

Corporation Code of Conduct 2022

1 Overview Information

Lead Responsible:	Director of Governance and Company Secretary
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Introduction

1. This Code is intended as a guide, to indicate the standards of conduct and accountability which are expected of Governors, to enable them to understand their legal and ethical duties and to assist them both in carrying out those duties and in their relationship with the Governing Body and Principal. This Code therefore is aimed at promoting effective, well informed and accountable college governance, and is not intended to be a definitive or authoritative statement of the law or good practice.
2. In addition to this Code, Governors are recommended to familiarise themselves with the source documents listed in the Schedule.
3. If a Governor is in doubt about the provisions of this Code or any of the source documents, the Director of Governance should be consulted and, if necessary, professional advice should be obtained. However, ultimate responsibility for the appropriateness of conduct as a Governor of the College and for any act or omission in that capacity rests with the individual Governor.
4. This Code applies to every committee or working party of the Governing Body and to every subsidiary company or joint venture of the College to which Governors may be appointed.
5. By accepting appointment to the Governing Body, each Governor agrees to accept the provisions of this Code.

Interpretation

6. In this Code:

'College' means this College;

'College Mission, Vision and Values Statement' means the statement set out at paragraph 7 of this Code or such other mission statement as may be agreed by the Governing Body from time to time;

'Council' means the Learning and Skills Council for England or any successor body. Note the Learning and Skills Council has now been replaced by the Education & Skills Funding Agency (ESFA);

'Governing Body' means the further education corporation which was established for the purpose of conducting the College;

'Governor' 'Chair', 'Principal' and 'Director of Governance' mean respectively the Member of the Corporation of the College, the Chair of the Governing Body, the Principal of the College and the Director of Governance.

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.

Aims and values

7. The College Mission, Vision and Values Statement together with the corporate objectives of the College agreed by the Governing Body from time to time seek to encapsulate the core purposes and aims of the College. Governors should have due regard to these purposes and aims when conducting the business of the Governing Body and considering the activities and proposed activities of the College.

8. The Governing Body recognises its obligations to all those with whom it and/or the College have dealings, including students, employees, suppliers, other educational institutions and the wider community. In particular, the Governing Body is committed to combating any discrimination within the College on the grounds of race, ethnic or national origin, religion, belief, age, disability, gender or sexuality as laid out in the Equality Act 2010 and as incorporated into other policies and practices adopted by the College that apply to staff, students, governors, visitors and contractors.
9. The Governing Body is also committed to ensuring that it conducts its business in accordance with the highest ethical standards as set out in more detail in this Code.

Duties

10. Governors owe a fiduciary duty to the College. This means that they should show it the highest loyalty and act in good faith in its best interests. Each Governor should act honestly, diligently and (subject to the provisions appearing in paragraph 10 of this Code relating to collective responsibility) independently. The actions of Governors should promote and protect the good reputation of the College and the trust and confidence of those with whom it deals.
11. Decisions taken by Governors at meetings of the Governing Body and its committees must not be for any improper purpose or personal motive. Decisions taken must always be for the benefit of the College, its students and staff and other users of the College and must be taken with a view to safeguarding public funds. Accordingly, Governors must not be bound in their speaking and voting by mandates given to them by other bodies or persons.
12. Governors must observe the provisions of the College's Instrument and Articles of Government and in particular the responsibilities given to the Governing Body by 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 3**.
13. Governors should comply with the Standing Orders and terms of reference of the Governing Body and its committees to ensure that the Governing Body conducts itself in an orderly, fair, open and transparent manner. Governors must keep those Standing Orders and terms of reference under periodic review.
14. Governors should also have regard to the different, but complementary, responsibilities given to the Principal. The responsibilities given to the Principal by the College's Articles of Government are set out in **Appendix 4**. Whereas it is the Governing Body'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 Governing Body's decisions, and to manage the College's affairs within the budgets and framework fixed by the Governing Body. Governors should work together so that the Governing Body and the Principal perform their respective roles effectively.
15. Governors should refer to the Director of Governance for advice relating to the governance functions which are set out in **Appendix 4** and have regard to the Director of Governance's independent advisory role.

Statutory accountability

16. Governors are collectively responsible for observing the duties set out in the Financial Memorandum which the College has entered into with the Council 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 5**.
17. Although the Council is the main provider of funds to the College, Governors 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) 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.

