

**COLLEGE CODE OF CONDUCT
FOR THE MANCHESTER COLLEGE
THIRTEENTH EDITION
FURTHER EDUCATION COLLEGES
VERSION**

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COLLEGE CODE OF CONDUCT FOR GOVERNORS

(Approved by the Board of Governors on *****)

1. INTRODUCTION

- 1.1 This Code is intended as a guide, to indicate the standards of conduct and accountability which are expected of governors to enable them to understand their legal and ethical duties and to assist them both in carrying out those duties and in their relationship with the Corporation and the Chief Executive. This Code therefore is aimed at promoting effective, well informed and accountable college governance, and is not intended to be a definitive or authoritative statement of the law or good practice.
- 1.2 In addition to this Code, governors are recommended to familiarise themselves with the source documents listed in the Schedule.
- 1.3 If a governor is in doubt about the provisions of this Code or any of the source documents, the Clerk should be consulted and, if necessary, professional advice should be obtained. However, ultimate responsibility for the appropriateness of conduct as a governor of the College and for any act or omission in that capacity rests with the individual governor.
- 1.4 This Code applies to every committee or working party of Board of Governors and to every subsidiary company or joint venture of the College to which governors may be appointed.
- 1.5 By accepting appointment to the Board of Governors, each governor agrees to accept the provisions of this Code.
- 1.6 Each governor by accepting the provisions of this Code agrees that any breach of the Code by them may lead to the termination of their appointment as a Member in accordance with clause 10 of the Corporation's Instrument and Articles of Government.

2. INTERPRETATION

In this Code: -

- 2.1 'College' means this College and its wider Group;
- 2.2 'College Mission Statement' means the statement referred to at paragraph 3.1 of this Code or such other mission statement as may be agreed by the Board from time to time;
- 2.3 Board of Governors means the further education corporation which was established for the purpose of conducting the College;

- 2.4 'Governor', 'Chair', 'CEO' and 'Clerk' mean respectively the Member of the Board of Governors of the College, the Chair of the Board of Governors, the CEO of the College and the Company Secretary in their capacity as Clerk to the Corporation;
- 2.5 'DBIS' means the Department for Business, Innovation and Skills;
- 2.6 'EFA' means the Education Funding Agency or any successor body;
- [2.9 'FE Code' means the English Colleges' Code of Good Governance issued by the Association of Colleges in April 2015
- 2.9 'SFA' means the Skills Funding Agency or any successor body;
- 2.10 all other definitions have the same meanings as given in the College's Instrument and Articles of Government; and
- 2.11 words importing one gender import any gender.

3. **AIMS AND VALUES**

- 3.1 To improve lives and economic success through learning and skills.
- 3.2 The College Mission Statement, together with the corporate objectives of the College agreed by the Board of Governors from time to time, seek to encapsulate the core purposes and aims of the College. governors should have due regard to these purposes and aims and to the Core Values when conducting the business of the Board and considering the activities and proposed activities of the College.
- 3.3 The Board of Governors recognises its obligations to all those with whom it and/or the College have dealings, including students, employees, suppliers, other educational institutions and the wider community. In particular, the Board is committed to:
- having close regard to the voice of the learner;
 - combating any discrimination within the College on the grounds of the characteristics protected by the Equality Act 2010 ("the 2010 Act") and promoting equality in accordance with its duty under the 2010 Act;
 - engaging with the community which the College serves in order to understand and meet its and
 - observing its duty under the Education (No.2) Act 1986 to take reasonable steps to ensure freedom of speech¹ for members of the

¹ On freedom of speech see the College's Code of Practice on freedom of speech.

College community and visiting speakers and its duty under the Counter Terrorism and Security Act 2015 to have regard to the need, when exercising its functions, to prevent people from being drawn into terrorism².

3.4 The Board is also committed to ensuring that it conducts its business in accordance with the highest ethical standards as set out in more detail in this Code.

4. **DUTIES**

4.1 Governors owe a fiduciary duty to the College. This means that they should show it the highest loyalty and act in good faith in its best interests. Each governor should act honestly, diligently and (subject to the provisions appearing in paragraph 10 of this Code relating to collective responsibility) independently. The actions of governors should promote and protect the good reputation of the College and the trust and confidence of those with whom it deals.

4.2 Decisions taken by governors at meetings of the Board and its committees must not be for any improper purpose or personal motive. Decisions taken must always be for the benefit of the College, its students and staff and other users of the College and must be taken with a view to safeguarding public funds. Accordingly, governors must not be bound in their speaking and voting by mandates given to them by other bodies or persons (including but not limited to the bodies that elected them).

