



**CODE OF CONDUCT
FOR CORPORATION MEMBERS**

December 2012

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CODE OF CONDUCT For CORPORATION MEMBERS

A summary:

- Cooperation with other governors as member of Corporation
- Each member to act as an individual
- How governors should behave in meetings
- Importance of not using position as member for personal benefit
- Need for continual self-assessment and training
- Types of interest which must be declared
- Need for regular attendance at corporation meetings
- Need for openness and transparency in the operation of the corporation

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1. Introduction

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.
2. As an institution within the public sector, the College accepts that those values must be in conformity with the principles laid down by the Nolan Committee for those holding public office, namely:
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
3. 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 Instruments of Government;
 - b. the College's Articles of Government;
 - c. the College's Strategic Plan;
 - d. the Financial Memorandum entered into by the College with the Skills Funding Agency (SFA); and
 - e. 'Governors Training Materials' issued by the LSC (June 2002) or equivalent as an advisory document.

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 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.

4. This Code applies to every committee, working party or other subsidiary body of the Corporation to which Members may be appointed.
5. Acceptance of appointment as a Member of the Corporation will be construed as acceptance of this Code.

2. Interpretation

In this Code "College" means The Berkshire College of Agriculture (BCA), and "Member", "Chair", "Principal" and "Clerk to the Corporation" for the time being mean respectively the Member, Chair, Principal and 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

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 have collective.
2. Whatever decisions Members take at meetings of the Corporation and its committees they 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. 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. These responsibilities, including a list of 'reserved' responsibilities which are so important that they must not be delegated, are set out in Appendix 1.
4. Members should also have regard to the different, but complementary, responsibilities given to the Principal as the College's Chief Executive, which are set out in Appendix 1. 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.
5. Members are collectively responsible for observing the duties set out in the Financial Memorandum which the College has entered into with the SFA or Young People's Learning Agency (YPLA) as a condition of receiving public funds. A summary of some of the more important requirements of the Financial Memorandum is set out in Appendix 2.
6. Although the SFA/ YPLA are the main providers 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) 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 the Chair. Members should be careful to act within the terms of reference of any committees on which they serve.

5. Powers

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. A summary of those powers is set out in Appendix 3. If a Member thinks that the Corporation is likely to exceed its powers by taking a particular decision, he/she should immediately refer the matter to the Clerk to the Corporation for advice.

6. Conflicts Of Interest

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.
2. Members are reminded that under clause 10(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.
3. Members are also reminded that under clause 10(2) of the College's Instrument of Government they must 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; or
 - c. any other matter relating to the College.
4. However, an interest does not have to be financial for the purposes of disclosure. 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 to the Corporation; 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.

5. Members must not receive gifts, hospitality or benefits 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 be immediately reported to the Clerk.
6. The Clerk to the Corporation will maintain a Register of Members' Interests which will be open for public inspection.

Members are invited to 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 to the Corporation will enter such interests on the Register.

Members should inform the Clerk to the Corporation 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

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.
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 strongly disagrees, he should consult

the Chair 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 11(3) 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 the Corporation to circulate the Member's views in advance to the other Members. Alternatively, the Member may decide to offer his resignation from office, after consulting the Chair.

8. Confidentiality

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 the proceedings of the Corporation. Accordingly, agendas, minutes and other papers relating to the meetings of the Corporation are normally available for public inspection when they have been approved for publication by the Chair.
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 in a confidential folder by the Clerk to the Corporation 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 13(4), (7) or (8) of the College's Instrument of Government.
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.

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 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.

9. Attendance At Meetings

A high level of attendance at meetings of the Corporation is expected, (Governance Key performance Indicator set at 70%), so that Members can perform their functions properly.

10. Governance Development

1. Members are encouraged to obtain a thorough grounding in their duties and responsibilities by participating in appropriate training programmes, including regular refresher workshops.
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 assessment.

11. Complaints against the Corporation

A complaint against the Corporation or an individual member of the Corporation shall be addressed to the Clerk to the Corporation who shall deal with the matter as appropriate. The response to such a complaint will include details of the arrangements for pursuing the matter with an independent body. A complaint against the Clerk to the Corporation shall be forwarded to the Chair of the Corporation. A copy of the complaints procedure is attached to this Code

(Appendix 4).

