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STATUTORY INSTRUMENTS

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**1995 No. 1342**

**EDUCATION, ENGLAND AND WALES**

**The Middlesbrough College (Government) Regulations 1995**

<i>Made</i>	- - - -	<i>22nd May 1995</i>
<i>Laid before Parliament</i>		<i>23rd May 1995</i>
<i>Coming into force</i>	- -	<i>15th June 1995</i>

In exercise of the powers conferred on the Secretary of State by sections 20(2), 21(1) and (2), 61(1)(1) and 89(4) of, and Schedule 4 to, the Further and Higher Education Act 1992(2) the Secretary of State for Education hereby makes the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Middlesbrough College (Government) Regulations 1995 and shall come into force on 15th June 1995.

**Application**

2. It is hereby prescribed that the instrument of government and articles of government of the further education corporation to be established under the name of "Middlesbrough College" shall be as set out in Schedules 1 and 2 to these Regulations respectively.

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(1) See the definition of "regulations".  
(2) 1992 c. 13.

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SCHEDULE 1

Regulation 2

INSTRUMENT OF GOVERNMENT

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**Interpretation**

1. In this Instrument of Government—
  - (a) “the Corporation” means the further education corporation known as “Middlesbrough College”,  
“this Instrument” means this Instrument of Government,  
“the Secretary of State” means the Secretary of State for Education;
  - (b) “business member”, “co-opted member”, “independent member”, “staff member” and “student member” have the meanings ascribed to them in clause 2;
  - (c) references, in relation to the Corporation, to the institution are references—
    - (i) in relation to any time before the operative date (as defined in section 17(2) of the Further and Higher Education Act 1992) applicable in relation to the Corporation, to the institution the Corporation are established to conduct, and
    - (ii) in relation to any later time, to any institution for the time being conducted by the Corporation in exercise of their powers under the Further and Higher Education Act 1992;

- (d) references, in relation to the Corporation, to a variable category are references to any category of members in relation to which the number applicable in accordance with clause 2 is subject to variation;
- (e) unless the context otherwise requires, a reference to—
  - (i) a numbered clause is a reference to the clause so numbered in this Instrument, and
  - (ii) a numbered paragraph is a reference to the paragraph so numbered in the clause in which the reference appears; and
- (f) words importing one gender shall import all genders, the singular number shall include the plural and vice versa (unless the context otherwise requires) and the headings are included for convenience only and shall not affect the construction of this Instrument.

### **Composition of the Corporation**

2.—(1) The Corporation shall consist of—

- (a) not more than 13 members who are, or have been, engaged or employed in business, industry or any profession or in any other field of employment relevant to the activities of the institution (to be known as “independent members”);
- (b) one member nominated by the Training and Enterprise Council for the area in which the institution is situated;
- (c) not more than 5 members (to be known as “co-opted members”) co-opted by the members of the Corporation who are not co-opted members, of which not more than 2 may be employed by a local authority, other than as teachers (including head teachers or principals) or as members of a fire brigade maintained under the Fire Services Act 1947(3) or be elected members of a local authority;
- (d) not more than 2 members who are members of the staff of the institution elected and nominated by the staff of the institution (to be known as “staff members”);
- (e) not more than 1 member who is a student at the institution elected and nominated by the students at the institution (to be known as the “student member”);
- (f) not more than 2 members nominated by a body or bodies within the local community nominated by the other members of the Corporation; and
- (g) the Principal of the institution unless he chooses not to be a member.

(2) For the purposes of this Instrument, a person who is not for the time being enrolled as a student at the institution shall be treated as such a student during any period when he has been granted leave of absence from the institution for the purposes of study or travel or for carrying out the duties of any office held by him in any students' union at the institution.

(3) It shall be for the appointing authority, defined in clause 3 or 5, to determine any question as to whether any person is qualified in accordance with the preceding provisions of this clause for appointment as a member of the Corporation of any description or category.

(4) Members falling within paragraph (1)(a) or (b) are to be known as “business members”.

(5) The Corporation shall appoint a person to serve as Clerk to the Corporation.

### **Initial Appointments**

3.—(1) The Secretary of State is the appointing authority for the purposes of this Instrument in relation to the appointment of the first members of the Corporation.

