

HARPER ADAMS UNIVERSITY COLLEGE

Board of Governors

Terms of Reference

NB: In the following paper special text (apart from paragraph headings) refers to sections originally based on:

<i>italic text</i>	the Instrument of Government
bold text	the Articles of Government
bold italic text	the Charity Commission Scheme

Constitution

1. The Instrument of Government for Harper Adams Agricultural College was approved by the Secretary of State for Education and Science, following the passage of the Education Reform Act 1988. It was subsequently revised with the consent of the Privy Council in 2000 to reflect the provisions of the Further and Higher Education Act 1992. The Instrument of Government contains provision for a Board of Governors to act as the Governing Body of the College. The College is also established as a charitable unincorporated association regulated by a Scheme of the Charity Commissioners dated 3 February 1988. In accordance with the Scheme the College is administered by Governors who, as a result, are trustees of the charity within the meaning of the Charities Act 1993. The Privy Council consented to a change in the title of the College to Harper Adams University College in 2000.

Object of the College

2. ***The Object of the College shall be the provision, conduct and development of the College to provide higher education for the industries, professions and communities associated with rural land.***

Membership

3. *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.*

4. *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. *The Students' Union President will be the President as defined in the Students' Union Constitution.*

6. *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 for appointment as a member of the Board of Governors of any description or category.*

Determination of membership numbers

7. *The Board of Governors shall make a determination with respect to their membership numbers.*
8. *Such a determination shall fix the number of members of each variable category of which the Board of Governors are to consist, subject to the limits applicable in relation to that category in accordance with paragraph 4 above.*
9. *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.*
10. *Such a determination may be varied by a subsequent determination.*

Appointment of members of the Board of Governors

11. *Subject to the provisions of section 124C of the Education Reform Act, no appointment of members of the Board of Governors may be made before the first determination of the membership in accordance with paragraph 7 above takes effect.*
12. *The Board of Governors is the appointing authority in relation to the appointment of any member of the Board of Governors.*
13. *Retirements at the end of a normal tenure of office will take effect on 31 July in the relevant year. Appointments to the Board will operate from 1 August each year. Such changes in the membership of the Board will normally be considered at the spring meeting of the Board and will come into effect on the 31 July and 1 August following that meeting, as appropriate. The replacement of Governors who retire other than at the end of their tenure of office will be considered as soon as convenient by the Board.*

Independent Governors

14. *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.*
15. *Where an appointment of an additional Independent Governor of the Board of Governors falls to be made:*
 - a) *in consequence of a determination in accordance with paragraphs 7-10 above,*
or
 - b) *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, in which case his successor shall not be appointed more than six months before the expiry of that term;*
or
 - c) *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.

16. *If the number of Independent Governors of the Board of Governors falls below the number needed 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.*

17. *An Independent Governor shall hold office for a term of 4 years save where an Independent Governor is appointed due to the holding of a certain professional post whereupon membership will cease when such Governor ceases to hold a post.*

Co-opted governors

18. *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.*

19. *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.*

20. *Co-opted Governors shall be nominated by the members of the Board of Governors (members shall include co-opted members).*

21. *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.*

Tenure of office of members of the Board of Governors

22. *The term of office is as stated in these terms of reference (paragraphs 16 and 20) 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.*

23. *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.*

24. *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;*
- d) ***being a staff governor ceases to be a member of the academic staff of the College;***
- e) ***being a student governor ceases to attend, or to be on sabbatical from, any registered course of study at the College;***
- 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.

- 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.

25. No person shall be entitled to act as a Governor whether or any subsequent entry into office until after signing in the minute book of the Governors a declaration of acceptance and of willingness to act in the trusts of the Charity Commission Scheme.

