

**INSTRUMENT OF GOVERNMENT FOR ARTS UNIVERSITY PLYMOUTH HIGHER
EDUCATION CORPORATION**

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1. INTERPRETATION

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

'the Academic Board' means the Academic Board of the University constituted in accordance with the Articles;

'the Act' means the Education Reform Act 1988 as amended by the Further and Higher Education Act 1992; and the Higher Education and Research Act 2017 (as amended from time to time);

'the appointing authority' means the Corporation unless otherwise specified;

'the Articles' means the Articles of Government in accordance with which the University is conducted;

'the Board of Governors' means the members of the Corporation;

'Chair' means the Chair of the Board of Governors unless otherwise specified;

'the Clerk' means the person appointed to the office of the Clerk to the Board of Governors under the Articles;

'the University' means Arts University Plymouth conducted by the Corporation;

'the Corporation' means Arts University Plymouth higher education corporation;

'Deputy Chair' means the Deputy Chair of the Board of Governors unless otherwise specified;

'the Instrument' means the Instrument of Government of the Corporation;

'the Vice-Chancellor' means the Vice-Chancellor of the University;

'the Secretary of State' means the Secretary of State with responsibility for Higher Education.

- 1.2 Reference in this Instrument, in relation to the Board of Governors, to a variable category of members are references to any category of members in relation to which the number applicable in accordance with paragraph 3 below is subject to variation.
- 1.3 The headings in this Instrument are for convenience only and shall not affect the construction of the Instrument.

2. NAME OF THE CORPORATION

- 2.1 The Board of Governors may, by resolution, change the name of the Corporation, with the relevant consents.

3. MEMBERSHIP OF THE BOARD OF GOVERNORS

- 3.1 The Board of Governors shall consist of:
- (a) not less than twelve and not more than twenty-four members appointed in accordance with the following provisions; and
 - (b) the Vice-Chancellor, unless he/she chooses not to be a member.
- 3.2 Of the appointed members:
- (a) up to thirteen shall be independent members;
 - (b) up to two may be members of staff at the University nominated by the Academic Board and up to two may be students of the University nominated by the students thereof; and
 - (c) at least one and not more than nine shall be co-opted members nominated by the members of the Board of Governors who are not co-opted members.
- 3.3 Independent members 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.
- 3.4 At least one of the co-opted members required by sub-paragraph 3.2(c) above shall be a person who has experience in the provision of education.
- 3.5 A person (other than a person appointed in pursuance of subparagraph 3.2(b) above) who is:
- (a) employed at the University (whether or not as a teacher);
 - (b) a full-time student at the University; or
 - (c) an elected member of any local authority,
- is not eligible for appointment as a member of the Board of Governors, otherwise than as a co-opted member.

- 3.6 For the purposes of this paragraph, a person who is not for the time being enrolled as a student at the University shall be treated as such a student during any period when he has been granted leave of absence from the University for the purposes of study or travel or for carrying out the duties of any office held by him/her in the students' union at the University.
- 3.7 It shall be for the appointing authority 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.

4. DETERMINATION OF MEMBERSHIP NUMBERS

- 4.1 The Board of Governors shall make a determination with respect to its membership numbers.
- 4.2 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 3.2 above.
- 4.3 In making such a determination, the Board of Governors shall secure that at least half of all the members of the Board of Governors, when constituted in accordance with the determination, will be independent members.
- 4.4 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.
- 4.5 Such a determination may be varied by a subsequent determination.