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(3) 1947 c. 41.

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(2) In determining the number of members to appoint within each variable category he shall secure that at least half of all the members of the Corporation as first constituted are business members.

#### **Determination of Membership Numbers**

4.—(1) At their first meeting the Corporation shall make a determination with respect to their membership numbers, which shall be not less than 10 but not more than 20.

(2) Such a determination shall fix the number of members of each variable category of which the Corporation are to consist, subject to the limits applicable in relation to that category set out in clause 2.

(3) In making such a determination, the Corporation shall secure that at least half of all the members of the Corporation, when constituted in accordance with the determination, will be business members.

(4) Such a determination shall not have effect so as to terminate the appointment of any person who is a member of the Corporation at the time when it takes effect.

(5) Such a determination may be varied by a subsequent determination.

#### **Subsequent Appointments**

5.—(1) Appointments of members of the Corporation at any time after the appointment by the Secretary of State of the first members shall be subject to this clause.

(2) No such appointment may be made before the first determination of the Corporation under clause 4 takes effect.

(3) The Corporation are the appointing authority in relation to the appointment of any member of the Corporation other than an independent member.

(4) Where an appointment of an additional independent member of the Corporation falls to be made in consequence of a determination in accordance with clause 4, the appointing authority in relation to the appointment—

- (a) shall be the Corporation if the appointment is made within the period of 3 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 Corporation.

(5) Where a vacancy in the office of an independent member of the Corporation arises on any existing independent member ceasing to hold office on the expiry of his term of office—

- (a) his 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 successor—
  - (i) shall be the Corporation 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 Corporation.

(6) Where a vacancy in the office of an independent member of the Corporation arises on the death of any such member or on any such member ceasing to hold office in accordance with this Instrument other than on the expiry of his term of office, the appointing authority in relation to the appointment of his successor—

- (a) shall be the Corporation 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 Corporation.

(7) No appointment of an independent member by the Corporation in accordance with paragraph (4)(a), (5)(b)(i) or (6)(a) shall be made unless the appointment has been approved by a majority of the current independent members.

(8) If the number of independent members 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 members as is required for a quorum.

### **Appointment of Chairman and Vice-Chairman**

**6.—(1)** At the first meeting of the Corporation, the members shall appoint a Chairman and a Vice-Chairman from among their number.

(2) The Principal and any staff or student member shall not be eligible to be appointed Chairman or Vice-Chairman.

(3) The Chairman and Vice-Chairman shall hold office for such period as the Corporation may determine.

(4) If both the Chairman and Vice-Chairman are absent from any meeting of the Corporation, the members present shall choose one of their number to act as chairman for that meeting, provided that the member chosen shall not be the Principal or a staff or student member.

(5) The Chairman and Vice-Chairman may at any time by notice in writing to the Clerk to the Corporation resign their respective offices.

(6) At the first meeting following the expiry of the term of office of the Chairman or the Vice-Chairman, or following the resignation of the Chairman or Vice-Chairman, the members shall appoint a new Chairman or Vice-Chairman, as the case may be, from among their number.

(7) Chairmen and Vice-Chairmen retiring at the end of their respective terms of office shall be eligible for reappointment.

### **Persons Ineligible to be Members**

**7.—(1)** A person who is under the age of 18 years shall be ineligible for appointment as a member except as the student member.

(2) Subject to paragraph (3), no person who has attained the age of 70 years shall be eligible for appointment as a member of the Corporation.

(3) A person over the age of 70 shall not by virtue of paragraph (2) be disqualified for appointment as a member of the Corporation where—

- (a) the appointing authority in relation to the appointment is the Secretary of State; or
- (b) the appointing authority in relation to the appointment determine to make the appointment by a vote representing an absolute majority of all the members of that authority (whether or not taking part in the vote).

(4) A person who is a member of staff of the institution shall be ineligible for appointment as a member except as a staff member or co-opted member or in his capacity as Principal.

(5) A student at the institution shall be ineligible to be appointed as a member except as the student member, but a person who is already a member shall not be required to resign if during his term of office he enrolls on a part-time course at the institution.

