

MOULTON COLLEGE

CODE OF CONDUCT FOR

CORPORATION MEMBERS

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CODE OF CONDUCT FOR CORPORATION MEMBERS

(Made by the Corporation on 23/3/95, reviewed and amended on 25/11/98, 31/3/02, 26/7/06, 30/7/08, 27/7/11, 24/7/12, 20/6/13 and 28/7/16; 3/24, 3/7/25)

1. <u>INTRODUCTION</u>

1.1 This Code is intended as a guide for Corporation Members, to indicate the standards of conduct which are expected of them, 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.

As members of a Corporation within the public sector, Governors accept that they will operate within the principles laid down by the Nolan Committee (detailed in Appendix 3) for those holding public office, namely:-

Selflessness
Integrity
Objectivity
Accountability
Openness
Honesty
Leadership

- 1.2 In addition to this Code, Members are recommended to familiarise themselves with the following which are available on the governor teams channel or can be requested from the Head of Governance:
 - a) the College's Instrument of Government
 - b) the College's Articles of Government
 - c) the College's Strategic Plan
 - d) the Corporation's Standing Orders and terms of reference of its committees
 - e) The AoC Code of Good Governance as amended from time to time;
 - f) The College's policies that extend to Corporation Members, including the College's policies on equal opportunities and freedom of speech, the anti-bribery policy as required by the Bribery Act 2010, the College's policy on receiving gifts, the College's policy on conflicts of interest, the College's policy on safeguarding learners and the College's policy on preventing people from being drawn into terrorism;

- g) The Accountability Agreement (Part 1 accountability framework and Part 2 annual Accountability Statement);
- h) The Post 16 Audit Code of Practice issued by the ESFA;
- i) Managing Public Money and associated guidance;
- j) The Charity Governance Code as amended from time to time;
- k) The Department for Education's Further education corporations and sixth-form college corporations; guidance guide as amended from time to time;
- I) OfS memorandum of co-operation.

Appendices 1, 2 and 3 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 Head of Governance 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.

- 1.3 This Code applies to every committee or other subsidiary body of the Corporation to which Members may be appointed.
- 1.4 By accepting appointment to the Corporation, each Corporation Member agrees to abide by the provisions of this Code.
- 1.5 If a Corporation Member is in doubt about the provisions of this Code or any of the source documents, the Head of Governance should be consulted and, if necessary, professional advice should be obtained. Ultimate responsibility for the appropriateness of conduct as a Corporation Member of the College and for any act or omission in that capacity rests with the individual Corporation Member.
- 1.6 Each Corporation Member 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 the Standing Orders for the Corporation and its Committees

2. DEFINITIONS

In this Code the following expressions shall have the following meanings:-

- 2.1 "Accountability Agreement" means the accountability framework document used by the DfE to set out National skills priorities as well as the essential terms and conditions that providers are required to meet in return for funds;
- 2.2 **"Accountability Statement"** means the annual statement of curriculum target areas required to be signed off by the Corporation as a condition of receiving funding;
- 2.3 **"Code of Good Governance"** the Code of Good Governance for English Colleges issued by the AoC Governors' Council in March 2015, as updated January 2019 and subsequently September 2023.
- 2.4 "College" Moulton College;
- 2.5 **"College Mission Statement"** the statement set out at paragraph 3.1 of this Code or such other mission statement as may be agreed by the Corporation from time to time;
- 2.6 **"Corporation"** the college corporation which was established and designated by the Secretary of State for the purpose of conducting the College;
- 2.7 "Corporation Member", "Chair", "Group CEO & Executive Principal", "College Principal" and "Head of Governance" respectively the Member of the Corporation of the College, the Chair of the Corporation, the Group CEO & Executive Principal of the College, Principal of the College and the Head of Governance who serves as Head of Governance of the Corporation;
- 2.8 "DfE" the Department for Education;
- 2.9 "ESFA" the Education and Skills Funding Agency or any successor body;
- 2.10 "Secretary of State" the Secretary of State for Education;
- 2.11 "Standing Orders" mean any standing orders created by the Corporation from time to time.
- 2.12 All other definitions have the same meanings as given in the College's Instrument and Articles of Government and words importing one gender import any gender.

