

## **VARNDEAN COLLEGE CODE OF CONDUCT FOR CORPORATION MEMBERS**

### **Summary**

**Varndean College expects that Governors will:**

- **Support the aims and objectives of the College and promote the interests of the College and its students in the wider community**
- **Work co-operatively with other governors in the best interests of the College**
- **Support the majority decisions of the Corporation**
- **Understand that an individual governor does not have the right, other than through the Chair and Corporation's agreement, to make statements or express opinions on behalf of the governors**
- **Governors will not use the position of governor to benefit themselves or other individuals or agencies**
- **Declare openly and immediately any personal conflict of interest arising from a matter before the governors or from any other aspect of governorship**
- **Respect the confidentiality of those items of business which the Corporation decides from time to time should remain confidential**
- **Take or seek opportunities to enhance their effectiveness as a governor through participation in training and development programmes and by increasing their own knowledge of the College**
- **Give priority, as far as practicable, to attendance at meetings of the Corporation and its committees**
- **Accept the responsibilities of a governor to promote public accountability for the actions and performance of the Corporation**

# Code of Conduct

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## **1. INTRODUCTION**

- 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.
- 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 Development/Strategic Plan;
  - (d) the Financial Memorandum and
  - (e) Governor Induction Pack.
  - (f) The principles based on those laid down by the Committee on Standards in Public Life (Nolan Committee) for those holding public office, namely (refer Appendix 4):
    - selflessness
    - integrity
    - objectivity
    - accountability
    - openness
    - honesty
    - leadership
    - public service
    - respect

Appendices 1 (Summary of Responsibilities of Corporation Members), 2 (Summary of Main Provisions of the Financial Memorandum) and 3 (Summary of the Powers of the Corporation) 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 the Corporation and for any act or mission in that capacity rests with the individual member.

- 1.3 This Code applies to every committee, working party or other subsidiary body of the Corporation to which members may be appointed.
- 1.4 Acceptance of appointment as a member of the Corporation will be constructed as acceptance of this Code.

## **2 INTERPRETATION**

In this Code "College" means Varndean College, and "Member", "Chair", "Principal" and "Clerk" 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.

### **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 8 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' of 'delegates' or 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 Appendix 1.
- 3.4 Members should comply with standing orders to ensure that the Corporation conducts itself in an orderly, fair, open and transparent manner and must keep those standing orders under periodic review.
- 3.5 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.
- 3.6 Members are collectively responsible for observing the duties set out in the Financial Memorandum which the College has entered into with the EFA as a condition of receiving public funds. A summary of some of the more important requirements of the Financial Memorandum is set out in Appendix 2.
- 3.7 Although the EFA 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 the SFA, Higher Education Funding Council for England (HEFCE), the European Union (EU), International Students and other grants.

### **4. PUBLIC SERVICE VALUES**

- 4.1 High Standards of personal and corporate conduct based on the principles set out in paragraph 1.2(f) of this Code and the recognition that students and other users of the College's services come first are a requirement of being a member and should underpin all decisions taken by the Corporation.
- 4.2 Any concerns on non-adherence to these standards should be raised using the complaints procedure set out in appendix 6.

### **5. SKILL, CARE AND DILIGENCE**

Members 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.

## 6. 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 any Member thinks that the Corporation is likely to exceed its powers by taking a particular decision, they should immediately refer the matter to the Clerk for advice.

## 7. CONFLICTS OF INTEREST

7.1 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.

7.2 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 (except as a member of the College's staff) without the written approval of the Secretary of State for Education.

7.3 Members are also reminded that under clause 11(2) & (3) 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.

7.4 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; and
- (b) be fully disclosed to the Corporation before the matter giving rise to the interest is considered.

If so resolved by Corporation, 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 (refer instrument 11).

7.5 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 as set out in the Guidelines for the receipt of hospitality and gifts for governors and members of staff (Appendix 5). Any offer or receipt of such gifts, hospitality or benefits should immediately be reported to the Clerk.