5. APPOINTMENT OF MEMBERS OF THE BOARD OF GOVERNORS

- 5.1 Subject to the provisions of section 124C 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 paragraph 4.1 above takes effect.
- 5.2 The Board of Governors is the appointing authority in relation to the appointment of any member of the Board of Governors other than an independent member.
- 5.3 Where an appointment of an additional independent member of the Board of Governors fails to be made in consequence of a determination in accordance with paragraph 4 above, the appointing authority in relation to the appointment:
- (a) shall be the Board of Governors if the appointment is made within the period of three months beginning with the date of the determination; or
 - (b) if the appointment is not made within that period, shall be the current independent members of the Board of Governors.
- 5.4 Where a vacancy in the office of an independent member of the Board of Governors arises or any existing independent member ceasing to hold office on the expiry of his/her term of office:
- (a) his/her successor shall not be appointed more than six months before the expiry of that term; and

- (b) the appointing authority in relation to the appointment of his/her successor:
 - (i) shall be the Board of Governors if the appointment is made not less than three months before the expiry of that term; or
 - (ii) if the appointment is not so made, shall be the current independent members of the Board of Governors.

5.5 Where a vacancy in the office of an independent member of the Board of Governors arises on the death of any such member or on any such member ceasing to hold office in accordance with the Instrument, the appointing authority in relation to the appointment of his/her successor:

- (a) shall be the Board of Governors if the appointment is made within the period of three months beginning with the date of death or the date on which the office becomes vacant (as the case may be); or
- (b) if the appointment is not made within that period, shall be the current independent members of the Board of Governors.

5.6 No appointment of an independent member of the Board of Governors by the Board of Governors in accordance with sub-paragraphs 5.3(a), 5.4(b)(i), and 5.5(a) above shall be made unless the appointment has been approved by the current independent members of the Board of Governors.

5.7 If the number of independent members 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 members as is required for a quorum.

6. TENURE OF OFFICE OF MEMBERS OF THE BOARD OF GOVERNORS

6.1 The Board of Governors shall determine the period of office of members in each of the variable categories set out in paragraph 3.2 above but the length of the term of office shall not exceed four years. Such members shall hold and vacate office in accordance with the terms of their appointment and shall, on completion of their initial period of office, be eligible for re-appointment, for further periods up to a maximum total service of eight years. The Board may reappoint a member for one further term of office in extraordinary circumstances or when subsequently undertaking a more senior role.

6.2 A member of the Board of Governors may at any time by notice in writing to the Clerk resign his/her 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.

6.3 If at any time the Board of Governors is 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 unable or unfit to discharge the functions of a member,

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

- 6.4 Where a member of the Board of Governors appointed as an Academic Board nominee or a student nominee, or a member of staff or student appointed as a co-opted member of the Board of Governors, ceases before the end of his/her period of office to be a member of staff or a student of the University, as the case may be, his/her office shall thereupon become vacant.

7. OFFICERS

- 7.1 The Board of Governors shall appoint from among their independent members, a Chair, a Deputy Chair and any other officers, which the Board may determine.

8. COMMITTEES

- 8.1 The Board of Governors may establish committees and permit such committees to include persons who are not members of the Board of Governors.

9. ALLOWANCES

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

10. SEAL OF CORPORATION

- 10.1 The application of the Seal of the Corporation shall be authenticated by the signature of the Chair of the Board of Governors or some other member authorised generally or specially by the Board of Governors to act for that purpose together with that of any other member of the Board of Governors.
- 10.2 The Corporation Seal shall be held under secure arrangements by the Clerk.

11. COPIES OF INSTRUMENT OF GOVERNMENT

- 11.1 Copies of the Instrument of Government shall be provided to each member of the Board of Governors.

ARTICLES OF GOVERNMENT FOR ARTS UNIVERSITY PLYMOUTH

In exercise of the powers conferred upon it by section 125 of the Education Reform Act 1988, the Arts University Plymouth Higher Education Corporation makes the following Articles of Government in accordance with which the Arts University Plymouth shall be conducted. The Arts University Plymouth Higher Education Corporation is an exempt charity for the purposes of the Charities Act 1993.

