now adjourned'.</p>	

MINUTES AND PAPERS		
NO	Standing Order	Authority
1	Business items for discussion by the Corporation should be supported by a covering paper/report to provide the necessary information for debate. All such papers or reports should have a proposed recommendation or resolution for the Corporation to consider.	
2	<p>Papers should only be tabled in exceptional circumstances.</p> <p>Reports should clearly indicate the purpose, the resource implications, the link with the College strategy and the action required.</p> <p>All reports should include the name of the lead Senior Manager.</p>	
3	Verbal reports should, where necessary, have a clear proposal for the Corporation to consider as a formal motion.	
4	<p>The Corporation shall ensure that a copy of the following shall, as soon as possible, be made available during normal office hours to anyone wishing to inspect them:</p> <ul style="list-style-type: none"> • the agenda for each meeting of the Corporation; • the draft minutes of every such meeting, if they have been approved by the Chair; • the signed minutes of every such meeting; • any report, document, or other paper considered at such meetings. 	IOG (Clauses 17 (1))

5	<p>All agendas, draft minutes if approved by the Chair, signed minutes and papers determined by the Corporation to be confidential (including any material relating to a named person employed or proposed to be employed at the institution, a named student or candidate for admission to the institution, the Clerk to the Corporation and any matter which, by reason of its nature, the Corporation is satisfied should be dealt with on a confidential basis), will not be made available for public inspection.</p> <p>The Corporation shall ensure that a copy of the draft or signed minutes of every meeting of the Corporation, shall be placed on the institution's website, and shall, despite any rules the Corporation may make regarding the archiving of such material, remain on its website for a minimum period of 12 months.</p> <p>The Corporation shall review regularly all material excluded from inspection under paragraph (2) 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.</p>	IOG (Clause 17)
6	At every meeting of the Corporation, the minutes of the last meeting shall be taken as an agenda item, except in cases where the Members present decide otherwise, and, if agreed to be accurate, shall be signed by the Chairman as a true record.	IOG (Clauses 15 (1 & 3))
7	Separate minutes shall be taken of those parts of meetings from which the Clerk, Staff or Student Members have withdrawn. The Clerk, Principal, Staff or Student Member who have withdrawn from a Meeting shall not be entitled to see the minutes of that part of the Meeting. The minutes will be recorded on red paper.	IOG (Clauses 15)
8	Public Access to Meetings – Any question whether any person who is not a Member of the Corporation or the Clerk to the Corporation, should be allowed to attend a Meeting of the Corporation, shall be determined by the Corporation.	IOG 16

DECLARATION OF PERSONAL INTEREST		
No	Standing Order	Authority
1	Where a Corporation Member has a financial interest in the supply of work or goods to, or for the purposes of, the College; any contract or proposed contract concerning the College; or any other matter relating to the College, it is the responsibility of that Member to declare their interest to the Corporation and any Committee of the Corporation. They should then not take part in any discussion, not form part of the quorum and not vote on the relevant matter. The Member should also withdraw, if present at a meeting of the Corporation or any of its Committees, at which such supply, contract or other matter relating to the College is to be considered, where required to do so by a majority of the Members of the Corporation or Committee present at the meeting.	IOG (Clauses 11)
1.1	The Corporation may extend this to include the interest of spouses, partners and close family members.	

2	<p>The declaration may also be extended to include non-financial personal interests, such as membership of other public bodies and institutions; trusteeship of a trust where the member, or other person connected with them, may be a beneficiary; or membership of a closed organisation.</p> <p>These requirements shall not prevent the Members of the Corporation considering and voting upon proposals for the Corporation to insure the Members against liabilities incurred by them arising out of their office or the Corporation obtaining such insurance and paying the premiums.</p>	
3	<p>Where the matter under consideration by the Corporation or any of its Committees relates to the pay and conditions of all staff, or all staff in a particular class, a staff Member</p> <ul style="list-style-type: none"> 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 Corporation 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. 	
4	<p>A Register of Members' Interests is held by the Clerk and is made available during normal office hours at the institution to any person wishing to inspect it.</p>	
5	<p>The Clerk should advise the Chair before a meeting and draw that matter to the attention of the member if, based on a declaration in the Register, there is a matter of a Member's personal or financial interest arising on the agenda.</p>	