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(6) No person who is employed by a local authority other than as a teacher (including a head teacher or principal) or as a member of a fire brigade maintained under the Fire Services Act 1947, or is an elected member of a local authority shall be eligible for appointment as a member except as a co-opted member.

(7) Subject to paragraphs (8) and (9), a person shall be disqualified for holding, or for continuing to hold, office as a member if that person has been adjudged bankrupt or has made a composition or arrangement with his creditors; and a member, on becoming so disqualified, shall give written notice of that fact to the Clerk to the Corporation.

(8) Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease—

- (a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and
- (b) if the bankruptcy order is so annulled, on the date of the annulment.

(9) Where a person is disqualified by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(10) A person shall be disqualified for holding, or for continuing to hold, office as a member if, within five years before his appointment would otherwise have taken effect, or since his appointment, he has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine. Where, by virtue of this paragraph, a person becomes disqualified for holding office as a member that person shall give written notice of that fact to the Clerk to the Corporation.

### **Term of Office**

**8.—**(1) A member of the Corporation shall hold and vacate office in accordance with the terms of his appointment but the length of his term of office shall not exceed 4 years.

(2) Members retiring at the end of their term of office shall be eligible for reappointment.

### **Determination of Membership**

**9.—**(1) A member may at any time by notice in writing to the Clerk to the Corporation resign his office.

(2) If at any time the Corporation are satisfied that any member—

- (a) has been absent from meetings of the Corporation for a period longer than 6 consecutive months without the permission of the Corporation; or
- (b) is unable or unfit to discharge the functions of a member,

the Corporation may by notice in writing to that member remove him from office and thereupon the office shall become vacant.

(3) Any member who is a member by virtue of being a member of the staff (including the Principal) or a student of the institution shall cease to be a member if he ceases to be a member of the staff or a student of the institution and thereupon the office shall become vacant.

(4) A member other than the student member shall cease to be a member if he enrolls on a full-time course at the institution and thereupon the office shall become vacant.

### **Members not to be financially interested in the Institution**

10.—(1) Except with the approval in writing of the Secretary of State no member shall take or hold any interest in any property held or used for the purpose of the institution, or receive any remuneration for his services as a member; provided that a member who is a member of the staff of the institution (including the Principal) may receive remuneration in that capacity.

(2) A member who has any financial interest in—

- (a) the supply of work or goods to or for the purposes of the institution;
- (b) any contract or proposed contract concerning the institution; or
- (c) any other matter relating to the institution,

and is present at a meeting of the Corporation at which the supply, contract or other matter is to be considered, shall at that meeting disclose the fact and shall not take part in the consideration or vote on any question with respect to it and shall not be counted in the quorum present at the meeting in relation to a resolution on which he is not entitled to vote.

(3) A member who is an initial member of the Corporation appointed by the Secretary of State under clause 3 and who, with the approval in writing of the Secretary of State, holds any interest in any property held or used for the purpose of the institution or receives any remuneration for his services as a member may continue to do so.

(4) This clause shall not prevent the members of the corporation considering and voting upon proposals for the Corporation to insure the members of the Corporation against liabilities incurred by them arising out of their office or the Corporation obtaining such insurance and paying the premiums.

### **Meetings**

11.—(1) The Corporation shall meet at least once in every term, and shall hold such other meetings as may be necessary.

(2) All meetings shall be summoned by the Clerk to the Corporation, who shall send to the members written notice of the meeting and a copy of the agenda therefor at least seven clear days in advance of the meeting.

(3) A special meeting of the Corporation may be called at any time by the Chairman or at the request in writing of any five members. Where the Chairman or, in his absence, the Vice-Chairman so directs on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice convening the meeting and the agenda therefor are given within such period, being less than seven days, as he specifies.

(4) Members of the Corporation shall not be bound in their speaking and voting by mandates given to them by other bodies or persons.

### **Quorum**

12.—(1) Meetings of the Corporation shall be quorate if 40% or more members are present including at least 40% of the total number of business members. In the case of a Corporation with between 10 and 20 members and with the minimum number of business members, the table set out below gives the number of members and business members necessary for a quorum.