Authority

26. The Board of Governors derives its authority from the Instrument of Government of the College and the Charity Commission scheme. The Board is empowered by the Instrument to:

- a) *change the title of the College, by resolution, or use a trading company or trading name of the College with the consent of the Privy Council and the Charity Commissioners*
- b) *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.*
- c) *acquire or promote and invest monies in any company or companies carrying on activities calculated to further to 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 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 any terms the payment of any sum of money or the performance of any obligation by any such company.*
- d) *make planning applications and applications for consent under byelaws or building regulations and other like applications.*
- e) *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.*
- f) *to enable the College to pay in good faith:*
 - i) *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 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.

- ii) *reasonable out of pocket expenses to any Governor*
 - g) *establish committees and permit such committees to include persons who are not members of the Board of Governors*
 - h) *determine any allowances to be paid to members of the Board of Governors*
 - i) *amend or replace the Instrument 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 125 of the Education Reform Act 1988*
 - j) *appoint from among their members a Chairman and any other officers which the Board of Governors may determine*
 - k) *follow Articles of Government of the College in the conduct of its meetings and procedures*
27. In addition to the provisions of the Articles, some of which are broadly consistent with the provisions of the Charity Commission Scheme, the Scheme, amongst other matters, authorises the Governors to:
- a) ***allot accommodation in the buildings*** (of the charity) ***from time to time occupied for the purposes of the College to any employee of the Charity as a residence for him or her or his or her family during his or her employment. Such accommodation shall be occupied and used by the employee for the proper and convenient performance of his or her duties and not (so far as is consistent with the provisions of the Rent (Agriculture) Act 1976) as tenant.***
 - b) ***let and otherwise manage all the lands belonging to the Charity no longer needed for the purposes of the College*** (subject to the sanction of the Charity Commissioners on the length and terms of leases over 22 years)
 - c) ***keep in repair and insure to the full value thereof against fire and other usual risks all the buildings of the Charity not required to be kept in repair and insured by the lessees or tenants thereof, and to suitably insure in respect of public liability and employers' liability***
 - d) ***sell or exchange any part of the lands vested in the Charity no longer needed for the purposes of the College, subject to the authority of a further Order or Orders of the Charity Commissioners***
28. Subject to the provisions of the Articles, the Board of Governors may establish committees for any purpose or function, other than those assigned in the Articles to the Principal or to the Academic Board, and may delegate powers to such committees or to the Chairman of the Board of Governors or to the Principal. The

Board will establish an Audit Committee, and committee(s) to advise on such matters relating to finance or employment policy as the Board may remit to them.

- 29. The Board of Governors shall not delegate the following:**
- a) the determination of the educational character, mission and corporate plans of the College**
 - b) the approval of the annual estimates of income and expenditure**
 - c) ensuring the solvency of the College and the safeguarding of its assets**
 - d) the appointment or dismissal of the Principal**
 - e) the varying or revoking of the Articles of Government**

Duties

30. The Board of Governors shall be responsible for ensuring that the object of the College is fulfilled. Without prejudice to the generality of the functions exercisable by the Board of Governors on behalf of the College, those functions shall include the following:

- a) the determination of the educational character, mission and corporate plans of the College and for oversight of its activities**
- b) ensuring the effective and efficient use of resources, the solvency of the College and the safeguarding of its assets**
- c) approving the annual accounts and annual estimates of recurrent income and expenditure, together with capital expenditure**
- d) monitoring financial performance against the annual estimates and long term financial plans**
- e) the appointment, grading, suspension, discipline, dismissal and determination of the policy concerning the pay and conditions of service of the Holders of Senior Posts, subject to the Regulations in respect of the appointment of Professors and Readers**
- f) the appointment of the members of staff of the College and the determination of a framework for their pay and conditions of service**
- g) receiving and considering reports from the Academic Board and committees of the Academic Board**
- h) making regulations, after consultation with the Academic Board and representatives of the students, with respect to the conduct of students, including procedures for suspension and expulsion**
- i) making regulations and procedures whereby representation on matters of proper concern to students at all levels in the College may be made by their representatives to the Board of Governors, the Academic Board or the Principal as appropriate**
- j) establishing, with the Academic Board and after consultation with student representatives, procedures for dealing with students who have failed or**

who are to be excluded for unsatisfactory standards of work or other academic reason