33) Terms of Reference for Committees – GENERAL

- 1) The Corporation may establish a Committee of the Corporation for any purpose or function, other than those assigned elsewhere in the Articles and may delegate powers to such a Committee or the Chairman of the Corporation or to the Principal.
- 2) The Corporation shall determine the numbers of members and terms on which the members hold and vacate office.
- 3) Committee members may include persons who are not members of the Corporation. These members will be voting members.
- 4) Committees may include persons who are not voting members of the Committee and they are classed as observers. They have speaking rights and all other rights, except that they may not vote and do not form a quorum.
- 5) The Corporation shall establish a Search Committee to advise on the appointment of members of the Corporation and such other membership issues as the Corporation may remit to these. The Corporation shall not appoint any member of the Corporation unless it has first considered the advice of the Search Committee.
- 6) The Corporation shall establish a Committee to be known as the Audit Committee, to advise on matters relating to the Corporation Audit arrangements and systems of internal control.
- 7) The Corporation shall ensure that a written statement of its policy regarding attendance at Committee meetings by persons who are not Committee members, and the publication of the minutes of Committee meetings, are made available during office hours of the institution to any persons wishing to inspect them.
- 8) Agendas and papers are sent out to all the members of a Committee a week before the meeting date.

Copies are also sent to the Chairman of the Corporation where the Chair is not a member of the Committee.

Copies of all papers are sent to all senior post holders.
- 9) Each Committee (other than the Search Committee) shall ensure that a copy of the agenda, draft Minutes (if approved by the Chair), signed minutes and any Meeting papers shall be made available at the College for inspection by the public, during normal working hours. Items which may be excluded from this include any material relating to a named person employed or proposed to be employed at the College, the Clerk to the Corporation, any matter which, by reason of its nature, the Committee is satisfied should be dealt with on a confidential basis. With regard to the Search Committee, the Agenda is made available for public inspection, but minutes are only made available if the Chair of the Committee agrees to this.
- 10) If any member of a Committee wishes to put an item on the agenda of a Committee it should be discussed with the Clerk and the Chair of the Committee.
- 11) Minutes of all Committees, other than the Search Committee, (whether confirmed or still in draft) are presented to the next meeting of the Corporation.

12) At the next Corporation meeting the Chair of the Committee, or a person nominated by him/her will present the minutes and speak about any papers and recommendations made by the Committee. With regard to the Search Committee, the Chair of the Committee will either present the minutes or give a verbal presentation of the matters discussed at the Meeting.

13) The Committee Chair, in conjunction with the Clerk, may identify which papers should be 'above the line' for specific consideration by the next Corporation meeting and which should be 'below the line' and on the Corporation agenda to be referred to only if specifically raised by a member, and which need not be sent to the Corporation.

An over-riding criterion is the need to keep members aware of all aspects of the work of the Committee.

14) Where possible issues should be considered by an appropriate Committee before being considered by the Corporation.

15) The membership of Committees is considered annually by the Search Committee in consultation with the Chair of each Committee. The Search Committee makes recommendations to the Corporation for the Corporation to approve the membership and Chair of each Committee.

16) The Chair of each Committee must be a member of the Corporation.

17) In accordance with the College's no smoking policy, smoking is not allowed at Committee meetings.

18) The quorum for each Committee is two members of the Committee (unless a larger number has been determined by the Committee and approved by the Corporation) save that there must be one member present who is not the Principal or a member of staff.

19) If the Chair of a meeting is not present at the appointed starting time for the meeting then the members of the Committee present shall appoint one of their number who is not a student member, a staff member or the Principal as Chair until the Chair arrives.

20) The Chair or Vice-Chair of a Committee may resign their respective position at any time by giving notice in writing to the Clerk of the Corporation.

21) It shall be permissible for the Chair of a Committee to convene an emergency Meeting of that Committee by giving less than seven business days prior notice if in the reasonable opinion of the Chair, there are matters which demand urgent consideration.

22) Resolutions at Meetings of a Committee shall be passed on the basis of a majority decision taken by those who attend and vote at a quorate Meeting.

23) Minutes will be taken of all Committee meetings by the Clerk to the Corporation save that where he/she is asked to leave a meeting the Chairman will make arrangements to take minutes and will make them available to other members of the Corporation as appropriate to the circumstances.