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1. INTERPRETATION

- 1.1 In these Articles words and expressions shall have the meanings ascribed to them in paragraph 1 of the Instrument of Government made by the Privy Council:

'the holders of senior posts' means the Vice-Chancellor, and the holders of such other senior posts as the Board of Governors may determine;

'the staff' includes both teaching and other staff of the University;

'staff governor' means a member of the Board of Governors who is currently employed by the University appointed on the nomination of the Academic Board, or as a co-opted staff nominee;

'student governor' means a member of the Board of Governors appointed as a student nominee or a co-opted student nominee;

'a students' union' means any association of the generality of students formed to further the educational purposes of the University and the interests of students as students; and

'independent committee member' means an individual appointed by the Board of Governors to a committee for their specialist knowledge.

- 1.2 The heading in these Articles are for convenience only and shall not affect the construction of the Instrument.

2. CONDUCT OF THE UNIVERSITY

- 2.1 The University shall be conducted in accordance with the provisions of the Education Acts 1944 to 2011, any subsequent Education Acts, any relevant regulations, orders or directions made by the Secretary of State, or by the Privy Council, and subject to those, in accordance with the provisions of the Instrument, these Articles and any rules or bye-laws made under these Articles.

3. RESPONSIBILITIES OF BOARD OF GOVERNORS, VICE-CHANCELLOR AND ACADEMIC BOARD

3.1 The Board of Governors

The Board of Governors shall be responsible for:

- (a) the determination of the educational character and mission of the University and for oversight of its activities;
- (b) the effective and efficient use of resources, the solvency of the University and the Corporation and for safeguarding their assets;
- (c) approving annual estimates of income and expenditure;
- (d) the appointment, appraisal, suspension, dismissal and determination of the pay and conditions of service of the Vice-Chancellor, the holders of senior posts, the Clerk and the Deputy Clerk; and
- (e) setting a framework for the pay and conditions of service of all other staff.

3.2 The Vice-Chancellor

Subject to the responsibilities of the Board of Governors, the Vice-Chancellor shall be the chief executive of the University and shall be responsible to the Board of Governors for the conduct of the University including:

- (a) making proposals to the Board of Governors about the educational character and mission of the University, and for implementing the decisions of the Board of Governors;
- (b) the organisation, direction and management of the University and leadership of the staff;
- (c) the appointment, assignment, grading, appraisal, suspension, dismissal and determination – within the framework set by the Board of Governors – of the pay and conditions of service of staff other than the holders of senior posts, the Clerk and the Deputy Clerk;
- (d) the determination, after consultation with the Academic Board, of the University's academic activities, and for the determination of its other activities;
- (e) preparing annual estimates of income and expenditure, for consideration by the Board of Governors, and for the management of budget and resources, within the estimates approved by the Board of Governors; and

- (f) the maintenance of student discipline and, within the rules and procedures provided for within these Articles, for the suspension or expulsion of students on disciplinary grounds and for implementing decisions to expel students for academic reasons.

3.3 The Academic Board

There shall be an Academic Board of the University, whose membership shall be set out in rules or bye-laws approved by the Board of Governors.

Subject to the provisions of these Articles, to the overall responsibility of the Board of Governors, and to the responsibilities of the Vice-Chancellor, the Academic Board shall be responsible for:

- (a) general issues relating to the research, scholarship, teaching and courses at the University, including criteria for the admission of students; the appointment and removal of internal and external examiners; policies and procedures for assessment and examination of the academic performance of students; the content of the curriculum; academic standards and the validation and review of courses; the procedures for the award of qualifications and honorary academic titles; and the procedures for the expulsion of students for academic reasons. Such responsibilities shall be subject to the requirements of validating and accrediting bodies;
- (b) considering the development of the academic activities of the University and the resources needed to support them and for advising the Vice-Chancellor and the Board of Governors on those matters; and
- (c) advising on such other matters as the Board of Governors or the Vice-Chancellor may refer to the Academic Board;
- (d) the process for nominating staff governors.

The Academic Board may establish such committees as it considers necessary to enable it to carry out its responsibilities provided that each establishment is first approved by the Board of Governors. The number of members of any such committee and the terms on which they are to hold and vacate office shall be determined by the Academic Board.