18. As an accounting officer for the Skills Funding Agency, its Chief Executive Officer is directly responsible and accountable to Parliament for ensuring that the uses to which the Corporation puts its funds are consistent with the purposes for which the funds were given and comply with the conditions attached to them. The Principal, as accounting officer for the College, is also directly responsible and accountable to Parliament, through the Committee of Public Accounts, for the effective stewardship by the College of public funds. The Principal may be required to appear before the Committee of Public Accounts, alongside the Chief Executive of the Skills Funding Agency, to give an account of the use made by the College of such funds. The Governing Body 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.

Public service values

19. 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 **Appendices 1 and 2** of this Code, and the recognition that students and other users of the College's services come first, are a requirement of being a Governor and should underpin all decisions taken by the Governing Body.

Skill, care and diligence

20. A Governor should in all his or her work for the College exercise such skill as he or she possesses and such care and diligence as would be expected from a reasonable person in the circumstances. This will be particularly relevant when Governors act as agents of the College, for example, when functions are delegated to a committee of the Governing Body or to the Chair. Governors should be careful to act within the terms of reference of any committees on which they serve.

Powers

21. Governors are responsible for taking decisions which are within the powers given to the Governing Body by Parliament under sections 18 and 19 of the Further and Higher Education Act 1992. A summary of those powers is set out in **Appendix 6**. If a Governor thinks that the Governing Body is likely to exceed its powers by taking a particular decision, he or she should immediately refer the matter to the Director of Governance for advice.

Conflicts of interest

22. Like other persons who owe a fiduciary duty, Governors 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 Governing Body. They should not allow any conflict of interest to arise which might interfere with the exercise of their independent judgement.
23. Governors are reminded that under the College's Instrument of Government they must not acquire or hold any interest in any property held or used for the purposes of the College 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 Innovation, Universities and Skills.
24. Governors are reminded that under the College's Instrument of Government and the general law they must disclose to the Governing Body 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 Governing Body.

25. If an interest of any kind (including an interest of a spouse or partner of a Governor or of a close relative of the Governor or his or her partner or spouse) is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a Governor's independent judgement, then:
- a) the interest, financial or otherwise, should be reported to the Director of Governance;
 - b) the nature and extent of the interest should be fully disclosed to the Governing Body before the matter giving rise to the interest is considered;
 - c) if the Governor 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, he or she should:-
 - i. 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
 - ii. withdraw from that Governing Body or committee meeting where required to do so by a majority of the Members of the Governing Body or committee present at the meeting.
26. For the purposes of paragraph 25 "close relative" includes but is not limited to a father, mother, brother, sister, child, grandchild and step-father/mother/ brother/sister/child.
27. Governors 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 immediately be reported to the Director of Governance.
28. The Director of Governance will maintain a Register of Governors' Interests which will be open for public inspection. Governors must disclose routinely to the Governing Body all business interests, financial or otherwise, which they may have, and the Director of Governance will enter such interests on the Register. Governors must give sufficient details to allow the nature of the interests to be understood by enquirers. Governors should inform the Director of Governance whenever their circumstances change and interests are acquired or lost. In deciding whether an interest should be disclosed, Governors should have regard to the meaning given to "interest" in paragraphs 25-26 of this Code.

Collective responsibility

29. The Governing Body operates by Governors taking majority decisions in a corporate manner at quorate meetings. Therefore, a decision of the Governing Body, even when it is not unanimous, is a decision taken by the Governing Body collectively and each individual Governor has a duty to stand by it, whether or not he or she was present at the meeting of the Governing Body when the decision was taken.
30. If a Governor disagrees with a decision taken by the Governing Body, his or her first duty is to have any disagreement discussed and minuted. If the Governor strongly disagrees, he or she should consult the Chair and, if necessary, then raise the matter with the Governing Body when it next meets. If no meeting is scheduled, the Governor should refer to the power of the Chair or any five Governors under the College's Instrument of Government to call a special meeting and, if appropriate, exercise it, requesting the Director of Governance to circulate the Governor's views in advance to the other Governors. Alternatively, as a final resort, the Governor may decide to offer his or her resignation from office, after consulting the Chair.