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TABLE		
(1) Total membership of the Corporation	(2) Number of members that constitute a quorum	(3) Minimum number of business members that must be included in the number in column (2)
10	4	2
11 or 12	5	3
13 or 14	6	3
15	6	4
16 or 17	7	4
18, 19 or 20	8	4

(2) If the number of members assembled for a meeting of the Corporation does not constitute a quorum therefor, the meeting shall not be held. If in the course of a meeting of the Corporation the number of members thereof present ceases to constitute a quorum, the meeting shall be terminated forthwith.

(3) If for lack of quorum a meeting cannot be held or, as the case may be, cannot continue, the Chairman shall, if he thinks fit, cause a special meeting to be summoned as soon as conveniently may be.

(4) If a meeting is quorate, but the members present who are business members are in a minority, a majority of such members present shall have the right to decide that an item of business be deferred to a subsequent meeting. No item may be so deferred more than once under this provision.

**Proceedings of Meetings**

13.—(1) Every question to be decided at a meeting of the Corporation shall be determined by a majority of the votes of the members present and voting on the question. Where there is an equal division of votes the chairman of the meeting shall have a second or casting vote.

(2) A member may not vote by proxy.

(3) No resolution of the members may be rescinded or varied at a subsequent meeting unless consideration of the rescission or variation is a specific item of business on the agenda for that meeting.

(4) Except as provided by articles 12 and 13 of the Articles of Government (relating to appeals and representations about staff discipline and dismissal), a member of the Corporation who is a member of the staff of the institution shall withdraw—

- (a) from that part of any meeting of the Corporation at which his remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement are to be considered;
- (b) from that part of any meeting of the Corporation at which the appointment of his successor is to be considered; and
- (c) if so required by a resolution of the other members present, from that part of any meeting of the Corporation at which the appointment, remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement or any member of staff holding a post senior to his own are to be considered.

(5) A Principal who has chosen not to be a member of the Corporation shall still be entitled to attend and speak at all meetings of the Corporation, except that he shall withdraw in any case where he would be required to withdraw under paragraph (4) above if he were attending as a member.



(6) A student member who is under the age of 18 shall not vote on any question concerning any proposal—

- (a) for the expenditure of money by the Corporation; or
- (b) under which the Corporation, or any members of the Corporation, would enter into any contract, or would incur any debt or liability (whether immediate, contingent or otherwise).

(7) Except as provided by rules made under article 15(2) of the Articles of Government relating to appeals and representations by students in disciplinary cases, a student member shall withdraw from that part of any meeting of the Corporation at which his conduct, suspension or expulsion is to be considered.

(8) In any case where the Corporation are to discuss the appointment, remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of a member or prospective member of the staff of the institution, a student member shall—

- (a) take no part in the consideration or discussion of the matter in question and not vote on any question with respect to the matter; and
- (b) where required to do so by any one member of the Corporation present at the meeting, withdraw from the meeting.

### **Minutes**

**14.**—(1) At every meeting of the Corporation the minutes of the last meeting shall be taken as the first agenda item, except in cases where the members present decide otherwise, and, if agreed to be accurate, shall be signed as a true record.

(2) Separate minutes shall be taken of those parts of meetings from which staff or student members have withdrawn. A staff or student member who has withdrawn from a meeting in accordance with clause 13(4), (7) or (8) shall not be entitled to see the minutes of that part of the meeting.

### **Public Access to Meetings**

**15.** Subject to clause 13(5), any question whether any person who is not—

- (a) a member of the Corporation; or
- (b) the Clerk to the Corporation,

should be allowed to attend a meeting of the Corporation shall be determined by the Corporation.

### **Publication of Minutes and Papers**

**16.**—(1) Subject to paragraph (2), the Corporation shall ensure that a copy of—

- (a) the agenda for every meeting of the Corporation;
- (b) the draft minutes of every such meeting, if they have been approved by the chairman of the meeting;
- (c) the signed minutes of every such meeting; and
- (d) any report, document or other paper considered at any such meeting,

shall, in each case as soon as may be, be made available during normal office hours at the institution to any person wishing to inspect them.

(2) There may be excluded from any item required to be made available in pursuance of paragraph (1), any material relating to—

- (a) a named person employed at or proposed to be employed at the institution;

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- (b) a named student at, or candidate for admission to, the institution; and
- (c) any matter which, by reason of its nature, the Corporation are satisfied should be dealt with on a confidential basis.