3. <u>DUTIES</u>

- 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 9 of this Code relating to collective responsibility, independently. The actions of Corporation Members should promote and protect the good reputation of the College and the trust and confidence of those with whom it deals.
- 3.2 Decisions taken by Corporation Members 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. Members are not appointed as 'representatives' or 'delegates' of any body, (including bodies that elected them), and may not lawfully be bound in their speaking or voting 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 duty to give immediate notice to the Head of Governance should they become disqualified from continuing to hold office and also the responsibilities given to the Corporation by Article 3 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 Appendix 1.
- 3.4 Members should also have regard to the different, but complementary, responsibilities given to 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 Corporation Members should comply with the Corporation Standing Orders and terms of reference of its committees to ensure that the Corporation conducts itself in an orderly, fair, open and transparent manner. Corporation Members must keep those Standing Orders and terms of reference under periodic review.
- 3.6 Members should have regard to the Head of Governance's independent advisory role and refer to the Head of Governance to the Corporation for advice relating to the governance functions in relation to the Corporation and:
 - The operation of its powers;
 - Procedural matters;
 - The conduct of its business; and,
 - Matters of governance practice.

4. VALUES AND BEHAVIOURS

- 4.1 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 Appendix 3, and the recognition that students and other users of the College's services come first, are a requirement of being a Corporation Member and should underpin all decisions taken by the Corporation.
- 4.2 Members shall, at all times, act with the utmost courtesy, decency, and respect in all matters relating to their duties. They shall maintain a high standard of professionalism, treating all individuals, including beneficiaries, fellow governors, and any third parties, with fairness, respect, and dignity. Governors shall avoid any behaviour that is vexatious, disrespectful, discriminatory, or harmful to others and shall strive to foster an environment of cooperation, trust, and mutual respect
- 4.3 Members shall be mindful of the potential workloads on staff and students when making any request of the executive team.

5.STATUTORY ACCOUNTABILITY

- 5.1 Corporation Members are collectively responsible for observing the duties set out in the Accountability Agreement which the College has entered into with the ESFA as a condition of receiving public funds.
- 5.2 From November 2022 Colleges were reclassified into the central government sector. This decision had immediate effect. Following the reclassification, Colleges (and their subsidiaries) are now part of central government. They continue to be self-governing charities regulated by the Secretary of State but are now subject to the framework for financial management set out in the Managing Public Money (MPM). MPM and its associated guidance sets out requirements for everyone working in central government to manage and deploy public resources responsibly in the public interest.
- 5.3 Although the ESFA is the main provider of funds to the College, Corporation Members should note that they are also responsible for the proper use of income derived from other sources, such as the Office for Students (OfS) 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 OfS the College will have a funding agreement with OfS, as set out in the OfS's terms and conditions of funding, which confirms the basis on which such funding is provided. Where OfS funding is received indirectly via a collaboration with an OfS funded institution such funding will be subject to obligations contained in the memorandum of co-operation between the College and that institution.
- As accounting officer for the ESFA, its Chief Executive is directly responsible and accountable to Parliament for ensuring that the uses to which the ESFA puts its funds are consistent with the purposes for which the funds were given and comply with the conditions attached to them. The Group CEO & Executive Principal, as accounting officer for the College, is also directly responsible and accountable to Parliament, through the Committee of Public Accounts ("PAC"), for the effective stewardship by the College of public funds. The Group CEO & Executive Principal may be required to appear before the PAC, alongside the ESFA's Chief Executive, to give an account of the use made by the College of such funds. The Corporation 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. SKILL, CARE AND DILIGENCE

6.1 A Member should in all their work for the College exercise such skill as they possess, 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 the Chair. Members should be careful to act within the terms of reference of any Committees on which they serve.

7. POWERS

7.1 Members are responsible for taking decisions which are within the powers given to the Corporation by Sections 18 and 19 of the Further and Higher Education Act 1992, as amended. A summary of those powers is set out in Appendix 2. If a Member thinks that the Corporation is likely to exceed its powers by taking a particular decision, he or she should immediately refer the matter to the Head of Governance for advice.

8. CONFLICTS OF INTEREST

- 8.1 Like other persons who owe a fiduciary duty, Corporation 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.
- 8.2 Corporation Members are reminded that under the College's Instrument of Government, and the general law, they must disclose to the Corporation 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 Corporation.
- 8.3 If an interest of any kind (including an interest of a spouse, partner or business associate of a Corporation Member or of a close relative of the Corporation Member or their spouse, partner or business associate) is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a Corporation Member's independent judgement, then:-
 - 8.3.1 the interest, financial or otherwise, should be reported to the Head of Governance;
 - the nature and extent of the interest should be fully disclosed to the Corporation before the matter giving rise to the interest is considered;
 - 8.3.3 if the Corporation Member 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, they should:-
 - 8.3.4 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

