

CODE OF CONDUCT

(Approved by the Corporation on 26 September 2001; amended 1 January 2008)

1. INTRODUCTION

- 1.1 This Code applies to every committee, working party or other subsidiary body of the Corporation to which Members may be appointed. It indicates the standards of conduct which are expected of them and is intended to enable them to understand their legal duties and to assist them both in carrying out their duties and in their relationship with the Corporation and the Principal. This Code is therefore aimed at promoting effective and well informed college governance and is not intended to be a definitive or authoritative statement of the law. The “Seven Principles of Public Life” identified by the Nolan Committee on Standards in Public Life form part of the Code and are set out in Annex 1 hereto.
- 1.2 In addition to this Code, Members are recommended to familiarise themselves with the following which will be supplied to them on appointment: -
- a) the College’s Instrument of Government
 - b) the College’s Articles of Government
 - c) the College’s Strategic Plan
 - d) the College’s Governance Handbook
- 1.3 Annexes 1, 2 3 and 4 are attached to this Code for easy reference. They should not be read as an exhaustive statement of duties, powers or provisions, and Members should refer to the source documents listed above. If a Member is in doubt about the provisions of any of these documents, the Clerk should be consulted and, if necessary, legal advice should be obtained. However, ultimate responsibility for the appropriateness of conduct as a Member of a corporate body and for any act or omission in that capacity rests with the individual Member.
- 1.4 Acceptance of appointment as a Member of the Corporation will be construed as acceptance of this Code.

2 INTERPRETATION

In this Code, “College” means Hadlow College, “Corporation” means the Corporation as defined in the Instrument of Government and “Member”, “Chairman”, “Principal” and “Clerk” mean respectively a Member of the Corporation, the Chairman, the Principal and the Clerk for the time being of the Corporation. All other definitions have the same meanings as given in the College’s Instrument and Articles of Government, and words importing one gender will import any gender.

3 DUTIES

- 3.1 Members owe a fiduciary duty to the College. This means that they should show it the highest loyalty and act in good faith in its interests. Each Member should act honestly, diligently and, subject to the provisions appearing in paragraph 7 of this Code relating to collective responsibility, independently.
- 3.2 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. The “benefit of the College” can be taken to mean, first and foremost, the interests of its students and other users of the College’s services, and the safeguarding of public funds. Members should have regard to those interests and must not allow any sectional interest to take precedence. In particular, Members are not appointed as “representatives” or “delegates” of any outside body, and may not lawfully be bound by mandates given by others.
- 3.3 Members must observe the provisions of the College’s Instrument and Articles of Government and in particular the responsibilities given to the Corporation by Article 3(1) of 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 Annex 2.
- 3.4 Members should also have regard to the different, but complementary, responsibilities of the Principal as the College’s Chief Executive. Whereas it is the Corporation’s function to decide strategic policy and overall direction and to monitor the performance of the Principal and any other senior post holders, it is the Principal’s role to implement the Corporation’s decisions and to manage the College’s affairs within the budgets and framework fixed by the Corporation. Members should work together so that the Corporation and the Principal perform their respective roles effectively.
- 3.5 Members are collectively responsible for observing the duties set out in the Financial Memorandum which the College has entered into with the LSC as a condition of receiving public funding. A summary of some of the more important requirements of the Financial Memorandum are set out in Annex 3.
- 3.6 Although the LSC is the main provider of funds to the College, Members 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), Learning and Skills Council (LSC) and the European Union (EU).

4 SKILL, CARE AND DILIGENCE

A Member should in all his work for the College exercise such skill as he possesses and such care and diligence as would be expected from a reasonable person in the circumstances. This will be particularly

relevant when Members act as agents of the College, for example, when functions are delegated to a committee of the Corporation or to the Chairman. Members should be careful to act within the terms of reference of any committees on which they serve. They should also take care in studying agendas and other papers provided for them in advance of Corporation and committee meetings and ensure that they are fully briefed before making decisions.

5 POWERS

Members are responsible for taking decisions within the powers given to the Corporation by the Learning and Skills Act 2000. A summary of those powers is set out in Annex 4. If a Member thinks that the Corporation is likely to exceed its powers by taking a particular decision, he should immediately refer the matter to the Clerk for advice.

6 CONFLICTS OF INTEREST

- 6.1 Like other persons who owe a fiduciary duty, Members 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 Corporation. They should not allow any conflict of interest to arise which might interfere with the exercise of their independent judgement.
- 6.2 Members are reminded that under Clause 11(1) of the College's Instrument of Government, they must not take or hold any interest in any of the College's properties or receive any remuneration for their services (save as a Member of the College's staff) without the written approval of the Secretary of State for Education.
- 6.3 Members are also reminded that under Clause 11(2) of the College's Instrument of Government they must also disclose to the Corporation any financial interest which they have, or may have, in:
 - (a) the supply of work or goods to or for the purposes of the College
 - (b) any contract or proposed contract concerning the College
 - (c) any other matter relating to the College
- 6.4 However, an interest does not have to be financial for the purposes of disclosure and examples of non-financial interests are given on the reverse of the Register of Interests form. If it is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a Member's independent judgement, then the interest, financial or otherwise, should:
 - (a) be reported to the Clerk, and
 - (b) be fully disclosed to the Corporation before the matter giving rise to the interest is considered

Members should withdraw from that part of the meeting at which the matter giving rise to the interest is considered, and on no account may

vote in relation to the matter.