7.6 The Clerk 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 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 paragraphs 7.3 and 7.4 of this Code.

## 8. COLLECTIVE RESPONSIBILITY

8.1 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 individual members have a duty to stand by it, whether or not they were present at the meeting of the Corporation when the decision was taken.

- 8.2 If a member disagrees with a decision taken by the Corporation, their first duty is to have any disagreement discussed and minuted. If any member strongly disagrees, they 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 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 member's views in advance to the other members. Alternatively, the member may decide to offer their resignation from office, after consulting the Chair.

## **9. CONFIDENTIALITY**

- 9.1 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 meetings of the Corporation are normally available for public inspection when they have been approved for publication by the Chair.
- 9.2 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, 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 (5), (8) or (9) of the College's Instrument of Government.
- 9.3 It is important that the Corporation and its committees have full and candid 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.
- 9.4 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/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.

## **10. ATTENDANCE AT MEETINGS**

A high level of attendance at meetings of the Corporation is expected so that members can perform their functions properly (refer standing orders, clause 2.1).

## **11. GOVERNANCE DEVELOPMENT**

- 11.1 Members are encouraged to obtain a thorough grounding in their duties and responsibilities by participating in the College's governance induction and training programmes..
- 11.2 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.

## **12. REVIEW OF POLICY**

Policies will be reviewed in line with the Policy Review Schedule.

## **APPENDIX 1**

### **SUMMARY OF RESPONSIBILITIES OF CORPORATION MEMBERS**

#### **Responsibilities**

Under Article 3(1) 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 College and for oversight of its activities;

(aa) 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;

- (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 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 the clerk; and
- (f) setting a framework for the pay and conditions of service of all other staff.

'Senior Post' means the post of Principal and the Clerk and such other senior posts as the members may determine for the purposes of the Articles.

#### **Responsibilities which must not be delegated**

Article 9 and 10 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) the responsibility for ensuring the solvency of the institution and the Corporation and for safeguarding of their assets;
- (d) the appointment of the Principal or holder of a senior post;
- (e) the appointment of the Clerk;
- (f) the modification or revocation of the Articles of Government;
- (g) the consideration of the case for dismissal of the Principal, the Clerk or the holder of a senior post, other than to a committee of members of the Corporation; and
- (h) the power to determine and appeal in connection with the dismissal of the Principal, the Clerk 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 MAIN PROVISIONS OF THE FINANCIAL MEMORANDUM (EFA)

The Department for Education (DfE) requires the Education Funding Agency (EFA) 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 funds will be paid by EFA to the College.

The Memorandum is divided into two parts. Part 1 contains those arrangements and conditions which might be expected to apply generally to the further education sector for a number of years. A summary of the main provisions of Part 1 appears below. Part 2 consists of any specific conditions which might apply to the College.

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

(a) Responsibilities of the College

The Corporation is responsible for:-

- ensuring the funds from the EFA are used only in accordance with the Further and Higher Education Act 1992, the Financial Memorandum and any other conditions which the EFA may from time to time impose;
- ensuring that it uses its discretion reasonably, and takes into account any relevant guidance on accountability or propriety issued from time to time by the EFA, the National Audit Office or Parliament.

(b) Allocation of funds

The EFA allocates funds to colleges as a grant-in-aid. Recurrent funds are intended to meet the recurrent costs of the College which include the routine maintenance of buildings and other assets. Capital funds are intended to meet expenditure on land and buildings, new construction and extension of and alteration to buildings and the purchase of other fixed assets having an expected life of more than one year. The College may transfer recurrent funds to capital funds but not vice versa.

(c) Capital transactions

The EFA requires the College to normally apply the proceeds of asset sales to investment in land and buildings fixed assets.

The Corporation must obtain consent from the EFA for capital transactions where the total cost or proceeds exceed £1.5m or 5% of the College's annual revenue, whichever is the lesser.

Where the College proposes to dispose of or lease or rent land and buildings which may have been acquired by public funds, the EFA may require the College to surrender some or all of the proceeds.