12. Enquiries about the Corporation

Any enquiries regarding the Corporation should be addressed to the Clerk to the Corporation at the College.

APPENDIX I

SUMMARY OF RESPONSIBILITIES OF CORPORATION MEMBERS

Responsibilities

Under Article 3(1) of the College's Articles of Government the Corporation shall be responsible for the following functions:-

- a) the determination and periodic review of the educational character and mission of the institution and for 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 for safeguarding their assets;
- c) approving. annual estimates of income and expenditure;
- d) the appointment grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Clerk; and
- e) 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 of the educational character and mission of the institution;
- b) the approval of the annual estimates of income and expenditure;
- c) ensuring the solvency of the institution and the Corporation and the safeguarding of their assets;
- d) the appointment of the Principal or holder of a senior post;
- e) the appointment of the Clerk; and
- c) the modification or revocation of these Articles.

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

SUMMARY OF RESPONSIBILITIES OF THE PRINCIPAL

Subject to the responsibilities of the Corporation, the Principal shall be responsible for:

- a. making proposals to the Corporation about the educational character of the College and implementing the decisions of the Corporation,
- b. organisation, direction and management of the institution and the leadership of the staff,
- c. 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 senior post-holders,
- d. the determination, after consultation with the Academic Board, of the institution's academic and other activities,
- e. preparing annual financial estimates for the Corporation and managing the budget and resources within the approved estimates and,
- f. maintaining student discipline, including the suspension or expulsion on disciplinary or academic grounds.

APPENDIX 2

SUMMARY OF MAIN PROVISIONS OF THE FINANCIAL MEMORANDUM

Awaiting update

APPENDIX 3

SUMMARY OF THE POWERS OF THE CORPORATION

Principal powers

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

- a) provide further and Higher-her education; and
- b) supply goods or 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 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 their principal powers; and
 - 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 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 1st 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 Skills Funding Agency (SFA), 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 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 or higher education, including founding scholarships or exhibitions, making grants and giving prizes.

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

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

APPENDIX 4

COMPLAINTS AGAINST THE CORPORATION

1. A complaint against the Corporation, a member of the Corporation or the Clerk to the Corporation may be made by an individual, business or an organisation.
2. Complaints against the Corporation or a member of the Corporation should preferably be made in writing and addressed to the following:

The Clerk to the Corporation
Berkshire College of Agriculture
Hall Place, Burchetts Green,
Maidenhead, Berks, SL6 6QR

3. The complainant will be expected to state clearly the nature of the complaint and if appropriate provide copies of any related documentation.
4. The Clerk to the Corporation will:
 - acknowledge receipt of the complaint without delay
 - investigate the complaint
 - endeavour to provide a response to the complaint within ten working days and if this is not possible provide the complainant with an interim statement
5. The written response of the Clerk to the Corporation will include details of any arrangements for pursuing the matter with an independent body (e.g. the Secretary of State for Education and Skills and the Learning and Skills Council).
6. The Clerk to the Corporation will keep the Chair informed of the situation, and will provide the Corporation with a written statement of the nature of the complaint and the response at the next meeting. Such a report shall be circulated to members within ten working days of the response of the Clerk to the complaint so that members are aware of the situation.
7. When carrying out an investigation on a complaint against the Corporation or an individual member of the Corporation the Clerk to the Corporation will have the authority to refer issues to the Corporation's auditors (external and/or internal) or other appropriate advisors.
8. A complaint against the Clerk to the Corporation shall to be forwarded to the Chair of the Corporation for investigation and response. Letters for the attention of the Chair of the Corporation to be addressed to

The Chair of the Corporation.
Berkshire College of Agriculture
Hall Place, Burchetts Green,
Maidenhead, Berks, SL6 6QR

9. The approach to be adopted by the Chair of the Corporation in investigating and responding to a complaint will be similar to that outlined above with regard to complaints against the Corporation and individual members of the Corporation.