4. ACADEMIC BOARD

- 4.1 There shall be an Academic Board of no more than twenty members, comprising the Vice-Chancellor (who shall be the Chair) and such other numbers of staff and students as may be approved by the Board of Governors.
- 4.2 The Vice-Chancellor may nominate a Deputy Chair from among the members of the Academic Board to take the Chair in his/her place. The period of appointment of members and the selection or election arrangements shall be subject to the approval of the Board of Governors.

5. DELEGATION OF FUNCTIONS AND COMMITTEES

- 5.1 Subject to the following provisions of this Article, the Board of Governors may establish committees for any purpose or function, other than those assigned elsewhere in these Articles to the Vice-Chancellor or to the Academic Board, and

may delegate powers to such committees or to the Chair of the Board of Governors or to the Vice-Chancellor.

- 5.2 The Board of Governors shall establish an Audit Committee.
- 5.3 Any committee established by the Board of Governors may include persons who are not members of the Board of Governors.
- 5.4 The Board of Governors may establish a committee or committees to determine or advise on such matters relating to employment policy or finance as the Board of Governors may remit to them. The members of the committee or committees shall be drawn from the Board of Governors and Independent Committee Members appointed by the Board of Governors.
- 5.5 The Board of Governors shall not delegate the following:
 - (a) the determination of the educational character and mission of the University;
 - (b) the approval of the annual estimates of income and expenditure;
 - (c) ensuring the solvency of the University and the Corporation and the safeguarding of their assets;
 - (d) the appointment of the Vice-Chancellor, the holders of senior posts, the Clerk and the Deputy Clerk; or
 - (e) the varying or revoking of these Articles.
- 5.6 The Board of Governors may not delegate -
 - (a) the consideration of the case for dismissal, and
 - (b) the power to determine an appeal in connection with the dismissal of the Vice-Chancellor, the holders of senior posts, the Clerk or the Deputy Clerk,other than to a committee of members of the Board of Governors.

6. APPOINTMENT OF CLERK AND DEPUTY CLERK TO THE BOARD OF GOVERNORS

- 6.1 The Board of Governors shall appoint a Clerk, and a Deputy Clerk, to the Board of Governors, and shall determine the Clerk's and Deputy Clerk's function.

7. PROCEDURES FOR MEETINGS

- 7.1 The Board of Governors shall meet at least once in every term, and shall hold such other meetings as may be necessary.
- 7.2 An ordinary meeting shall be convened by the circulation of notice to all members of the Board (or Committee) by the Clerk, no less than seven calendar days before the meeting is to take place. Such notices shall indicate the time, date and place of the meeting and shall include the agenda and papers for the meeting.

- 7.3 A special meeting may at any time be required by the Chair or at the request in writing of any five independent Governors to the Clerk stating the nature of the business proposed for discussion whereupon the Clerk, after consultation with the Chair, will convene the special meeting. A special meeting shall be convened by the circulation of an agenda and papers no less than three working days before the meeting is to take place.
- 7.4 The quorum for meetings of the Board of Governors shall be 40% of the total actual membership of the Board of Governors, with independent members forming the majority of the quorum.
- 7.5 If the meeting is quorate, but less than half the members present are independent members, a 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.
- 7.6 Written minutes of every meeting of the Board of Governors and its Committees shall be prepared, and at every meeting of the Corporation and its Committees the minutes of the last meeting shall be taken as an agenda item, and if agreed to be accurate, shall be signed by the Chair of the meeting as a true record. This paragraph shall not require the minutes of the last meeting to be taken as an agenda item at a special meeting.
- 7.7 Members who have any pecuniary, family or other personal interest in any matter under discussion, shall declare it, at every meeting of the Board of Governors and its Committees, and shall take no part in the consideration of the matter. The Board of Governors will establish a register of interests for this purpose.
- 7.8 Members of the Board of Governors shall not be bound in their speaking and voting by mandates given to them by other bodies or persons, and shall declare any conflicts of interest.
- 7.9 The Board of Governors shall make rules or bye-laws for the appointment of officers who shall include a Chair and Deputy Chair, to be appointed from among the independent members, and for the appointment of members.
- 7.10 The proceedings of the Board of Governors shall not be invalidated by any vacancy in its number or by any defect in the election, appointment or qualification of any member.
- 7.11 Procedures for meetings of the Board of Governors, of the Academic Board and of Committees of the Corporation, and procedures in relation to the appointment of members of the Corporation (including in either case quorum and proxies) shall be set out in rules or byelaws.