- 6.5 Members must not receive gifts, hospitality or benefit of any kind from a third party which might 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.
- 6.6 The Clerk will maintain a Register of Members' interests which will be open for public inspection. Members must disclose routinely to the Corporation all business interests, financial or otherwise, which they or (so far as they are aware) their spouses or partners, children or other close relatives may have and the Clerk will enter such interests on the Register. Members should inform the Clerk whenever their circumstances change and interests are acquired or lost. In deciding whether an interest should be disclosed, Members should have regard to the meaning given to "interest" in paragraph 6.4 of this Code.

7 COLLECTIVE RESPONSIBILITY

- 7.1 The Corporation operates by Members taking majority decisions at quorate meetings. Therefore, a decision of the Corporation, even when it is not unanimous, is a decision taken by the Members collectively and each individual Member has a duty to stand by it, whether or not he was present at the meeting of the Corporation when the decision was taken.
- 7.2 If a Member disagrees with a decision taken by the Corporation, his first duty is to have any disagreement discussed and minuted. If the Member strongly disagrees, he should consult the Chairman and, if necessary, then raise the matter with the Corporation when it next meets. If no meeting is scheduled, the Member should refer to Clause 12(4) of the College's Instrument of Government as to the power to call a special meeting and, if appropriate, exercise it, requesting the Clerk to circulate the Members' views in advance to the other Members. Alternatively, the Member may decide to offer his resignation from office, after consulting the Chairman.

8 CONFIDENTIALITY

- 8.1 Because of the Corporation's public accountability, Members should ensure that, as a general principle, students and staff of the College have free access to information about proceedings of the Corporation. Accordingly, agendas, minutes and other supporting papers relating to meetings of the Corporation are normally available for public inspection when they have been approved for publication by the Chairman.
- 8.2 There will be occasions when the record of discussions and decisions will not be made available for public inspection, for example, when the Corporation considers sensitive issues or named individuals and for other good reasons. Such excluded items will be kept confidentially by the Clerk and will be circulated in confidence to Members. However,

staff and student Members may not have access to minutes dealing with matters in respect of which they are required to withdraw from meetings under Clauses 14(4), (7) or (8) of the College's Instrument of Government.

- 8.3 It is important that the Corporation and its committees have full and frank discussions in order to take decisions collectively. To do so, there must be trust between Members, with a shared corporate responsibility for decisions. Members should keep confidential any matter which, by reason of its nature, the Chairman or the Members or the Chairman or Members of any committee of the Corporation are satisfied should be dealt with on a confidential basis.
- 8.4 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 without first having obtained the approval of the Chairman or, in his absence, the Vice Chairman. It is unethical for Members publicly to criticise, canvas or reveal the views of other Members which have been expressed at meetings of the Corporation or its committees.

9 ATTENDANCE AT MEETINGS

A high level of attendance at meetings of the Corporation is expected so that Members can perform their functions properly.

10 GOVERNANCE DEVELOPMENT

- 10.1 Members are encouraged to obtain a thorough grounding in their duties and responsibilities by participating in the College's governance induction and training programmes, including regular refresher workshops.
- 10.2 In order to promote more effective governance, Members will carry out an annual review of the performance by the Corporation of its duties and responsibilities, as part of a continuing process of self- evaluation.

11 EQUALITY OF OPPORTUNITY

- 11.1 The Corporation is totally committed to the principles of equality of opportunity in everything that we do. All members are required to abide at all times to the principles of equality of opportunity.

AS A MEMBER OF THE CORPORATION I AGREE TO OBSERVE THIS CODE OF CONDUCT TO THE BEST OF MY ABILITIES

Signature: Date:

THE NOLAN COMMITTEE

THE SEVEN PRINCIPLES OF PUBLIC LIFE

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.

SUMMARY OF RESPONSIBILITIES OF CORPORATION MEMBERS

Responsibilities

Under Article 3(1) of the College's Articles of Government the Corporation is responsible for:

- a) the determination and periodic review of the educational character and mission of the College and for 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 College and the Corporation and for safeguarding their assets
- d) approving annual estimates of income and expenditure
- e) the appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts, and
- f) setting a framework for the pay and conditions of service of all other staff.

"Senior post" means the post of Principal and such other posts as the Corporation determines for the purposes of the Articles.