(d) Borrowing

Under section 19 of the Further and Higher Education Act 1992 (see Appendix 3), the College must obtain the consent of the EFA to any secured or unsecured borrowing proposal. However, the EFA has given a general consent to certain categories of borrowing:

- The College may enter into unsecured borrowing at any time without reference to the EFA provided that such borrowing does not exceed 5% of the College's annual income.
- The College may enter into secured borrowing up to a cumulative maximum of 5% of the College's annual income in order to finance the construction, refurbishment or purchase of land and buildings provided that only the land and buildings so purchased or constructed are offered as security.

(e) Financial reporting

The EFA shall specify its requirements as to the information contained in the College's financial statements, the manner in which they are to be prepared and the method and principles according to which they are to be prepared. The College shall provide the EFA with copies of its audited financial statements.

The College must ensure that it has an effective policy of risk management (including appropriate insurance arrangements).

The College must notify the EFA in writing if at any time there is a significant deterioration in its financial position. The EFA may require the College to put in place a plan that will secure a recovery to a satisfactory financial position.

(f) Audit

The Corporation must appoint an audit committee and arrange for internal and financial statements audit, including regularity audit, in accordance with the Joint Audit Code of Practice.

The College must investigate and report to the EFA all significant cases of internal and external fraud or suspected fraud or irregularity.

(g) Payments to employees on termination of employment

In determining individual settlements to senior postholders, or where settlements might be considered novel or contentious, the Corporation must agree, after taking appropriate professional advice, the terms of any agreement.

(h) Provision of information

The College must notify the EFA's Chief Executive in writing of the vacating or filling of the positions of Chair of the Corporation, Principal and Clerk, and, when the Principal is absent from the College for an extended period, the name of the person who will discharge the Principal's responsibilities during his absence.

## APPENDIX 3

### SUMMARY OF THE POWERS OF THE CORPORATION

#### Principal Powers

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

- (a) provide further and higher 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 (as amended) 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 purpose 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 purpose of carrying on any activities they have power to carry on 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, subject the requirements of the financial memorandum;
- (d) power to invest any sums not immediately required for the purposes of carrying on any activities they have power to carry on;
- (e) to the 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;
- (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; and
- (g) The Corporation may also provide facilities of any description (including boarding accommodation facilities for students and staff and facilities for the purpose of or in connection with the carrying on of the principal powers).

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

### THE NINE PRINCIPLES OF PUBLIC LIFE

<b>Selflessness</b>	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.
<b>Integrity</b>	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.
<b>Objectivity</b>	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.
<b>Accountability</b>	Holders of public office area are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
<b>Openness</b>	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.
<b>Honesty</b>	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.
<b>Leadership</b>	Holders of public office should promote and support these principles by leadership and example.
<b>Public Service</b>	Holders of public office have a duty to act in the interests of the public body of which they are a Board member and to act in accordance with the core tasks of the body.
<b>Respect</b>	Holders of public office must respect fellow members of their public body and employees of the body and the role they play, treating them with courtesy at all times.

These Nine Principles of Public Life should be considered alongside the Governors' Code of Conduct

## APPENDIX 5

### GUIDELINES FOR THE RECEIPT OF HOSPITALITY AND GIFTS FOR GOVERNORS AND MEMBERS OF STAFF

#### Introduction

Governors and members of staff should not accept corruptly any gift or consideration (or have them given to members of their families) as an inducement or reward for doing, or refraining from doing, anything in an official capacity or showing favour or disfavour to any person in an official capacity.

#### Gifts

The offer of casual gifts by contractors, suppliers, parents and students should be declined; the only exception being small personal gifts at Christmas/special occasions or gifts of a promotional nature given to a wide range of people. Gifts with a value in excess of **£25** should be registered (see below). Other gifts should be returned with a polite refusal and under no circumstances must a governor or member of staff accept an offer of cash. Where refusal of a small gift might give serious offence it should be reported to the Principal to determine whether it may be retained.