#### **Allowances to Members**

17. The Corporation shall have power to pay to the members of the Corporation such travelling, subsistence or other allowances as the Corporation may determine.

#### **Copies of Instrument of Government**

18. A copy of this Instrument shall be given to every member and shall be available for inspection upon request during normal office hours at the institution to every member of staff and every student.

#### **Change of Name**

19. The Corporation may change their name with the approval of the Secretary of State.

#### **Application of Seal**

20. The application of the seal of the Corporation shall be authenticated by the signature of the Chairman or of some other member authorised either generally or specially by the Corporation to act for that purpose together with that of any other member.

#### **Accounts and Audit**

21.—(1) The Corporation shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare in respect of each financial year of the Corporation a statement of accounts.

(2) The statement shall—

- (a) give a true and fair account of the state of the Corporation's affairs at the end of the financial year and of the Corporation's income and expenditure in the financial year; and
- (b) comply with any directions given by the Further Education Funding Council for England as to the information to be contained in it, the manner in which the information is to be presented, the methods and principles according to which it is to be prepared and the time and manner of publication.

(3) The accounts (including any statement prepared under this clause) shall be audited by persons appointed in respect of each financial year by the Corporation.

(4) Such auditors shall be appointed, and other audit work conducted, in accordance with any requirements of the Further Education Funding Council for England.

(5) In this clause in relation to the Corporation "financial year" means the period commencing with the date on which the Corporation is established and ending with the second 31st July following that date and each successive period of twelve months.

#### **Amendment of Instrument of Government**

22. This Instrument may be modified or replaced in accordance with section 22 of the Further and Higher Education Act 1992.

## SCHEDULE 2

Regulation 2

### ARTICLES OF GOVERNMENT

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- Explanatory Note

#### **Interpretation**

**1. In these Articles of Government—**

- (a) “the Academic Board” means the body constituted in accordance with article 4,  
“the Articles” means these Articles of Government,  
“business member”, “the Corporation”, “the Secretary of State”, “staff member” and “student member” have the same meaning as in the Instrument of Government,  
“senior post” means the post of Principal and such other senior posts as the Corporation may determine for the purposes of these Articles,  
“the staff” means all staff of the institution,  
“the Students' Union” means any association of the generality of students formed to further the educational purposes of the institution and the interests of students as students;
- (b) unless the context otherwise requires, a reference to—
  - (i) a numbered article is a reference to the article so numbered in these Articles, and
  - (ii) a numbered paragraph is a reference to the paragraph so numbered in the article in which the reference appears; and
- (c) words importing one gender shall import all genders, the singular number shall include the plural and vice versa (unless the context otherwise requires) and the headings are for convenience only and shall not affect the construction of these Articles.

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### **Conduct of the Institution**

2. The institution shall be conducted in accordance with the provisions of the Education Acts 1944 to 1994, any subsequent Education Acts, any relevant regulations, orders or directions made by the Secretary of State and subject thereto, in accordance with the provisions of the Instrument of Government, these Articles, any rules or bye-laws made under these Articles and any trust deed regulating the institution.

### **Responsibilities of Corporation, Principal and Academic Board**

3.—(1) The Corporation shall be responsible—

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

(2) Subject to the responsibilities of the Corporation, the Principal shall be the Chief Executive of the institution, and shall be responsible—

- (a) for making proposals to the Corporation about the educational character and mission of the institution, and for implementing the decisions of the Corporation;
- (b) for the organisation, direction and management of the institution and leadership of the staff;
- (c) for 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 the holders of senior posts;
- (d) for the determination, after consultation with the Academic Board, of the institution's academic activities, and for the determination of its other activities;
- (e) for preparing annual estimates of income and expenditure, for consideration and approval by the Corporation, and for the management of budget and resources, within the estimates approved by the Corporation; and
- (f) for 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) Subject to the provisions of these Articles, to the overall responsibility of the Corporation and to the responsibilities of the Principal, the Academic Board shall be responsible for advising the Principal on the standards, planning, co-ordination, development and oversight of the academic work of the institution, including arrangements for the admission, assessment and examination of students and the procedures for the expulsion of students for academic reasons.

