

## HARPER ADAMS UNIVERSITY COLLEGE

### INSTRUMENT OF GOVERNMENT

(Comprising an Instrument of Government in accordance with Section 129A of the Education Reform Act 1988, as inserted by Section 73 of the Further and Higher Education Act 1992 comprised in a Scheme of the Charity Commissioners of 3 February 1988 as modified by an Order of the Secretary of State dated 11 June 1991 and by an order of Council dated 18 December 2000)

#### 1. INTERPRETATION

In this Instrument, the following words and expressions shall have the meanings indicated in this paragraph:

- |      |   |   |
|------|---|---|
| 1.1  | “Academic Governor”   | means the Principal and the two Deans of School for the time being  |
| 1.2  | “the Act”   | means the Education Reform Act 1988 as amended from time to time  |
| 1.3  | “the College”   | means Harper Adams University College   |
| 1.4  | “Student Governor”  | means the President of the Students’ Union of the College for the time being  |
| 1.5  | “the Board of Governors”  | means the Governing Body of the College which also acts for the purposes of this Instrument as the appointing authority |
| 1.6  | “the Principal”   | means the Chief Executive of the College  |
| 1.7  | “the Academic Board”  | means the Academic Board of the College constituted in accordance with the Articles of Government                       |
| 1.8  | “the Instrument”  | means the Instrument of Government of the College   |
| 1.9  | “the Articles”  | means the Articles of Government in accordance with which the College is conducted                                      |
| 1.10 | “the Clerk”   | means the person appointed to the office of the Clerk to the Governors under the Articles of Government                 |
| 1.11 | “the Secretary of State”  | means the Secretary of State for Education and Employment   |
| 1.12 | In relation to the Board of Governors any reference to this Instrument to the Board of Governors will mean a variable category of members of the Board in accordance with paragraph 6 below |   |

2. **OBJECT**

The object of the College is set out in paragraph 2(b) of the Order of Council mentioned above

3. **NAME OF THE COLLEGE**

The Board of Governors may, by resolution, change the title of the College, or use a trading company or trading name of the College with the consent of the Privy Council

4. **POWERS OF THE BOARD OF GOVERNORS**

4.1 The meetings and procedures of Governors will be carried out in accordance with the Articles

4.2 In addition to the powers of the Board of Governors under the Charity Commissioners Scheme dated 3rd February 1988 and the powers set out in this Instrument the Board of Governors shall have the following powers:

4.2.1 To invest the monies of the College not immediately required for its purpose in or upon such investments securities or property as may be thought fit subject nevertheless to such conditions (if any) and consents (if any) as may for the time being be imposed or required by law

4.2.2 To acquire or promote and invest monies in any company or companies carrying on activities calculated to further the objects of the College provided that such companies are either charitable companies or have covenanted to distribute or otherwise to give to the College all their profits available for distribution to the College and to lend and advance the money or give credit on any terms with or without security to any such company and further to enter into guarantees, contracts of indemnity and suretyship of all kinds and secure or guarantee in any manner and upon the terms the payment of any sum of money or the performance of any obligation by any such company

4.2.3 To make planning applications and applications for consent under bye-laws or building regulations and other like applications

4.2.4 To provide indemnity insurance to cover the liability of the governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence default breach of trust or breach of duty of which they may be guilty in relation to the College; provided that any such insurance shall not extend to any claim arising from any act or omission which the governors knew to be a breach of trust or breach of duty or which was committed by the governors in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of an unsuccessful defence to a criminal prosecution brought against the Governors in their capacity as trustees of the College

4.2.5 Nothing herein shall prevent the payment in good faith by the College:

4.2.5.1 of any premium in respect of any indemnity insurance to cover the liability of the Governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence default breach of duty of which they may be guilty in relation to the College; provided that any such insurance shall not extend to any claim arising from any act or omission which the governors knew to be a breach of trust or breach of duty or which was committed by the trustees in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence

to a criminal prosecution brought against the Governors in their capacity as trustees of the College

4.2.5.2 to any Governor in respect of reasonable out of pocket expenses

4.2.6 To borrow money and to charge the whole or any part of the property belonging to the College as security for repayment of the money borrowed. The College must comply as appropriate with sections 38 and 39 of the Charities Act 1993, as amended by the Charities Act 2006, if it wishes to mortgage land

## **5. MEMBERSHIP OF THE BOARD OF GOVERNORS**

5.1 The Board of Governors shall consist of not less than nineteen and not more than twenty-three members appointed in accordance with the following provisions

5.2 Of the appointed members:

- (a) there shall be four ex-officio Governors being the Principal, two Deans of School and the President of the Students' Union for the time being of the College;
- (b) twelve shall be Independent Governors
- (c) at least three and not more than seven shall be Co-opted Governors whose numbers shall include two members of academic staff

5.3 The Students' Union President will be the President as defined in the Students' Union Constitution

5.4 It shall be for the Board of Governors to determine any question as to whether any person is qualified in accordance with the preceding provisions of this paragraph for appointment as a member of the Board of Governors of any description or category