8 APPOINTMENT AND PROMOTION OF STAFF

- 8.1 The Board of Governors shall make provision with respect to procedures for the discipline, dismissal, suspension and hearing of grievances of all staff, including the Vice-Chancellor, holders of senior posts, the Clerk and the Deputy Clerk.
- 8.2 Each member of staff shall serve under a contract of employment with the Corporation.
- 8.3 Upon the occurrence of a vacancy or expected vacancy for the post of Vice-Chancellor, the post shall normally be advertised nationally.

9 CONDUCT OF STAFF

- 9.1 After consultation with the staff, the Board of Governors shall make rules relating to the conduct of staff.

Academic Freedom

- 9.2 In making rules under Article 9.1, the Board of Governors shall have regard to the need to ensure 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 or losing their jobs or any privileges they may have at the University.

10 SUSPENSION AND DISMISSAL OF STAFF

Suspension

- 10.1 The Chair of the Board of Governors or in the absence of the Chair, the Deputy Chair, may suspend from duty, with pay, the Vice-Chancellor, the holder of a senior post, the Clerk or the Deputy Clerk for misconduct or other good and urgent cause. The Chair or Deputy Chair shall report such suspension in writing to the Board of Governors within two working days or as soon thereafter as practicable.
- 10.2 The Vice-Chancellor or in his/her absence a senior post holder approved by the Board of Governors may suspend from duty, with pay, any member of the staff of the University other than the holder of a senior post, the Clerk and the Deputy Clerk for misconduct or other good and urgent cause.
- 10.3 Anyone who is suspended from duty under Articles 10.1 or 10.2 shall be entitled to receive from the Vice-Chancellor, or in the case of the holders of senior posts, the Clerk or Deputy Clerk, from the Chair or Deputy Chair of the Board of Governors, written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.
- 10.4 Procedures for the suspension of staff under Articles 10.1 or 10.2 shall be specified in rules made by the Board of Governors after consultation with the staff. The rules shall include provision that:
- (a) any person who has been under suspension for three weeks or more may appeal in writing to the Board of Governors against the suspension, save that no such right of appeal shall lie if the person is the subject of a reference to a Special Committee under Article 10.5 or of a notification from the Vice-Chancellor under Article 10.12;
 - (b) any appeal made under 10.4(a) shall be considered as soon as practicable; and
 - (c) a suspension against which an appeal is made shall continue to operate pending the determination of the appeal.

Dismissal

The Vice-Chancellor, holders of senior posts, the Clerk and the Deputy Clerk

- 10.5 If the Chair of the Board of Governors, or in his/her absence the Deputy Chair or a majority of the independent members of the Board of Governors, considers that it may be appropriate for the Board of Governors to dismiss the Vice-Chancellor, the holder of a senior post, the Clerk or the Deputy Clerk, the Chair, Deputy Chair or Board of Governors as appropriate shall refer the matter to a Special Committee of the Board of Governors, which shall be convened as soon as possible to examine the facts, otherwise investigate the ground for dismissal, and make a report to the Board of Governors.
- 10.6 The person whose dismissal is to be considered by the Special Committee shall have the right to make representations to the Committee, including oral representations, for which purpose he or she may be accompanied and represented by a friend, a work colleague or trade union representative.
- 10.7 The Special Committee shall prepare a written report for consideration by the Board of Governors, a copy of which shall be sent to the person to whom it relates. The report shall set out the fact relating to the case and any considerations which the Committee considers should be taken into account in the Board of Governor's consideration of the matter. The report should not contain recommendations as to the decisions to be taken by the Board of Governors.
- 10.8 The Board of Governors shall consider the report of the Special Committee and take such action as it considers appropriate, which may include the dismissal of the person concerned. The person concerned shall have the right to make representations to the Board of Governors, including oral representations for which purpose he or she may be accompanied and represented by a friend, a work colleague or trade union representative.
- 10.9 The Special Committee shall consist of five members of the Board of Governors. The Chair of the Board of Governors, the Deputy Chair, the Vice-Chancellor, staff and student governors shall not be eligible for membership of the Special Committee.
- 10.10 The Board of Governors shall make rules specifying procedures for the conduct of the Special Committee and other aspects of the procedure set out in Articles 10.5 to 10.9.