24) Where a Committee exercises delegated powers, it is the responsibility of each Committee Chair to specifically draw the attention of the Corporation to any issues which may give rise to concern in the exercise of that delegation. In exercising delegated powers, Committee Chairs should operate within the broad wishes of the Corporation and consult with the Chair or Vice-Chair of the Corporation if there is an area of concern.

25) Papers will be tabled only in exceptional circumstances. Papers will be identified by the agenda item number. Minutes will be prepared of all meetings. Minutes will be sufficiently comprehensive to allow the key issues which led to a conclusion or decision to be ascertained from the minutes without

reference to the original paper. In particular this is to allow the Corporation to be well aware of the work of the Committees.

26) If at any time the Members of a Committee are satisfied that any Member of that Committee: has been absent from Meetings of the Committee for a period longer than 6 consecutive months without the permission of the Committee; or is unable or unfit to discharge the functions of a Member of the Committee, the Committee may by notice to such Member remove him/her from the Committee, provided that the Committee shall forthwith report such removal to the Clerk to the Corporation, who in turn shall, notify the Corporation Members.

Revised 2015



Note on Governor Liability

Governors have at times raised the question of whether they are personally or collectively liable for debts owed by an insolvent college.

There has never been an occasion in the 20 plus years since colleges were incorporated where a case has been taken to law or decided by the courts. Further, there have been no cases alleging wrongful trading or negligence by individual college governors, which are the potential situations that cause most concern. However this issue attracts interest for several reasons:

- The growing financial pressure on colleges.
- The changes brought about in the 2011 Education Act which emphasise the self-governing nature of colleges and the limits on government intervention in their affairs.
- The role of governors in Area Based Reviews.

Because the issue has never been decided in law, this note can only summarise some of the current issues and considerations for FE colleges and is provided for information. It does not constitute legal advice. College corporations or individual governors who want more detailed guidance on their own circumstances need to contact their lawyers.

1. The law as it applies to colleges

Further education colleges had their charitable status confirmed at their incorporation in 1993 but as exempt charities they are regulated by the Secretary of State for Business, Innovation and Skills in his role as the 'Principal Regulator' on behalf of the Charity Commission (Secretary of State for Education in the case of Sixth Form Colleges). The Principal Regulator has a 'compliance objective' to do all they reasonably can to promote compliance by trustees of the charities for which they are responsible with their legal obligations in exercising control and management of the administration of their charity. <https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-charity-commission-and-the-department-for-business-innovation-and-skills>

The Secretary of State for Business, Innovation and Skills effectively exercises these powers through the Skills Funding Agency and the Further Education Commissioner, (Education Funding Agency and Sixth Form Colleges Commissioner in the case of Sixth Form Colleges).



<https://www.aoc.co.uk/sites/default/files/College%20Governance%20A%20Guide%20BIS.pdf>

All FE corporations are exempt charities and the members of the corporation are the charity trustees. Exempt charities are institutions that are established as charities but which are exempt from registration with and direct oversight by the Charity Commission. The trustees of an exempt charity have the same general duties and responsibilities as trustees of other charities and, as such, are expected to comply with charity law. Most types of exempt charity (including FE corporations) are listed in Schedule 3 to the Charities Act 2011.

Financial management and insolvency

With respect to the financial management of the FE corporation, the governing body members as trustees are expected to take steps to ensure the continued viability of the charity and its activities. Trustees have and must accept ultimate responsibility for directing the affairs (including the solvency) of the charity. Should a FE corporation be at risk of insolvency (i.e. its assets are not sufficient to cover its liabilities) it is the responsibility of the individual corporation to secure its own legal advice.

The Charity Commission notes that there are two separate tests for insolvency: the Cash Flow test (i.e. whether the charity can pay its debts as they fall due), and the Balance Sheet test (i.e. whether the value of the liabilities exceeds the value of the assets). Governors are encouraged to apply the principles of both tests. General insolvency law suggests that the directors of a company should aim to reduce debts or restructure a business in preference to liquidation. This principle also applies to charities. Trustees of a charity which fails standard insolvency tests will therefore also be expected to explore reducing or eliminating cash negative activities, downsizing, merging, refinancing or restructuring debt repayments on a more sustainable basis, etc.

