



## **INSTRUMENT OF GOVERNMENT**

**Revised January 2008**

## **INSTRUMENT OF GOVERNMENT FOR SOUTH WEST COLLEGE**

In accordance with the requirements of Article 11 of The Further Education (Northern Ireland) Order 1997, this document provides for the constitution of South West College and shall be known as the Instrument of Government for South West College.

### **PART I - INTERPRETATION**

1. In this Instrument of Government, the following expressions shall have the meanings indicated in this paragraph:-

“this Instrument” means this Instrument of Government;

"the college" means South West College and includes any organisation or company established by the college unless otherwise stated;

"the Order" means The Further Education (Northern Ireland) Order 1997;

"the Department" means the Department for Employment and Learning;

"the Articles of Government" mean the Articles of Government for South West College in accordance with the requirements of the Order;

"the Governing Body" means the Governing Body of South West College as constituted under the requirements of the Order and this Instrument;

“the chairperson” means the chairman as provided for under Article 3 of Schedule 3 to the Order and as appointed in accordance with Part VI of this Instrument;

"the principal" means the person who has been appointed by the Governing Body to be responsible for the day-to-day management of the college;

"the staff members" means the members of the Governing Body elected by the staff of the college as specified in paragraph 5c of this Instrument;

"the student member" means the member of the Governing Body elected by the student body as specified in paragraph 5d of this Instrument;

"the secretary" means the person appointed by the Governing Body to perform the duties of secretary for that body.

2. The Interpretation Act (NI) 1954 shall be deemed to apply to this Instrument.

## **PART II - APPOINTMENT AND COMPOSITION OF THE GOVERNING BODY**

3. The college shall be conducted in accordance with the provisions of the Order, any relevant regulations, orders or directions made by the Department and, subject thereto, in accordance with the provisions of this Instrument, the Articles of Government, any rules or standing orders made under the Articles and any trust deed regulating the college.
4. The Department shall appoint all members of the Governing Body of the college after consultation with such bodies or persons as appear to the Department to be appropriate and in accordance with the code of practice issued by the Commissioner for Public Appointments for Northern Ireland.
5. The Governing Body of the college shall comprise not less than 12 nor more than 18 members who shall be selected in accordance with the following categories:-
  - a. not less than one-half who are, or have been, engaged or employed in business, industry or any profession;
  - b. the principal of the college;
  - c. one or two members, being permanent members of staff of the college and elected by the staff of the college. One shall be elected by teachers employed at the institution from among such teachers and one shall be elected by other persons employed at the institution from among such other persons;
  - d. one member, being a student at the college and elected by the student body;
  - e. two members nominated by the Education and Library Board for the area in which the college is situated as being persons interested in educational and community activities; and

- f. up to two members co-opted by the other members of the Governing Body, not being members of staff or full-time students of the college, to bring added expertise and experience in differing aspects of activity relevant to the work of the college and which are considered not to be adequately covered by other members of the Governing Body.
- 6. The elections to be held to identify those members to be appointed under sub-paragraphs 5c and 5d shall be conducted in accordance with rules made by the Governing Body. These rules, or any amendments made thereto, shall be made after consultation with such persons as appear to the Governing Body to be representative of each category of persons entitled to elect such members.
- 7. When the office of a member of the Governing Body is or falls vacant, it shall be filled so as to maintain the requirements of paragraphs 4, 5 and 6 of this Instrument. The Governing Body shall notify the Department when any such vacancy occurs. Further:-
  - a. in the case of a vacancy arising in the membership appointed under sub-paragraph 5a the Department shall appoint a person to fill the vacancy. In so doing, it will have regard to the unsuccessful applications for membership of the Governing Body; and
  - b. in the case of a vacancy arising in the membership appointed under sub-paragraphs 5b, 5c, 5d and 5f, the Governing Body shall submit the name of the replacement to the Department for appointment.