- k) determining the tuition and other fees payable to the College (subject to any terms and conditions attached to grants, loans or other payments paid or made by the appropriate Higher Education Funding Council)
- l) keeping accounts and records and appointing and determining the remuneration of an auditor who shall be eligible for appointment pursuant to Section 25 of the Companies Act 1989 or any statutory modification or re-enactment thereof for the time being in force
- m) from time to time, at any meeting of the Board of Governors to make, alter or revoke regulations for the conduct of the business or affairs of the College provided that notice of an intention to propose any amendments to or revocation of the existing regulations or the making of any new regulations shall have been given in the notice calling any such meeting

31. In making rules for the conduct of staff, the Board of Governors shall have regard to the need to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges they may have at the College.

Procedures for meetings

32. All members of the Board of Governors shall have the same status, rights, powers and duties and shall share equally the collective responsibility of the Board of Governors of the College for all acts and omissions of the Board of Governors but subject to the limitation on the participation of student members specified in paragraph 43. Every member shall speak and act in propria persona contributing to the deliberations of the Board whatever special knowledge and advice relevant to the matter in hand is available to him by reason of the circumstances of his membership, but exercising his own judgement to the best of his ability, in the interests and for the good of the College as a whole, in all matters committed to the Board of Governors

33. The proceedings of the Governors shall not be invalidated by any failure to appoint or any difficulty in the appointment, election or qualification of any Governor

34. Any resolution of the Governors may be rescinded or varied at a subsequent meeting if due notice of the intention to rescind or vary the same has been given in writing to all the Governors

35. Governors must declare any pecuniary, business, family or other personal interest in any matter under discussion by the Board of Governors. Governors who declare any such interest shall take no part in the consideration of the matter under discussion, except where it involves the consideration and voting upon proposals for the College to insure members of the Board against liabilities incurred by them arising out of their office or the College obtaining such insurance and paying the premiums

36. **Ordinary Meetings.** *The Board of Governors shall hold at least three ordinary meetings in each year, the dates of which shall be circulated to members at the beginning of each academic year. Papers for meetings will normally be circulated at least one week in advance of the meeting.*

37. **First Meeting.** *The first meeting of the Board of Governors shall be summoned by the Principal of the College or if he fails for three calendar months after the date of these Articles to summon a meeting, by any two of the Governors*

38. **Chairman and Vice Chairman.** *The Governors at their first ordinary meeting in each year shall elect one of their number to be chairman of their meetings until the commencement of the first ordinary meeting in the following year and may also elect one of their number to be vice chairman. The chairman and vice-chairman shall be eligible for re-election annually, in accordance with the above procedure. If at any meeting neither the chairman nor the vice chairman is present within ten minutes after the time appointed for holding the same or there is no chairman or vice chairman the governors present shall choose one of their number to be chairman of the meeting*

39. **Special Meetings.** A special meeting may be summoned at any time by the Chairman or any two Governors upon not less than four days notice being given to the other Governors of the matters to be discussed, but if the matter concerns the appointment of a Governor then upon not less than 21 days notice being so given. A special meeting may be summoned to take place immediately after an ordinary meeting.

40. **Voting.** Every matter shall be determined by consensus, or if the Chairman decides, by the majority of votes of the Governors present and voting on the question or if the majority of those present call for a vote. In case of equality of votes the chairman of the meeting shall have a casting vote whether he or she has or has not voted previously on the same question, but no Governor in any other circumstances shall be given more than one vote

41. **Adjournment.** Any meeting may be adjourned by a resolution of the Governors