4.3 Governors must observe the provisions of the College's Instrument and Articles of Government and in particular the duty to give immediate notice to the Clerk should they become disqualified from continuing to hold office and also the responsibilities given to the Board of Governors by the College's Articles of Government. Those responsibilities, including a list of "reserved" responsibilities which are so important that they must not be delegated, are set out in Appendix 3.

4.4 Governors should comply with the Standing Orders and terms of reference of the Board of Governors and its committees to ensure that the Board of Governors conducts itself in an orderly, fair, open and transparent manner. Governors must keep those Standing Orders and terms of reference under periodic review.

4.5 Governors should also have regard to the different, but complementary, responsibilities given to the CEO. The responsibilities given to the CEO by the College's Articles of Government are set out in Appendix 4. Whereas it is the Board's function to decide strategic policy and overall direction and to monitor

² On this point see the statutory guidance issued by the Home Office on compliance with the duty in s.26 of the Counter Terrorism and Security Act 2015: <https://www.gov.uk/government/publications/prevent-duty-guidance>

the performance of the CEO and any other senior post holders, it is the CEO's role to implement the Board's decisions, and to manage the College's affairs within the budgets and framework fixed by the Board. Governors should work together so that the Board and the Chief Executive perform their respective roles effectively.

- 4.6 Governors should refer to the Clerk for advice relating to the governance functions which are set out in Appendix 4 and have regard to the Clerk's independent advisory role.

5. **STATUTORY ACCOUNTABILITY**

- 5.1 Governors are collectively responsible for observing the duties set out in the Financial Memorandum which the College has entered into with the SFA and the Funding Agreement which the College has entered into with the EFA as a condition of receiving public funds. A summary of some of the more important requirements of the Financial Memorandum and of the Funding Agreement with the EFA is set out in Appendix 5.

- 5.2 Although the SFA is the main provider of funds to the College, governors should note that they are also responsible for the proper use of income derived from other sources, such as the Higher Education Funding Council for England (HEFCE) and the European Union (EU) and for the control and monitoring of expenditure of such income, in order to meet the requirements of the relevant funding body and public audit. Where funding is received directly from HEFCE the College will have a memorandum of assurance and accountability with HEFCE which sets out the basis on which such funding is provided. Where HEFCE funding is received indirectly via a collaboration with a HEFCE funded institution such funding will be subject to obligations contained in the memorandum of co-operation between the College and that institution.

- 5.3 As accounting officer for the Agency, its Chief Executive is directly responsible and accountable to Parliament for ensuring that the uses to which the SFA puts its funds are consistent with the purposes for which the funds were given and comply with the conditions attached to them. The CEO, as accounting officer for the College, is also directly responsible and accountable to Parliament, through the Committee of Public Accounts, for the effective stewardship by the College of public funds. The CEO may be required to appear before the Committee of Public Accounts, alongside the Chief Executive of Skills Funding, to give an account of the use made by the College of such funds. The Board of Governors is accountable to Parliament for ensuring the financial health of the College, and to the Courts for ensuring that the College is conducted in accordance with the Education Acts and the general law.

6. **PUBLIC SERVICE VALUES**

Although further education corporations are classified as part of the private not for profit sector for government accounting purposes, they remain public bodies in many legal contexts. In particular, public service values are at the heart of the further education service. High standards of personal and corporate conduct, based on the principles set out in Appendices 1 and 2 of this Code, and the recognition that students and other users of the College's services come first, are a requirement of being a governor and should underpin all decisions taken by the Board of Governors.

7. **SKILL, CARE AND DILIGENCE**

A governor should in all his or her work for the College exercise such skill as he or she possesses and such care and diligence as would be expected from a reasonable person in the circumstances. This will be particularly relevant when governor act as agents of the College, for example, when functions are delegated to a committee of the governor or to the Chair. Governors should be careful to act within the terms of reference of any committees on which they serve.

8. **POWERS**

Governors are responsible for taking decisions which are within the powers given to the Board by Parliament under sections 18 and 19 of the Further and Higher Education Act 1992, as amended. A summary of those powers is set out in Appendix 6. If a Governor thinks that the Board is likely to exceed its powers by taking a particular decision, he or she should immediately refer the matter to the Clerk for advice.