### **PART III - TENURE OF OFFICE**

8. Subject to the provisions set out elsewhere in this Instrument:-
- a. members of the Governing Body shall hold and vacate office in accordance with the terms of their appointment and, on such appointment ceasing or expiring, shall, subject to Schedule 1, be eligible for re-appointment;
  - b. a member of the Governing Body, other than the person who is the principal or the student member, shall hold office for a period of four years;
  - c. the principal shall remain a member of the Governing Body while holding office as the principal of the college;
  - d. the student member shall ordinarily hold office for one year, from 1 October until the following 30 September or until ceasing to be a student at the college, whichever is the earlier. When the student member is appointed after 1 October, the period of office shall end on the following 30 September;
  - e. the staff members shall hold office until their terms of office expire or until they cease to be employed by the college in a permanent capacity, whichever is the earlier; and
  - f. members of the Governing Body, other than the principal, may resign their office at any time by giving notice in writing to the secretary.

### **PART IV - PERSONS INELIGIBLE TO BE MEMBERS**

9. A person shall not be eligible for appointment as a member of the Governing Body if any of the circumstances set out in Schedule 1 to this Instrument apply.
10. Where, by virtue of the requirements set out in Schedule 1, a member subsequently becomes disqualified from holding office as a member, that member shall give written notice of the fact to the secretary.
11. If at any time the Governing Body is satisfied that any of its members:-

- a. has become a person to whom Schedule 1 applies;
- b. has been absent, without special reason recognised by the Governing Body, for a period exceeding six months from all meetings of the Governing Body (or any of its committees or sub-committees to which that member has been appointed, as provided for under the Articles of Government);
- c. having been appointed in accordance with sub-paragraphs 5a, 5e or 5f, is or subsequently becomes a full-time student or a member of the staff of the college, a member of staff of any other college or a member of the Governing Body of any other college;
- d. has failed to comply with the requirements set out in Part V; or,
- e. without prejudice to other provisions in this paragraph, has become unfit or unable to discharge their function as a member of the Governing Body,

the Governing Body shall, having given notice in writing to the member of its intention to do so, make application to the Department to have the member removed from office. In the event of an application being made, the Department shall notify the person concerned that such an application has been received and shall afford that member an opportunity to respond before a decision is reached.

12. Where any person is disqualified under Schedule 1, the disqualification shall cease:-

- a. if that person's estate had been sequestrated, when the sequestration is recalled or reduced or they are discharged under or by virtue of The Insolvency (Northern Ireland) Order 1989;
- b. if adjudged bankrupt, on the discharge from bankruptcy or from the date of annulment if the bankruptcy order is annulled; or
- c. if disqualified because that person had made an arrangement with creditors, or granted a trust deed for creditors or a composition contract, the disqualification shall cease when the arrangement or, as the case may be, the trust deed or composition contract is no longer in force.

## **PART V - CODE OF CONDUCT**

13. All members of the Governing Body shall formally adopt the code of conduct attached as Schedule 2 to this Instrument setting out the principles to underpin the governance and management of the college. All members of the Governing Body are required to uphold and abide by the code as a condition of appointment.
14. Except with the approval of the Department, no members of the Governing Body shall:-
  - a. take or hold any interest in any property held or used for the purpose of the college; or
  - b. receive any remuneration from the college for their services as members, except that the principal and the staff members may receive remuneration in their capacity as members of staff and the student member may receive remuneration if that member is also a paid student union officer of the college.
15. The Governing Body shall prepare and maintain a register of interests in accordance with the requirements set out in Schedule 3 to this Instrument. The register shall be made available during normal office hours at the college to any person wishing to inspect it.
16. Subject to paragraph 17, where, whether before or during any meeting of the Governing Body (or any committee or sub-committee of the Governing Body as provided for in the Articles of Government), any members become aware that they, or any person related to or connected with them, have a material interest in or relating to any matter to be or being considered, they shall declare such interest and withdraw from the meeting during such consideration and shall not vote on any question relating to the matter. This should be recorded in the minutes of the meeting.
17. Subject to paragraph 18, nothing in paragraph 16 shall require the principal, a member of staff or a student to declare an interest or withdraw from consideration of any matter where their interest exists only by reason of their being the principal, a member of staff or a student.