#### Hospitality

It is not always possible or desirable to reject offers of hospitality, for example, attending a function in an official capacity, or having a working lunch. Hospitality in these circumstances is defined as any seminar, conference, event, lunch/dinner or other form of entertainment provided free of charge by a body external to the College. Hospitality should only be accepted when it is reasonably incidental and appropriate to the circumstances. It is acknowledged that staff at senior levels in the organisation, may from time to time be offered hospitality in connection with their responsibilities as Senior Managers in the College. The following rules will apply in determining the acceptability and extent of hospitality:

- Hospitality should be accepted only if directly relevant to the individual's responsibilities.
- Hospitality must not be accepted if this is seen as compromising the individual's position in connection with contractual commitments or negotiations.
- Hospitality may be accepted if it is considered beneficial to the College (e.g. projection of its role in a positive light or in connection with its role within the Community and with its partner organisations, e.g. EFA). If in doubt about the propriety of accepting hospitality, governors and members of staff should consult with the Principal.
- Hospitality must, if accepted, be reasonable in the light of its extent and nature and must not put in doubt the individual's integrity and impartiality.
- A register of all hospitality and gifts must be maintained by the Principal and be available for inspection by auditors or the Audit Committee as and when required.
- The acceptance of hospitality/gifts must be in accordance with Financial Regulations.

#### Procedure for Registering Gifts or Hospitality

Hospitality/gifts that are accepted by a governor or member of staff within these guidelines, and where the value exceeds **£25**, must be registered as soon as possible after receipt. (A copy of the form to be used to register either a gift or the receipt of hospitality can be obtained from the Clerk.) Acceptance of a gift or hospitality which is outside of these guidelines, and/or failure by a member of staff to notify the Principal, may be dealt with under the disciplinary procedure.

If the Principal is in any doubt about the propriety of accepting a gift or offer of hospitality, he/she should consult the Chair of the Corporation.

#### Buying/Selling of Personal Goods

Members of staff must not become involved, in any way, in the buying from or selling of personal goods on behalf of a client. This can be open to misinterpretation.

## APPENDIX 6

## COMPLAINTS PROCEDURE FOR GOVERNORS

This procedure aims to resolve difficulties in the following situations.

1. Where a Governor, group of Governors or the Clerk becomes aware of standards of conduct of one or more Governors which conflict with College Code of Conduct and fall below what might be expected from those serving on public bodies.
2. Where a Governor, group of Governors or the Clerk thinks that the Corporation is exceeding its powers by taking a particular decision or where it is thought the conduct of the Corporation is such as to put the proper conduct of the Corporation at risk.

Every effort should be made to make the concerns understood and to resolve the matter within the College.

### Procedure

- (i) The concerns should be put in writing to the Clerk and sent by the Clerk to the Chair of the Corporation and/or the Principal and/or the Chair of the appropriate committee. If the actions of the Clerk are questioned the complaint should be sent directly to the Chair of the Corporation or to the Principal who should act in lieu of the Clerk.
- (ii) Legal advice should be obtained if there is disagreement as to the legality of an action.
- (iii) The Chair of the Audit Committee should be informed in writing by the Clerk if the concern is relevant to the Committee's terms of reference and the auditors consulted if appropriate. It may be decided to deal with the issue under the College's Fraud and Irregularity Procedure.
- (iv) The Clerk should report concerns to a meeting of the relevant Committee (having first notified the Chair of that Committee) and/or to the Corporation and this should be recorded in the minutes.

If the concerns are not resolved by the above procedures the concerns should be raised externally in either of the following ways.

These are:

- (a) On obtaining prior authorisation from the Corporation the Clerk should seek advice from the EFA and inform the Chair of the Corporation and the Principal that this has been done.
- (b) On receipt of a formal recommendation to the Corporation the Chair of the Corporation or the Principal shall seek advice from the EFA and shall report that advice and its implications to the Corporation.