Openness and confidentiality

31. Because of the Governing Body's public accountability and the importance of conducting its business openly and transparently, Governors should ensure that, as a general principle, students and staff of the College have free access to information about the proceedings of the Governing Body. Accordingly, agendas, minutes and other papers relating to meetings of the Governing Body are normally available for public inspection when they have been approved for publication by the Chair.
32. There will be occasions when the record of discussions and decisions will not be made available for public inspection; for example, when the Governing Body considers sensitive issues or named

individuals and for other good reasons. Such excluded items will be kept in a confidential folder by the Director of Governance, and will be circulated in confidence to Governors. 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 Governing Body 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. When considering such issues, the Governors must also consider the College's publication scheme issued under the Freedom of Information Act 2000. (Policy on Access to College Information relevant to meetings also refers)

33. However, staff and student Governors have no right of access to minutes dealing with matters in respect of which they are required to withdraw from meetings under the College's Instrument of Government.
34. It is important that the Governing Body and its committees have full and frank discussions in order to take decisions collectively. To do so, there must be trust between Governors with a shared corporate responsibility for decisions. Governors should keep confidential any matter which, by reason of its nature, the Chair or members of any committee of the Governing Body are satisfied should be dealt with on a confidential basis.
35. Governors should not make statements to the press or media or at any public meeting relating to the proceedings of the Governing Body or its committees without first having obtained the approval of the Chair and Principal or, in his or her absence, the Vice Chair and Principal. It is unethical for Governors publicly to criticise, canvass or reveal the views of other Governors which have been expressed at meetings of the Governing Body or its committees

Complaints

36. In order to ensure that the affairs of the College are conducted in an open and transparent manner and that the College is accountable for its use of public funds but also to its employees, its students and the community it serves, it is important for there to be appropriate complaints procedures in place and for these to be well publicised. Governors are reminded of their specific responsibility under the Articles of Government to make rules specifying the procedures in accordance with which employees may seek redress of any grievances relating to their employment, of the importance of having formal complaints procedures in place to handle issues raised by students, former students and third parties and of the legal requirement to have a whistle blowing procedure in place.
37. Under the Charter for Further Education, students, employees and other third parties have a right to make a complaint to the Council in respect of the College or of any of its decisions. Governors in particular are reminded that under the Council's Procedure for dealing with complaints about Learning Providers (November 2007) the Council must investigate "all allegations of irregularity (unlawful or unethical conduct, financial malpractice, equality and diversity issues and health and safety risks to staff, learners or the public)".

Attendance at meetings

38. A high level of attendance at meetings of the Governing Body is expected so that Governors can perform their functions properly.

Governance development

39. The Governing Body shall seek to ensure that all Governors are appointed on merit, in accordance with an open selection procedure carried out by the Governing Body's Search, Governance and Remuneration Committee, and are drawn widely from the community which the College serves so as to be representative of that community. The Governing Body should have regard to the provisions relating

to the membership of the Governing Body in the College's Instrument of Government, the need to combat discrimination and to promote equality, and the need to make available a range of necessary skills and experience to ensure that the Corporation carries out its functions under the College's Articles of Government.

40. Governors must obtain a thorough grounding in their duties and responsibilities by participating in the College's governance induction and training programmes, including regular refresher workshops.
41. In order to promote more effective governance, Governors will carry out an annual review of the performance by the Governing Body of its duties and responsibilities, as part of a continuing and critical process of self evaluation.

SCHEDULE - List of source documents

42. Source Documents:

- a) The College's Instrument of Government
- b) The College's Articles of Government
- c) Standing Orders and terms of reference of Capel Manor College the Corporation) and its committees
- d) Financial Memorandum entered into by the College with the Council
- e) The College's Mission Statement and corporate objectives
- f) The College's Strategic Plan
- g) The principles laid down by the Committee on Standards in Public Life (Nolan Committee) for those holding public office, namely:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership.

An extract from the report of the Nolan Committee setting out these Principles in more detail is set out at **Appendix 1**

- h) The Audit Code of Practice issued by the Council
- i) The Combined Code on Corporate Governance published by the Financial Services Authority
- j) Code of Good Governance for English Colleges published by the Association of Colleges, March 2015 and reviewed in September 2021.
- k) Capel Manor College's Governors' Library.

APPENDIX I: 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.

APPENDIX II: The Principal Responsibilities of Good Governance

The following is an extract from the **Code of Good Governance for English Colleges** published by the **Association of Colleges**, March 2015 and reviewed in September 2021.