### **Academic Board**

4.—(1) There shall be an Academic Board of no more than 30 members, comprising the Principal (who shall be chairman) and such other numbers of staff and students as may from time to time be approved by the Corporation. The Principal may nominate a deputy chairman from among the members of the Academic Board to take the chair in his place. The period of appointment of members and the selection or election arrangements shall be subject to the approval of the Corporation.

(2) The Academic Board may establish such committees as it considers necessary for the purpose of enabling it to carry out its responsibilities provided that each establishment of a committee is first approved by the Principal and the Corporation. 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.

### **Delegation of Functions and Committees**

5.—(1) Subject to the following provisions of this article, the Corporation may establish a committee of the Corporation for any purpose or function, other than those assigned elsewhere in these Articles to the Principal or to the Academic Board, and may delegate powers to such a committee or to the Chairman of the Corporation or to the Principal.

(2) The number of members of a committee established under this article, and the terms on which they are to hold and vacate office, shall be determined by the Corporation.

(3) Such a committee may include persons who are not members of the Corporation.

(4) The Corporation shall establish a committee or committees to determine or advise on such matters relating to employment policy or finance as the Corporation may remit to them. The members of the committee or committees shall be drawn from the members of the Corporation, other than staff or student members, and shall include the Principal whether or not he is a member of the Corporation.

(5) The corporation shall establish a committee, to be known as the Remuneration Committee, to advise on the grading, remuneration and conditions of service of the holders of senior posts. The members of the committee shall be drawn from the members of the Corporation, other than staff or student members, and the chairman shall be a business member. Business members shall be in the majority.

(6) The Corporation shall not, however, delegate the following—

- (a) the determination of the educational character and mission of the institution;
- (b) the approval of the annual estimates of income and expenditure;
- (c) ensuring the solvency of the institution and the Corporation and the safeguarding of their assets;
- (d) the appointment or dismissal of the Principal; and
- (e) the modifying or revoking of these Articles.

(7) The Corporation shall ensure that a written statement of their policy regarding—

- (a) attendance at committee meetings by persons who are not committee members; and
- (b) the publication of the minutes of committee meetings,

is made available during normal office hours at the institution to any person wishing to inspect it.

(8) The Principal may delegate to a holder of a senior post any of his functions under articles 8, 11 and 13.

### **Appointment and Promotion of Staff**

6. Each member of staff shall serve under a contract of employment with the Corporation.

7.—(1) Upon the occurrence of a vacancy or expected vacancy in a senior post, other than the expected vacancy in the posts of Principal and Vice-Principal on the operative date (as defined in section 17(2) of the Further and Higher Education Act 1992) the Corporation shall—

- (a) advertise the vacancy nationally; and
- (b) appoint a selection panel consisting of at least 3 members of the Corporation and, except when it is his post which is being considered, the Principal.

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- (2) The selection panel shall—
    - (a) determine the arrangements for selection applicants for interview;
    - (b) interview those applicants; and
    - (c) where they consider it appropriate to do so, recommend to the Corporation for appointment one of the applicants interviewed by them.
  - (3) If the Corporation approve the selection panel's recommendation that person shall be appointed.
  - (4) If the selection panel are unable to agree on a person to recommend to the Corporation, or if the Corporation do not approve their recommendation, the Corporation may require the panel to repeat the steps specified in paragraph 2(a) to (c), with or without first re-advertising the vacancy.
8. The Principal shall have general responsibility for selecting for appointment all members of staff other than appointments to senior posts.

### **Conduct of Staff**

9. After consultation with the staff, the Corporation shall make rules relating to the conduct of the staff.

### **Academic Freedom**

10. In making rules under article 9, the Corporation shall have regard to the need to ensure that academic staff of the institution 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 institution.

### **Suspension of Staff**

11.—(1) The Chairman of the Corporation or, in the absence of the Chairman, the Vice-Chairman may suspend from duty, with pay, the holder of a senior post for misconduct or other good and urgent cause. The Chairman or Vice-Chairman shall report such suspension in writing to the Corporation within two working days or as soon thereafter as practicable.