## **6. DETERMINATION OF MEMBERSHIP NUMBERS**

6.1 The Board of Governors shall make a determination with respect to their membership numbers

6.2 Such a determination shall fix the number of members of each variable category of which the Board of Governors is to consist, subject to the limits applicable in relation to that category in accordance with 5.1 above

6.3 Such a determination shall not have effect so as to terminate the appointment of any person who is a member of the Board of Governors at the time when it takes effect

6.4 Such a determination may be varied by a subsequent determination

## **7. APPOINTMENT OF MEMBERS OF THE BOARD OF GOVERNORS**

7.1 Subject to the provisions of section 129A of the Act, no appointment of members of the Board of Governors may be made before the first determination of the membership in accordance with 6.1 above takes effect

7.2 The Board of Governors is the appointing authority in relation to the appointment of any member of the Board of Governors. The members of the Board of Governors shall be appointed by the appointing authority

**8. INDEPENDENT GOVERNORS**

- 8.1 Independent Governors shall be persons appearing to the appointing authority to have experience of, and to have shown capacity in, industrial, commercial or employment matters or the practice of any profession
- 8.2 Where an appointment of an additional Independent Governor of the Board of Governors falls to be made:
- 8.2.1 in consequence of a determination in accordance with paragraph 6 above, or
  - 8.2.2 a vacancy in the office of an independent member of the Board of Governors arises on any existing Independent Governor ceasing to hold office on the expiry of his term of office, or
  - 8.2.3 a vacancy in the office of an Independent Governor of the Board of Governors arising on the death of any such member or on any such member ceasing to hold office in accordance with the Instrument

the appointing authority shall be the Board of Governors

- 8.3 If a vacancy in the office of an Independent Member of the Board of Governors arises on any existing Independent Governor ceasing to hold office on the expiry of his term of office his successor shall not be appointed more than six months before the expiry of that term
- 8.4 If the number of Independent Governors of the Board of Governors falls below the number needed in accordance with the Articles for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such number of Independent Governors as is required for a quorum
- 8.5 An Independent Governor shall hold office for a term of 4 years save where an Independent Governor is appointed as a result of holding a certain professional post whereupon membership will cease when such Governor ceases to hold such a professional post

**9. CO-OPTED GOVERNORS**

- 9.1 Co-opted Governors shall, save if a student of the College or an elected member of any local authority or a non-academic member of staff, be persons who have experience in the provision of education or other experience of relevance to the College
- 9.2 A student, or an elected member of any local authority or a non-academic member of staff can only be appointed as a Co-opted Governor
- 9.3 Co-opted Governors shall be nominated and appointed by the members of the Board of Governors (members shall include Co-opted members)
- 9.4 A Co-opted Governor shall hold office for a term of 4 years by a resolution of the appointing authority passed at an ordinary meeting and may be so appointed not more than six months before the term of an existing Co-opted Governor expires with effect from the date of expiry but so that the latter shall not vote on the matter

**10. TENURE OF OFFICE OF MEMBERS OF THE BOARD OF GOVERNORS**

- 10.1 The term of office is as stated in this Instrument subject to variation by the Board of Governors. Members shall hold and vacate office in accordance

with the terms of their appointment and shall, on ceasing to be a member on completion of their period of office, be eligible for reappointment for a further term equivalent to their first term of office

10.2 A member of the Board of Governors may at any time by notice in writing to the Clerk resign his office, which will thereupon become vacant from the date of receipt of the notice or date of resignation specified therein whichever shall be the later

10.3 If at any time the Board of Governors are satisfied that any member of the Board of Governors:

- (a) has been absent from meetings of the Board of Governors for a period of twelve months without the permission of the Board of Governors; or
- (b) is adjudged bankrupt or makes a composition or arrangement with his or her creditors; or
- (c) is unable or unfit to discharge the functions of a member; or
- (d) being an Academic Governor ceases to be a member of the academic staff of the College; or
- (e) being a Student Governor ceases to attend any registered course of study at the College or ceases holding a sabbatical post
- (f) reaches his or her seventieth birthday unless prior thereto the Governors shall have approved his continuing in office by a resolution passed by a majority of not less than two-thirds of those present at a meeting and voting on the question; or
- (g) is under the age of 18;

the Board of Governors may by notice in writing to that member remove him from office; and thereupon the office shall become vacant

## 11. **OFFICERS**

The Board of Governors shall appoint annually from among their members a Chairman and any other officers which the Board may determine

## 12. **COMMITTEES**

The Board of Governors may establish committees and permit such committees to include persons who are not members of the Board of Governors. Procedures for the operation of sub-committees are laid down in their terms of reference which include, amongst other things, details, where appropriate, for reporting matters to the Board of Governors

## 13. **ALLOWANCES**

The Board of Governors shall determine any allowances to be paid to members of the Board of Governors

## 14. **AMENDMENT**

This Instrument may be amended or replaced by a resolution of the Board of Governors with the approval of the Charity Commissioners and the Privy Council or as required by the Privy Council after consultation with the College, in accordance with Section 129A of the Act

15. **COPIES OF INSTRUMENT OF GOVERNMENT**

Copies of the Instrument of Government shall be provided to each member of the Board of Governors and shall be available for inspection upon request to every member of staff and every student of the College

July 2009