Other Members of Staff

- 10.11 The Vice-Chancellor may dismiss any member of staff other than the holder of a senior post, the Clerk or the Deputy Clerk and if the circumstances are such that he/she is entitled to do so by virtue of the conduct of that member of staff, that dismissal may take immediate effect without any need for prior notice.
- 10.12 Where the Vice-Chancellor proposes to dismiss such a member of staff and the circumstances described in 10.11 do not prevail he/she shall notify the member of staff concerned of the proposal. That staff member shall be given the opportunity to make representations to the Vice-Chancellor (including oral representations, for which the staff member may be accompanied and represented by a friend, a work colleague or trade union representative. before any decision to dismiss by the Vice-Chancellor is taken.

- 10.13 Where a staff member has been dismissed pursuant to Article 10.11 or a decision to dismiss has been taken pursuant to Article 10.12 that staff member may appeal against dismissal or decision, as the case may be, to the Board of Governors. In the case of an appeal against a decision to dismiss, the dismissal shall not take effect until the appeal has been determined.
- 10.14 Procedures for the dismissal of staff by the Vice-Chancellor and for consideration of appeals against dismissal shall be specified in rules made by the Board of Governors after consultation with the staff. The rules should include rights of representation.

11 GRIEVANCE PROCEDURES

- 11.1 After consultation with the staff the Board of Governors shall make rules specifying procedures according to which staff may seek redress of any grievances relating to their employment.

12 STUDENTS

- 12.1 A students' union shall conduct and manage its own affairs and funds in accordance with a constitution approved by the Board of Governors and shall present audited accounts annually to the Board of Governors. No amendment to or rescission of that constitution, in part or in whole, shall be valid unless and until approved by the Board of Governors.
- 12.2 The Board of Governors, after consultation with the Academic Board and representatives of the students, shall make rules with respect to the conduct of students, including procedures for suspension and expulsion.
- 12.3 In exercise of their responsibilities under Article 3.3(a), the Academic Board, after consultation with the Board of Governors and representatives of students, shall determine procedures for the expulsion of a student for unsatisfactory standard of work or other academic reasons.
- 12.4 The Board of Governors shall ensure, by the provision for students of committee membership and avenues of direct access, an appropriate opportunity to raise matters of proper concern to them at all levels in the University.

13. FINANCIAL MATTERS

Fees

- 13.1 The Board of Governors shall determine the tuition and other fees payable to the Corporation (subject to any terms and conditions attached to grants, loan or other payments paid or made by the appropriate Higher Education Funding Council

Accounts Estimates and Audits

- 13.2 The Board of Governors shall keep accounts and records, and appoint auditors in accordance with the provisions of the Act.

- 13.3 Annual estimates of income and expenditure shall be prepared by the Vice-Chancellor for consideration and approval of the Board of Governors.

14. RULES AND BYE-LAWS

- 14.1 The Board of Governors shall have power to make rules and bye-laws concerning such matters with regard to the government and conduct of the University as it shall think fit. Such rules and bye-laws shall be subject to the provisions of these Articles.

15. AMENDMENT OF ARTICLES

- 15.1 These Articles may be amended or replaced by a resolution of the Corporation in accordance with the Higher Education and Research Act 2017.