18. Notwithstanding paragraphs 16 and 17, the principal, the staff members and the student member shall, unless invited to remain by a resolution of the other members present, withdraw from any meeting including meetings of any committees where any of the circumstances set out in Schedule 4 to this Instrument apply.
19. The requirements set out in paragraphs 14 and 16 shall not prevent members of the Governing Body from considering and voting upon proposals for the college to insure members against liabilities arising out of their office or prevent the college from obtaining such insurance and paying the premiums.

#### **PART VI - APPOINTMENT OF CHAIRPERSON AND VICE-CHAIRPERSON**

20. Subject to paragraph 22, the chairperson of the Governing Body constituted under this Instrument, shall be selected and appointed by the Department.
21. Subject to paragraph 22, at the first meeting of the fully constituted Governing Body, the members shall appoint a vice-chairperson from among their number.
22. The principal, the staff members and the student member shall not be eligible for appointment as chairperson or vice-chairperson.
23. The chairperson shall hold office for such period as the Department may determine subject to a maximum of four years. The chairperson and vice-chairperson retiring at the end of their respective terms of office shall be eligible for reappointment, subject to the provisions set out in Parts II, III and IV of this Instrument.
24. If both the chairperson and vice-chairperson are absent from any meeting of the Governing Body, the members present shall choose one of their number to act as chairperson for that meeting, subject to the provisions of paragraph 22.
25. The chairperson and vice-chairperson may resign their respective offices at any time by giving notice in writing to the secretary. The secretary should advise the Department in writing of the resignation of the chairperson or vice-chairperson.
26. Where there is a vacancy in the position of chairperson, and before the Department has appointed a permanent replacement, the Department will invite expressions of interest

from eligible members of the Governing Body to act as chairperson in a temporary capacity.

27. At the first meeting following the expiry of the term of office of the vice-chairperson, or following the resignation of the vice-chairperson, the members shall appoint a new vice-chairperson from amongst those of their number who are eligible for such office.
28. The secretary of the Governing Body shall advise the Department of the name of the person appointed to the office of vice-chairperson of the Governing Body.

#### **PART VII - SECRETARY TO THE GOVERNING BODY**

29. The Governing Body shall appoint a secretary to the Governing Body. The person so appointed shall not hold another position within the college. The person appointed may become a member of staff by virtue of appointment to this post but shall not be a member of the Governing Body.
30. The person appointed must be capable of taking responsibility for organising the business of the Governing Body and for advising it on points of procedure.

#### **PART VIII - CHANGE OF NAME**

31. The Governing Body shall obtain the approval of the Department before changing the name of the Governing Body or the college.

#### **PART IX - COPIES OF INSTRUMENT OF GOVERNMENT**

32. A copy of this Instrument shall be:
  - a. given to every member of the Governing Body;
  - b. made available during normal office hours at the college to any person wishing to inspect it; and
  - c. published on the college's web-site.

**PART X - AMENDMENT OF INSTRUMENT OF GOVERNMENT**

33. This Instrument may be modified or replaced only with the approval of the Department and subject to the terms of the Order.

**PART XI - DATE OF COMMENCEMENT OF INSTRUMENT OF GOVERNMENT**

34. This Instrument shall apply with effect from 1 August 2007.

**Signed and sealed: \_\_\_\_\_ Date \_\_\_\_\_**  
**On behalf of the Governing Body of South West College**

**Signed and Sealed: \_\_\_\_\_ Date \_\_\_\_\_**  
**On behalf of the Department for Employment and Learning**

**SCHEDULE 1**  
**PERSONS INELIGIBLE TO BE MEMBERS**

1. Persons shall not be eligible for appointment as a member of the Governing Body:-
- where they have previously served two full terms of office, of four years each, or where they have previously served a total number of six years in office, whether or not consecutive, as a member of the Governing Body, unless they are the current principal. No account shall be taken of any term of office served as a member of a previous governing body established prior to 2007;
  - if they are a member of the governing body of another college;
  - if they are a full-time student of the college, except as the elected student member;
  - if they are a member of staff of the college, except where they are the principal or the elected staff member or if they are a member of staff of another institution of further education;
  - if they have been removed from the membership of a governing body of an institution of further education established under the Order;
  - if they have been removed from the Governing Body or its equivalent in any organisation grant-aided for the purposes of providing education;
  - if they have, within five years of the date their appointment would take effect, been convicted in a court in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and have passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
  - if they are included in a list kept by the Department of Education under Regulation 8 of the Education (Prohibition from Teaching or Working with Children) Regulations (Northern Ireland) 2007;