General insolvency law also seeks to protect the interests of creditors and the public by including provisions about wrongful trading. Charity Commission guidance is that a charity may continue to trade, but only if great care is taken. It is important that a charity does not continue to trade if they know or ought to have concluded that there will be no reasonable prospect that the charity would avoid becoming insolvent. This is known as “wrongful trading” and could entail personal liability for individual trustees. The “wrongful trading” remedy, available to creditors of an insolvent company under section 214 of the Insolvency Act 1986 will not apply to governors per se. However, it would be prudent for governors to follow the same principles, as by analogy there is a risk that a Court could find that governors, as charity trustees, are personally liable for liabilities if they knew or ought to have concluded that there was no reasonable prospect that a FE corporation could avoid being unable to meet its liabilities in an



insolvency situation, and failed to take “every step” to minimise the potential loss to the corporation’s creditors. In extreme cases, governors, as charity trustees, could be asked to make good any loss to the charity where they are found to be in breach of trust (for failing to act prudently with an appropriate standard of care), which may not be covered by the college’s professional indemnity insurance.

One complexity in assessing the implication of charity law for colleges is the fact that there is no specific administration or insolvency procedure applying to them and the fact that, over the last 20 years, the Skills Funding Agency (and its predecessors) has avoided a situation where this would be necessary by providing a short-term advance of funds or by delaying the recovery of overpaid grant. Until changes in the Education Act 2011 came into force on 1 April 2012, it was possible for SFA to assume an outstanding liability but that is no longer the case. The Government does not expect to underwrite liabilities and expects any purchaser to assume them, though recent cases such as Totton College suggest that, ultimately, Government will underwrite some liabilities to secure a purchase. For the latest Government positions on exceptional financial support see:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467987/BIS-15-577-fe-college-financial-intervention-and-exceptional-financial-support.pdf

<https://www.gov.uk/guidance/sixth-form-college-funding-agreements-for-2015-to-2016-early-intervention-and-prevention>

Negligence

As charity trustees, governors have a duty to act with skill and care to safeguard the assets of the college.

The duty to act with good faith imposes a high standard of care and means that a governor must act honestly and transparently at all times.

No case of negligence has been brought in relation to individual governors and where governors act reasonably, in accordance with the corporation’s powers and their Instruments and Articles, the likelihood of negligence being proved is small.

Clearly understanding the duties of a governor as a corporation member; ensuring sufficient information is available before taking a decision; and that all decisions are fully minuted after taking appropriate professional advice from the clerk or independent (legal) advice, should be sufficient to minimise the risk of any allegation of or action for negligence.

Governing bodies who have already adopted the Code of Good Governance for English Colleges should find themselves in a strong position.



These principles should apply whether the decision is one of finance, merger, provision or engaging in an Area Based Review.

2. Legal relief for governors in certain circumstances

Section 145 of the Learning and Skills Act 2000 provides that if a corporation member is found liable in civil proceedings, they have the right to apply to the Court for relief from liability where the individual has acted honestly and reasonably.

<http://www.legislation.gov.uk/ukpga/2000/21/section/145>

The scope and protection provided by this clause has never been tested.

AoC Governance
November 2015

Briefing

Eversheds' Governance Subscription Service

January 2013

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Personal Liability of Governors

Introduction

We are from time to time asked to advise on the extent to which members of further education and sixth form college corporations may become personally liable as a result of their participation in Corporation business. We hope that the summary below and the list of practical steps which can be taken will be of help and reassurance.

Extent of liability

Members of college corporations are not subject to the Companies or Insolvency Acts. In that sense their potential liability is lower than that of company directors, especially since the "wrongful trading" remedy does not apply to them.

However, Corporation members have a duty as charity trustees to act with skill and care to safeguard the assets of the College, and have a range of governance responsibilities (especially the requirement that they act within their statutory powers). These responsibilities may seem in certain respects more onerous than the duties of company directors, but please see the last two bullet points below.

The governance changes made by the Education Act 2011 do not per se increase the level of care required but they may lead to a college undertaking more complex operations (eg merger) with consequently greater risk. Further, in many such cases there will now be no involvement of SFA/EFA or the Secretary of State. These bodies will no longer be a target for possible litigation, so leaving the corporation potentially more exposed. Inevitably increased freedom comes at the price of greater responsibility. However, the basic responsibilities of corporation members are essentially unchanged. A governor with specialist expertise will be expected to show a level of skill and knowledge reflecting that expertise. However, no member of a corporation has individual responsibility for a particular area, the responsibility being collective. In any event the role of a governor, even one with specialist skill, is to provide strategic oversight rather than undertake operational management, which is the province of the college Principal/CEO.