Article 5(7) of the Articles of Government prohibits the Corporation from delegating the following:

- a) the determination of the educational character and mission of the College
- b) the approval of the annual estimates of income and expenditure
- c) ensuring the solvency of the College and the Corporation and the safeguarding of their assets
- d) the appointment or dismissal of the Principal, holder of a senior post, or the Clerk to the Corporation
- e) the appointment or dismissal of the Clerk
- f) the modifying or revoking of the Articles of Government

SUMMARY OF THE MAIN PROVISIONS OF THE FINANCIAL MEMORANDUM OF THE FURTHER EDUCATION FUNDING COUNCIL

The Department for Education & Skills (DfES) requires the LSC to enter into an agreement set out in a financial memorandum with the College for the purpose of regulating its relationship in financial and related matters and setting out the terms and conditions on which public funds will be paid by the LSC to the College.

The Memorandum is divided into two parts. Part 1 contains the general terms and conditions under which the LSC funds Corporations and a summary of the main provisions is given below. Part 2 is specific to each College and includes:

- ◆ the annual notification of the main allocation payable to the Corporation
- ◆ the educational provision which the College has undertaken to deliver
- ◆ individual limits on borrowing and property transactions, if applicable
- ◆ any specific conditions which relate to the financial year
- ◆ any specific conditions which relate to the particular college

The main points to note in relation to Part 1 are as follows:

Duties and responsibilities

In addition to the duties and responsibilities listed in Annex 2, the following are included in the financial memorandum:

- ◆ ensuring that the financial planning and other management controls, including controls against fraud and theft, applied by the College are appropriate and sufficient to safeguard public funds
- ◆ approving the appointment of external auditors and an internal audit service
- ◆ securing the efficient, economical and effective management of all the College's resources and expenditure, capital assets and equipment, and staff, so that the investment of public funds in the College is not put at risk
- ◆ ensuring that appropriate financial considerations are taken into account at all stages in reaching decisions and in their execution
- ◆ planning and conducting its financial and academic affairs so that

its total income is not less than sufficient, taking one year with another, to meet its total expenditure

- ◆ making appropriate arrangements to appoint a Clerk with the necessary expertise to fulfil the duties of the post
- ◆ approving an annual budget before the start of each financial year
- ◆ determining tuition fees
- ◆ approving rules and procedures relating to staff grievances, conduct, suspension, dismissal and appeals
- ◆ approving the students' union constitution and rules relating to the conduct of the students
- ◆ acting only within the powers given through Acts of Parliament

Virement

The Corporation must use any funds earmarked by the LSC solely for the purposes for which they have been earmarked. The Corporation may apply its main allocation to capital purposes (but not vice versa).

Land and Buildings Transactions

The LSC requires the Corporation to obtain its consent for land and buildings transactions where the total cost exceeds £1,000,000 or 5 per cent of the College's annual revenue, whichever is the lower. Where the transaction is a disposal or the renting or leasing of property to a third party the College should seek to secure the best possible value for money.

Where the Corporation is proposing to dispose of or lease or rent, land and buildings which have been acquired by exchequer funds the LSC may require the College to surrender some or all of the proceeds. Colleges should seek independent professional advice when disposing of land and buildings.

Borrowing and Leasing

The LSC gives general consent for the Corporation to borrow up to 5 per cent of its annual revenue on an unsecured basis.

The LSC gives general consent for the Corporation to borrow up to a cumulative maximum of £1,000,000 or 5 per cent of its annual revenue, whichever is the lesser, on a secured basis in order to finance the construction or purchase of buildings provided that only the buildings so purchased or constructed are offered as security.

Accounts and Financial Management

The College must keep proper accounts and accounting records in respect of each accounting year in accordance with the published requirements of the LSC.

The College should notify the LSC in writing if at any time there is a significant deterioration in its financial position.

Audit

The College must arrange external and internal audit in accordance with the requirements and guidance published by the LSC.

Requirement to inform the LSC

The College must notify the LSC in writing of any of the following changes:

- ◆ the intention to carry forward a major change in the nature or location of the College
- ◆ the vacating and the filling of the following positions:
 - Chairman of the Corporation
 - Principal
 - Clerk

SUMMARY OF THE POWERS OF THE CORPORATION

Principal Powers

Under Section 18 of the Further and Higher Education Act 1992 the Corporation may:-

- a) provide further and higher education
- b) supply goods and services in connection with their provision of education

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

Supplementary Powers

Under Section 19 of the 1992 Act a further education Corporation may do anything which appears to it to be necessary and 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 their principal powers
 - (ii) contracts with respect of 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 the power to carry on or to meet any liability transferred to them under Sections 23 to 27 of the 1992 Act (ie when the College achieved its corporate independence on 1 April 1993) 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. This power may not be exercised without the consent of the Learning & Skills Council; (LSC) which may give its consent for a particular borrowing or for borrowing of a particular class
- d) power to invest any sums not immediately required for the purposes of carrying on any activities they have the power to carry on

- e) power to accept gifts of money, land or other property and apply it, or hold and administer it on trust, for any of those purposes; and
- f) power to do anything incidental to the conduct of an educational institution providing further and higher education, including founding scholarships or exhibitions, making grants and giving prizes.

The Corporation may also provide facilities of any description (including Corporationing accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties and disabilities) which appear to be necessary or desirable for the purpose of or in connection with the carrying out of the principal powers.

The powers conferred by Section 19 of the Act are known as “supplementary powers”