- 8.3.5 withdraw from that Corporation or committee meeting where required to do so by a majority of the Members of the Corporation or committee present at the meeting.
- 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.
- 8.5 Corporation Members 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 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, and recorded by, the Head of Governance.
- The Head of Governance will maintain a Register of Corporation Members' Interests which will be open for public inspection. Corporation Members must disclose routinely to the Corporation all business interests, financial or otherwise, which they or persons associated with them may have, and the Head of Governance will enter such interests on the Register. Corporation Members must give sufficient details to allow the nature of the interests to be understood by enquirers. Corporation Members should inform the Head of Governance whenever their circumstances change and interests are acquired or lost.
- 8.7 For the purposes of this clause 9 "close relative" includes but is not limited to a father, mother, brother, sister, child, grandchild and stepfather / mother / brother / sister / child.
- 8.8 If a Corporation Member is in any doubt about whether an interest should be disclosed, they should seek advice from the Head of Governance.

9. COLLECTIVE RESPONSIBILITY

- 9.1 The Corporation operates by Members taking majority decisions in a corporate manner at quorate meetings, including meetings held by telephone and video conference and by alternative methods such as written resolutions. 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.
- 9.2 If a Member disagrees with a decision taken by the Corporation, his or her first duty is to have any disagreement discussed and minuted. If the Member still strongly disagrees, he or she should consult the Chair and, if necessary, then raise the matter again with the Corporation when it next meets. If no meeting is scheduled, the Member should refer to the power of the Chair or refer to Clause 13(4) of the College's Instrument of Government as to the powers to call a special meeting and, if appropriate, exercise them, requesting the Head of Governance to circulate the Member's view in advance to the other Members. Alternatively, the Member may decide to offer his or her resignation from office, after consulting the Chair.

10. CONFIDENTIALITY

10.1 Because of the Corporation's public accountability, Members should ensure that, as a general principle, students and staff of the College and the general public have free access to information about the proceedings of the Corporation. Accordingly, agendas, minutes and other papers relating to meetings of the Corporation are normally available for public inspection from the Head of

Governance after they have been approved by the Chair. Minutes of Corporation and Committee meetings are also made available on the College website once they have been approved at the next meeting.

- There will be occasions when the record of discussions and decisions will not be made available for 10.2 public inspection, for example, when the Corporation considers sensitive issues or named individuals, and for the other good reasons. Such extended items will be kept in a confidential folder by the Head of Governance, and will be circulated in confidence to Members, save for those members who have a conflicting interest in the particular sensitive matter. However, Staff and Student Members may not have access to minutes dealing with Confidential Agenda Items or other matters in respect of which they are required to withdraw from meetings under Clauses of the College's Instrument of Government. 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 Corporation 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. The Corporation Members must also consider the personal data that is contained within the excluded items in accordance with the Corporation's obligations under the UK GDPR and the Data Protection Act 2018 ("Data Protection Laws") and whether or not disclosure of that personal data would be in breach of the Data Protection Laws or the rights and freedoms of the individual(s) in question. When considering such issues the Corporation Members must also consider the College's publication scheme issued under the Freedom of Information Act 2000, policy on Access to Corporation Information and Environmental Information Regulations 2004. Nothing in this section overrides the College's obligation to disclose in response to a request received under these information law regimes (unless an appropriate exemption applies in each case).
- 10.3 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 Chair or the Members or the Chair or members of any committee of the Corporation are satisfied should be dealt with on a confidential basis.
- 10.4 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 Chair or, in his or her absence, the Vice Chair. It is unethical for Members publicly to criticise, canvass or reveal the views of other Members which have been expressed at meetings of the Corporation or its committees.

11. ATTENDANCE

11.1 A high level of attendance, of at least 80% at meetings of the Corporation (and assigned committees) is required so that Members can perform their functions properly. A Member who is unable to attend Meetings on a regular basis should offer their resignation from office. In accordance with the Instrument of Government any member who has been absent from meetings of the Corporation for a period longer than 6 consecutive months without the permission of the Corporation or is unable or unfit to discharge the functions of a member shall be removed from office.

11.	2 Governors are required to attend and complete mandatory training in a timely manner.		
11.	Governors are required to engage in college activity outside of meetings to triangulate what they are told, engage in the student experience and gain a deeper knowledge of the college's strengths and challenges, Attendance at least twice a term is expected and may include informal visits to speak with students, learning walks, strategic pillar meetings, Performance Management Board (PMB) meetings, Student Leader meetings or wider college celebration or open events.		
12.	GOVERNANCE DEVELOPMENT		
12.1	Members are encouraged to obtain a thorough grounding in their duties and responsibilities by participating in the College's induction and training programmes, including regular refresher workshops.		
12.2	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.		
13.	<u>Termination</u>		
13.	Any member deemed unable or unfit to satisfy this code or discharge their functions as a member shall be removed from office following review by the Search Committee and resolution of the Corporation Board.		
	A MEMBER OF THE CORPORATION I AGREE TO OBSERVE THIS CODE OF CONDUCT TO THE ST OF MY ABILITIES.		
Sig	ned:		