42. **Staff Governors**

- a) Unless invited by resolution of the other Governors at the meeting to remain, any Governor who is a member of staff of the College shall withdraw from that part of any meeting of the Governors, or a Committee of the Governors, at which there is consideration of the appointment or promotion of a person to a post senior to that which is held by him or consideration of the discipline, suspension, dismissal, or retirement of a person holding such a post
- b) Such a Governor shall not take part in that part of any meeting of the Governors at which there is consideration of his discipline, suspension, dismissal or retirement
- c) Any such Governor to whom notice of termination of his contract has been given by the Governors, or who has otherwise resigned from his post, shall withdraw from that part of any such meeting as aforesaid at which there is consideration of the appointment of his successor

43. **Student Governors.** Unless invited by a resolution of the other Governors at the meeting to remain, any Governor who is a student of the College, shall withdraw from that part of any meeting of the Governors at which there is consideration of the appointment, promotion, suspension, discipline or dismissal of any member of College staff

44. Quorum.

- a) **There shall be a quorum of any meeting of the Governors when the number of Governors present is the next whole number above one third of the number of Governors for the time being at the commencement of a meeting**
- b) **In the case of the Board of Governors, there must be a minimum of 5 Independent members present at each meeting. At meetings where the minimum number of Independent members are present and they are not in the majority, the majority of the Independent members present shall be able to require that a decision be deferred to the next meeting. No decision shall be deferred more than once under this provision.**
- c) **The number of Governors remaining after withdrawals mentioned in paragraphs 42 and 43 above shall be a quorum**

45. Appointment of Members. The notice and quorum for meetings and voting procedures at such meetings at which the appointment of new members of the Board of Governors are made shall be the same as those at paragraphs 36, 44 and 40 respectively

46. Casual Vacancies. A casual vacancy in the membership of the Board of Governors shall be filled as soon as convenient by the Board of Governors. A member appointed to fill a casual vacancy shall hold office only for the unexpired term of office of the member he replaces

47. Minutes and Accounts. *A minute book and books of accounts shall be provided and kept by the Governors.*

Attendance at meetings

48. College officers may be invited to attend meetings of the Board of Governors where business relevant to them is to be discussed.

Frequency and notification of meetings

49. Ordinary meetings shall be held at least three times each year. The dates of meetings will be established at the beginning of each academic year and notified to Governors at that point. The date of ordinary meetings may be changed by agreement of the Chairman, Vice Chairman and Principal, at which point Governors will be informed. Papers for ordinary meetings will normally be circulated at least one week prior to the meeting.

50. A special meeting may be summoned at any time by the Chairman or any two Governors upon not less than four days notice being given to the other Governors of the matters to be discussed, but if the matters concerns the appointment of a Governor then upon not less than 21 days notice being so given. A special meeting may be summoned to take place immediately after an ordinary meeting.

Reporting procedures

51. Committees established by the Board of Governors will report to the Board on a regular basis, as set out in their terms of reference.

52. Papers of the Board of Governors will be made available for inspection by students and staff of the College, except where material relates to named members of staff or students, or prospective members of staff or students or to matters which the Board of

Governors, or any committee thereof, as appropriate, are satisfied should be dealt with on a confidential basis, including matters of commercial confidentiality

Clerking arrangements

53. The Board of Governors shall appoint a Clerk to act as secretary to the Board of Governors.

Board of Governors

Membership 2010/2011

Members

Ex Officio

Principal	-	Dr D G Llewellyn
Director of International Policy	-	Professor B Revell
President of the Students' Union	-	Mr P Dodd

Independent Governors

Twelve Independent Governors	-	Professor P Bailey Mrs F Beatty Mrs A M Blackburn (Chair) Mr J Garnham Dr R Hartley Mr M Hill Mrs H Jenkins Mr R M Mercer (Vice Chair) Mr B Udale Mrs M Ward Mr S Vickers Vacancy
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Co-opted Governors

At least 3, and not more than 7 co-opted Governors, whose number shall include 2 members of academic staff	-	Mr M Lewis Mr R Early (Staff member) Mrs N Hunter (Staff member)
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In Attendance

Clerk to the Board of Governors	-	Dr C E Baxter
Vice Principal	-	Professor P Mills

November 2010