9. **CONFLICTS OF INTEREST**

9.1 Like other persons who owe a fiduciary duty, governors should seek to avoid putting themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the Board of Governors. They should not allow any conflict of interest to arise which might interfere with the exercise of their independent judgement.

9.2 Governors are reminded that under the College's Instrument of Government and the general law they must disclose to the Board any direct or indirect financial interest they have, or may have, in the supply of work to the College or the supply of goods for the purposes of the College, or in any contract or proposed contract concerning the College, or in any other matter relating to the College or any other interest of a type specified by the Corporation in any matter relating to the College, or any duty which is material and which conflicts or may conflict with the interests of the Board.

- 9.3 If an interest of any kind (including an interest of a spouse, partner or business associate of a governor or of a close relative of the governor or his or her spouse, partner or business associate) is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a governor's independent judgement, then: -
- 9.3.1 the interest, financial or otherwise, should be reported to the Clerk;
 - 9.3.2 the nature and extent of the interest should be fully disclosed to the Board before the matter giving rise to the interest is considered;
 - 9.3.3 if the governor concerned is present at a meeting of the Corporation, or any of its committees, at which such supply, contract or other matter constituting the interest is to be considered, he or she should: -
 - (a) not take part in the consideration or vote on any question with respect to it and shall not be counted in the quorum for that meeting; and
 - (b) withdraw from that Board or committee meeting where required to do so by a majority of the governors or present at the meeting.
- 9.4 For the purposes of clause 9.3 "close relative" includes but is not limited to a father, mother, brother, sister, child, grandchild and step-father/mother/brother/sister/child.
- 9.5 Where it is proposed that the Corporation should grant a member a financial interest (such as a contract for the supply of goods or services) the Corporation must observe the requirements of the Charities Act 2011. The Corporation may wish to take legal advice before granting such an interest to a member.
- 9.6 Governors must not receive gifts, hospitality or benefits of any kind from a third party which might be in breach of the Bribery Act 2010 and the College's anti-bribery policy and the College's policy on receiving gifts or be seen to compromise their personal judgement or integrity. Any offer or receipt of such gifts, hospitality or benefits should immediately be reported to the Clerk.
- 9.7 The Clerk will maintain a Register of Governors' Interests which will be open for public inspection. Governors must disclose routinely to the Board all business interests, financial or otherwise, which they or persons associated with them may have, and the Clerk will enter such interests on the Register. Governors must give sufficient details to allow the nature of the interests to be understood by enquirers. Governors should inform the Clerk whenever their circumstances change and interests are acquired or lost. In deciding whether an interest

should be disclosed, Governors should have regard to the meaning given to “interest” in paragraphs 9.3 and 9.5 of this Code.

10. COLLECTIVE RESPONSIBILITY

10.1 The Board operates by governors taking majority decisions in a corporate manner at quorate meetings, including meetings held by telephone and by alternative methods such as written resolutions, in both cases only if so provided for in the Instrument and Articles. Therefore, a decision of the Board, even when it is not unanimous, is a decision taken by the governors collectively and each individual governor has a duty to stand by it, whether or not he or she was present at the meeting of the Board when the decision was taken.

10.2 If a governor disagrees with a decision taken by the Board of Governors his or her first duty is to have any disagreement discussed and minuted. If the governor strongly disagrees, he or she should consult the Chair and, if necessary, then raise the matter with the Board when it next meets. If no meeting is scheduled, the governor should refer to the power of the Chair or of any five governors under the College’s Instrument of Government to call a special meeting and, if appropriate, exercise it, requesting the Clerk to circulate the governor’s views in advance to the other governors. Alternatively, as a final resort, the governor may decide to offer his or her resignation from office, after consulting the Chair.

11. OPENNESS AND CONFIDENTIALITY

11.1 Because of the Board of Governors’ public accountability and the importance of conducting its business openly and transparently, governors should ensure that, as a general principle, students and staff of the College have free access to information about the proceedings of the governors. Accordingly, agendas, minutes and other papers relating to meetings of the Board are normally available for public inspection when they have been approved for publication by the Chair.

11.2 There will be occasions when the record of discussions and decisions will not be made available for public inspection; for example, when the Board considers sensitive issues or named individuals and for other good reasons. Such excluded items will be kept in a confidential folder by the Clerk, and will be circulated in confidence to governors save for those Members who have a conflicting interest in the particular sensitive matter. Some confidential items are likely to be of a sensitive nature for a certain period of time only (for example information relating to a proposed commercial transaction or collaboration with another institution). The Board of Governors should specify how long such items should be treated as confidential or, if this is not possible, such items should be regularly reviewed to consider whether the confidential status should be

removed or whether the public interest in disclosure outweighs that confidential status and the item made available for public inspection. When considering such issues the Board of Governors must also consider the College's publication scheme issued under the Freedom of Information Act 2000.