To implement and embed the above values and expectations in the college, the governors will undertake to:

1. Formulate and agree the **mission and strategy** including defining the ethos of the college.
2. Be **collectively accountable** for the business of the college taking all decisions on all matters within their duties and responsibilities.
3. Ensure there are effective underpinning policies and systems, which **safeguard students and facilitate the student voice**.
4. Foster **exceptional teaching and learning**.
5. Ensure that the college is **responsive to workforce trends** by adopting a range of strategies for engaging with employers and other stakeholders.
6. Adopt a **financial strategy and funding plans** which are compatible with the duty to ensure sustainability and solvency of the college.
7. Ensure that **effective control** and due diligence takes place in relation to all matters including acquisitions, subcontracting and partnership activity.
8. Oversee the design of a robust **environmental sustainability strategy** and adopt standards and frameworks which enable effective implementation.
9. Meet and aim to exceed its statutory responsibilities **for equality, diversity and inclusion**.
10. Ensure that there are organised and **clear governance and management structures** and that there are regular **reviews of governance** performance and effectiveness.

APPENDIX III: Summary of main responsibilities of Governors

Under the College's Articles of Government, the Governing Body shall be responsible:

3. 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 the oversight of its activities;
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 senior postholders, including, where the Director of Governance is, or is to be appointed as, a member of staff, the Director of Governance's appointment, grading, suspension, dismissal and determination of pay in the capacity of a member of staff; and
- f) setting a framework for the pay and conditions of service of all other staff.

APPENDIX IV: Summary of the main responsibilities of the Principal and Director of Governance

Under the College's Articles of Government, the Principal shall be responsible for advising the Governing Body with regard to:

4. Subject to the responsibilities of the Corporation, the Principal shall be the Chief Executive of the institution, and shall be responsible for the following functions:
 - a) making proposals to the Corporation about the educational character and mission of the institution and implementing the decisions of the Corporation;
 - b) the determination of the institution's academic and other activities;
 - c) preparing annual estimates of income and expenditure for consideration and approval by the Corporation, and the management of budget and resources within the estimates approved by the Corporation;
 - d) the organisation, direction and management of the institution and leadership of the staff;
 - e) 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 postholders; and
 - f) maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.

Under the College's Articles of Government, the Director of Governance shall be responsible for advising the Governing Body with regard to:

- a) advising the Corporation with regard to the operation of its powers;
- b) advising the Corporation with regard to procedural matters;
- c) advising the Corporation with regard to the conduct of its business; and

APPENDIX V: Financial Memorandum of the ESFA

Financial Memorandum of the ESFA: Responsibilities of the Governing Body

- 3.1 The Governing Body of the College has responsibilities for ensuring that the College's funds are used only in accordance with the College's powers as set out in the Further and Higher Education Act 1992 and the College's own statutory duties and other obligations.
- 3.2 The Governing Body is responsible for ensuring the solvency of the College and shall inform the ESFA of any transactions that could jeopardise financial viability. The Governing Body is responsible for achieving value for money in all transactions involving Public Funds.
- 3.3 The Governing Body shall appoint an accounting officer with an appropriate separation of duties between executive and non-executive roles and responsibilities. The expectation is that the accounting officer will be the Principal of the College. The Governing Body shall inform the ESFA in writing of the name and position of the accounting officer and if the accounting officer is absent from the College for an extended period as determined by the College, the name of the person who will discharge the accounting officer's responsibilities during the absence.
- 3.4 The College shall inform the ESFA in writing of the vacating or filling of the positions of chair of the Governing Body and Principal and the Director of Governance.
- 3.5 The College must notify the ESFA in writing if there is a change in its Corporation name.

APPENDIX VI: Summary of the Statutory Powers of Capel Manor College (the Corporation)

Principal powers

1. Under section 18(1) of the Further and Higher Education Act 1992 a further education Corporation may:
 - (a) provide further and higher education;
 - (b) provide secondary education suitable to the requirements of persons who have attained the age of 14 years, or provide secondary education or participate in the provision of secondary education at a school (subject to the consultation with the appropriate local education authority); and
 - (c) supply goods or services in connection with their provision of education. These powers are known as the Corporation's "principal powers".

Supplementary powers

2. Under section 19 of the 1992 Act the 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 the Corporation's principal powers; and
 - (ii) contracts with respect to the carrying on by the Corporation of any such activities;
 - (c) the power to form, participate in forming or invest in a company or become a member of a charitable incorporated organisation provided that the ESFA consents;
 - (d) the power to borrow such sums as the Corporation thinks fit for the purposes of carrying on any activities it has power to carry on or to meet any liability transferred to it 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 ESFA, which may give its consent for a particular borrowing or for borrowing of a particular class;
 - (e) power to invest any sums not immediately required for the purposes of carrying on any activities the Corporation has power to carry on;
 - (f) 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
 - (g) 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.

3. 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 1992 Act are known as "supplementary powers".