No statutory insolvency regime applies to the majority of colleges, because they are statutory corporations regulated by the Education Acts. The responsibility in the Articles of Government for ensuring solvency is not defined and probably fixes Corporation members with no greater liability than what already exists under their fiduciary and governance duties. In relation to the position concerning property rights and liabilities on dissolution of a college corporation see the BIS information sheet circulated by the

Association of Colleges in November 2012:

[http://www.aoc.co.uk/filemanager/root/site_assets/governance/governors_briefings/dissolution_of_a_corporation - property rights and liabilities - information sheet nov 12 4 .pdf](http://www.aoc.co.uk/filemanager/root/site_assets/governance/governors_briefings/dissolution_of_a_corporation_-_property_rights_and_liabilities_-_information_sheet_nov_12_4_.pdf)

The duty to act "with good faith" imposes a strict and exacting standard and means that a Corporation member must act honestly and without ulterior motive.

Although the Skills Funding Agency and Education Funding Agency have substantial powers under the financial memorandum/funding agreement, they do not have powers equivalent to a receiver or administrator under company law.

There are certain practical steps which, if taken by Corporation members, should substantially reduce the risks of personal liability. Please see the following list of practical steps which can be taken.

There is a valuable protection made available to Corporation members of colleges by section 145 of the Learning and Skills Act 2000. This provides that if a Corporation member is found liable in civil legal proceedings in respect of something which was done or not done in the course of carrying out the duties of a Corporation member, that individual has the right to apply to the Court for relief from liability where the individual has acted honestly and reasonably. In certain respects this protection could be said to be wider than that available to company directors.

There is a similar right to apply to the Charity Commission for relief from any liability as a charity trustee under section 191 of the Charities Act 2011. Corporation members will recall that compliance of sixth form college corporations with charity law is subject to monitoring by the DfE/EFA which is their designated "principal regulator". Compliance of FE college Corporations with charity law is likely to be monitored in the first instance by the SFA when the SFA is designated principal regulator under the relevant provisions of the 2011 Act, although no date for this to take place has yet been fixed. Even where principal charity law regulators have been appointed enforcement of charity law obligations remains the responsibility of the Charity Commission.

Avoidance of Personal Liability

Practical action

There are a number of practical steps which Corporation members can take to minimise the risk of personal liability. These steps include:-

- being aware of the limitations on the powers of the Corporation and of the need for such powers to be exercised reasonably, with regard to all relevant considerations and without members regarding themselves as bound by any commitments to other persons or bodies;
- being aware of the terms of reference of all committees;
- understanding fully the duties and responsibilities of the Corporation, especially the duties of monitoring and oversight of the College's strategic direction, financial health and quality of provision;
- being aware of the complementary, but different, responsibilities of the Principal/CEO to implement the decisions of the Corporation and organise, manage and direct the College as its chief executive and as its accounting officer;
- being aware in particular of the responsibility of the Principal/CEO and the senior management team to advise the Corporation, and of the role

of the Clerk to Corporation to provide independent constitutional advice to the Corporation;

- ensuring that sufficient financial and other information is available to and properly considered by the Corporation on a regular basis;
- ensuring that at every stage the SFA/EFA are closely consulted, and all necessary approvals are obtained from it, in respect of decisions of a financial nature;
- ensuring that the Corporation takes professional advice wherever appropriate, including independent advice in accordance with the Corporation's policy on obtaining independent professional advice;
- ensuring that all personal, financial and other interests are declared and are routinely recorded in the Corporation's register of interests;
- ensuring that meetings of the Corporation and its committees are quorate and fully and properly minuted;
- ensuring that the audit committee operates in an independent, rigorous and proactive manner;
- ensuring that any functions of the Corporation which are non-delegable are not delegated and any delegable functions are delegated under the Corporation's specific authority;
- making any dissenting views known and ensuring that they are minuted;
- ensuring that adequate risk management arrangements are in place, and that appropriate risk management processes and practices are implemented and periodically reviewed, eg to create detailed audit trails for health and safety activities;
- ensuring that a directors' and officers' insurance policy is maintained in full force and effect with an appropriate level of cover. Insurance should very much be regarded as a safeguard of last resort, since it is not possible to insure against all liabilities.

This briefing is correct as at 31 January 2013. It is intended as general guidance and is not a substitute for detailed advice in specific circumstances.

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