- 11.3 However, staff and student governors have no right of access to minutes dealing with matters in respect of which they are required to withdraw from meetings under the College's Instrument of Government.
- 11.4 It is important that the Board of Governors and its committees have full and frank discussions in order to take decisions collectively. To do so, there must be trust between governors with a shared corporate responsibility for decisions. Governors should keep confidential any matter which, by reason of its nature, the Chair or members of any committee of the Board of Governors are satisfied should be dealt with on a confidential basis.
- 11.5 Governors should not make statements to the press or media or at any public meeting relating to the proceedings of the Board or its committees without first having obtained the approval of the Chair or, in his or her absence, the Vice Chair. It is unethical for governors publicly to criticise, canvass or reveal the views of other governors which have been expressed at meetings of the Board or its committees.

12. **COMPLAINTS**

- 12.1 In order to ensure that the affairs of the College are conducted in an open and transparent manner and that the College is accountable for its use of public funds but also to its employees, its students and the community it serves, it is important for there to be appropriate complaints procedures in place and for these to be well publicised. Governors are reminded of their specific responsibility under the Articles of Government to make rules specifying the procedures in accordance with which employees may seek redress of any grievances relating to their employment, of the importance of having formal complaints procedures in place to handle issues raised by students, former students and third parties and of the legal requirement to have a whistle blowing procedure in place.
- 12.2 Under the SFA's Financial Memorandum with colleges (Part 2, clause 19.4), students, employers and other third parties have a right to make a complaint to the SFA in respect of the College or of any of its decisions. Governors in particular are reminded that under the SFA's Procedure for dealing with complaints about Providers of Education and Training (July 2014) the SFA:

- *can* investigate complaints about quality or management of learning provision, undue delay or non-compliance with published procedures, poor administration by the Provider, equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter through the court or tribunals or other organisations), health and safety concerns and complaints made by learners following HE courses in FE colleges;
- *will not* investigate complaints about examination results or curriculum content where a more appropriate form of redress would be the examining body or Ofqual, individual employment issues, contractual disputes, save where this relates to a course funded by a 24+ Advanced Learning Loan, or matters subject of legal action or where legal proceedings are the most appropriate way of resolving the dispute.

13. **ATTENDANCE AT MEETINGS**

A high level of attendance at meetings of the Board of Governors (either in person or by electronic means; or through response to written resolutions) is expected so that governors can perform their functions properly.

14. **GOVERNANCE DEVELOPMENT**

- 14.1 The Board of Governors shall seek to ensure that all governors are appointed on merit, in accordance with an open selection procedure carried out by the Board of Governors' Appointments Committee. The Board of Governors should have regard to the provisions relating to the membership of the Board in the College's Instrument of Government, the need to combat discrimination and to promote equality, and the need to make available a range of necessary skills and experience to ensure that the Corporation carries out its functions under the College's Articles of Government.
- 14.2 Governors must obtain a thorough grounding in their duties and responsibilities by participating in the College's governance induction and training programmes, including regular refresher workshops.
- 14.3 In order to promote more effective governance, governors will carry out an annual review of the performance by the Board of Governors of its duties and responsibilities, as part of a continuing and critical process of self-evaluation.

SCHEDULE - List of source documents

1. the College's Instrument of Government;
2. the College's Articles of Government;
3. the Standing Orders and terms of reference of the Board of Governors and its committees;
4. the Financial Memorandum entered into by the College with the SFA and the Funding Agreement entered into by the College with the EFA;
5. the College's Mission Statement and corporate objectives;
6. the College's Strategic Plan;
7. the College's policies that extend to Corporation members,
8. the principles laid down by the Committee on Standards in Public Life (Nolan Committee) for those holding public office, namely:
 - selflessness;
 - integrity;
 - objectivity;
 - accountability;
 - openness;
 - honesty; and
 - leadership.
9. the Joint Audit Code of Practice issued by the SFA and the EFA;
10. the English Colleges' Code of Good Governance

APPENDIX 1

The Seven Principles of Public Life

The following is an extract from the Second Report of the Nolan Committee on Standards in Public Life, May 1996

SELFLESSNESS

Holders of public 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.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

OBJECTIVITY

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

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office 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.

HONESTY

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

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.