- if they are included (other than provisionally) in the list kept by the Department of Health, Social Services and Public Safety under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003; or
- if their estate has been sequestrated, they have been adjudged bankrupt, they have made an arrangement with their creditors, or they have granted a trust deed for their creditors or a composition contract.

## SCHEDULE 2

### A CODE OF CONDUCT FOR THE GOVERNING BODY OF

#### SOUTH WEST COLLEGE

1. The Committee on Standards in Public Life (the Nolan Committee) set out the seven principles of public life in its first report in May 1995. These are:-
  - **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 they take. They should give reasons for their decisions and restrict information only when the wider public interest 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; and
  - **Leadership** - holders of public office should promote and support these principles by leadership and example.

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2. The Governing Body acknowledges and accepts these principles in the conducting of its business and that of the college.

## **SCHEDULE 3**

### **REGISTER OF INTERESTS**

1. The register of interests, compiled in accordance with the requirements set out in Part V of this Instrument shall contain information in respect of each member of the Governing Body as follows:-
  - a. a list of all business interests held;
  - b. membership of public bodies including local councils, education and library boards, health trusts and the governing bodies of other educational establishments;
  - c. unremunerated posts, honorary positions and other positions that might give rise to a conflict of interest or trust;
  - d. the names of any employees of the college either related to the member by virtue of being a spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece, or connected to the member through a close personal relationship; and
  - e. a declaration of any significant political activity (including office-holding, public speaking and candidature for election) undertaken in the five years prior to appointment.
2. A copy of the register of interests should be given to members at the first meeting of the Governing Body in the autumn term of each year and any subsequent amendments to the register should be announced at the meeting of the Governing Body and details of the amendments recorded in the minutes. Members should be invited at each meeting of the governing body to declare any amendments.

## **SCHEDULE 4**

### **WITHDRAWAL FROM MEETINGS OF THE GOVERNING BODY**

1. Under the terms of paragraph 17 of this Instrument, the principal, the staff members and the student member shall, unless invited to remain by a resolution of the other members present, withdraw from any meeting of the Governing Body, including any committee established by the Governing Body, where any of the following circumstances apply.
  
2. In the case of the principal, in relation to consideration of:-
  - a. salary or terms and conditions of employment of the principal;
  - b. appraisal of the principal;
  - c. retirement of the principal;
  - d. conduct, suspension, dismissal or any other disciplinary matter relating to the principal; or
  - e. the appointment of the principal's successor.
  
3. In the case of the staff members, in relation to consideration of:-
  - a. their salary or terms and conditions of their employment;
  - b. the salary, terms and conditions of employment of any group of employees with which they are associated;
  - c. the appointment, promotion, salary, terms and conditions of employment, appraisal, retirement, conduct, suspension, dismissal or any other disciplinary matter of any member of staff holding a post senior to them;
  - d. their promotion, conduct, suspension, dismissal or any other disciplinary measure relating to them; or

- e. the appointment of their successor(s).
4. In the case of the student member, in relation to consideration of:-
- a. the member's academic performance;
  - b. any disciplinary measure relating to the member; or
  - c. the salary, terms and conditions of employment, appraisal, appointment, retirement, promotion, conduct, suspension, dismissal or any other disciplinary measure relating to any employee or prospective employee of the college.
5. A student member who is under the age of 18 shall not vote at a meeting of the Governing Body, or any of its committees, on any question concerning any proposal:-
- a. for the expenditure of money by the Governing Body; or
  - b. under which the Governing Body, or any members of the Governing Body, would enter into any contract, or would incur any debt or liability, whether immediate, contingent or otherwise.