Name of Member _____

Dated:

APPENDIX 1

SUMMARY OF RESPONSIBILITIES OF CORPORATION MEMBERS

Responsibilities:

Under Article 3 of the College's Articles of Government the Corporation shall be responsible for:-

- (a) the determination and periodic review of the educational character and mission of the institution and for oversight of its activities;
- (b) 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;
- (c) approving the quality strategy of the institution;
- (d) the effective and efficient use of resources, the solvency of the institution and the Corporation and for safeguarding their assets;
- (e) approving annual estimates of income and expenditure;
- (f) the appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Head of Governance (including, where the Head of Governance is, or is to be appointed as a member of staff, his appointment, grading, suspension, dismissal and determination of pay in his capacity as a member of staff); and
- (g) setting a framework for the pay and conditions of service of all other staff.

"Senior Post" means the post of Principal and such other senior posts as the Members may determine for the purposes of the Articles.

Responsibilities which must not be delegated:

Article 9 of the Articles of Government prohibits the Corporation from delegating the following:-

- (a) the determination and periodic review of the educational character and mission of the institution;
- (b) the approval of the annual estimates of income and expenditure;

- (c) the responsibility for ensuring the solvency of the institution and the Corporation and for safeguarding their assets;
- (d) the appointment of the Principal or holder of a senior post;
- (e) the appointment of the Head of Governance, (including, where the Head of Governance is, or is to be, appointed as a member of staff the Head of Governance's appointment in the capacity of a member of staff); and
- (f) the modification or revocation of these Articles.

Article 10 of the Articles of Government states that the Corporation may not delegate -

- (a) the consideration of the case for dismissal, and
- (b) the power to determine an appeal in connection with the dismissal of the Principal, the Head of Governance or the holder of a senior post, other than to a committee of members of the Corporation.

The Corporation may, from time to time, resolve to add other matters which must not be delegated to this list of "reserved" responsibilities.

APPENDIX 2

SUMMARY OF THE POWERS OF THE CORPORATION

Principal Powers

Under Section 18 of the Further and Higher Education Act 1992 a further education corporation may:-

- (a) provide further and higher education, and
- (a) provide secondary education suitable to the requirements of persons who have attained the age of fourteen years
- (b) provide education which is secondary education by virtue of section 2(2B) of the Education Act 1996 (definition of secondary education)
- (c) participate in the provision of secondary education at a school,
- (d) supply goods or services in connection with their provision of education.

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

A further education corporation may not provide education of a kind specified in subsection (b), (c) or (d) above unless they have consulted such local education authorities as they consider appropriate.

For the purposes of subsection (d) above, goods are supplied in connection with the provision of education by a further education corporation if they result from:

- (i) their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
- (ii) the use of their facilities or the expertise of persons employed by them in the fields in which they are so employed, or.
- (ii) ideas of a person employed by them, or of one of their students, arising out of their provision of education.

For the purposes of that subsection, services are supplied in connection with the provision of education by a further education corporation if:

- (i) they result from their provision of education or anything done by them under this Act for the purpose of or in connection with their provision of education,
- (ii) they are provided by making available their facilities or the expertise of persons employed by them in the fields in which they are so employed, or.
- (iii) they result from ideas of a person employed by them, or of one of their students, arising out of their provision of education.

Supplementary Powers

Under Section 19 of the 1992 Act, a further education 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.

A further education corporation may provide facilities of any description appearing to the corporation to be necessary or desirable for the purposes of or in connection with carrying on any activities undertaken in the exercise of their principal powers (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of students having learning difficulties).

A further education corporation may:

- a) acquire and dispose of land and other property;
- b) 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; and
 - ii) contracts with respect of carrying on by the Corporation of any such activities;
- c) subscribe for or otherwise acquire shares in or securities of a company,
- d) borrow such sums as the Corporation think fit for the purposes of carrying on any activities they have power to carry on or to meet any liability transferred to them under Sections 23 to 27 of the 1992 Act (i.e. 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.
- e) invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
- f) accept gifts of money, land or other property and apply it, or hold and administer it on trust for, any of those purposes; and
- g) do anything incidental to the conduct of an educational institution providing further or higher education including founding scholarships or exhibitions, making grants and giving prizes.

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

Appendix 3

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.

Approved Governing Body: 23 March 1995;

Reviewed and amended May 2015

Reviewed July 2016

Reviewed March 2024