(2) The Principal may suspend from duty, with pay, any member of the staff other than the holder of a senior post, for misconduct or other good and urgent cause.

(3) Anyone who is suspended from duty under paragraph (1) or (2) shall be entitled to receive from the Principal or, in the case of the holders of senior posts, from the Chairman or Vice-Chairman, written notification of the suspension, setting out the grounds on which the decision to suspend has been taken.

(4) Procedures for the suspension of staff under paragraph (1) or (2) shall be specified in rules made by the Corporation 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 Corporation 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 12(1) or has been notified of a proposal to dismiss pursuant to article 13(2);
- (b) any appeal made under sub-paragraph (a) above 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 of Staff**

**12.—**(1) If the Chairman, or in his absence the Vice-Chairman, or a majority of the members of the Corporation, consider that it may be appropriate for the Corporation to dismiss the holder of a senior post, then the Chairman, Vice-Chairman or Corporation as appropriate shall refer the matter to a Special Committee of the Corporation, which shall be convened as soon as practicable to examine the case for dismissal and to make recommendations to the Corporation.

(2) The person whose dismissal is to be considered by the Special Committee shall have the right to make representations to that Committee, including oral representations, for which purpose he may be accompanied and represented by a friend.

(3) The Special Committee shall prepare a written report for consideration by the Corporation, a copy of which shall be sent to the person to whom it relates.

(4) The Corporation shall consider the recommendations of the Special Committee and take such action as they consider appropriate, which may include the dismissal of the person concerned. The person concerned shall have the right to make representations to the Corporation with regard to the recommendations of the Special Committee, including oral representations for which purpose he may be accompanied and represented by a friend.

(5) The Special Committee shall consist of five members of the Corporation. The Chairman of the Corporation, the Vice-Chairman, the Principal and the staff and student members shall not be eligible for membership of the Special Committee.

(6) The Corporation shall make rules specifying procedures, including appropriate time limits relating thereto, for the conduct of the Special Committee and other aspects of the procedure set out in this article.

**13.—**(1) The Principal may dismiss any member of the staff of the institution other than the holder of a senior post and if the circumstances are such that he 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.

(2) Unless the circumstances described in paragraph (1) prevail, a member of staff, other than the holder of a senior post, shall have the right to make representations (including oral representations, for which purpose he may be accompanied by a friend) to the Principal or to any person appointed to investigate the matter and to make recommendations, as the Corporation may decide, before any decision to dismiss him is taken.

(3) Where a member of staff, other than the holder of a senior post, has been dismissed pursuant to paragraph (1) or a notice of dismissal has been issued, that member of staff may appeal against the dismissal or notice of dismissal, as the case may be, to the Corporation. In the case of an appeal against a notice of dismissal, the dismissal shall not take effect until the appeal has been determined.

(4) Procedures for the dismissal of staff by the Principal and for the consideration of appeals against dismissals and notices of dismissal, including appropriate time limits relating thereto, shall be specified in rules made by the Corporation after consultation with the staff.

## **Grievance Procedures**

**14.** After consultation with the staff the Corporation shall make rules specifying procedures according to which staff may seek redress of any grievances relating to their employment.

## **Students**

**15.—**(1) Any Students' Union shall conduct and manage its own affairs and funds in accordance with a constitution approved by the Corporation and shall present audited accounts annually to the Corporation. No amendment to or rescission of that constitution, in part or in whole, shall be valid unless and until approved by the Corporation.

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(2) The Corporation, 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.

(3) In exercise of their responsibilities under article 3(3), the Academic Board, after consultation with the Corporation and representatives of the students, shall advise the Principal on procedures for the expulsion of a student for an unsatisfactory standard of work or other academic reason.

### **Financial Matters**

16. The Corporation shall determine the tuition and other fees payable to the Corporation (subject to any terms and conditions attached to grants, loans or other payments paid or made by the Further Education Funding Council for England).

### **Rules and Bye-laws**

17. The Corporation shall have power to make rules and bye-laws concerning such matters with regard to the government and conduct of the institution as they shall think fit. Such rules and bye-laws shall be subject to the provisions of these Articles.

### **Copies of Articles of Government, Rules and Bye-laws**

18. A copy of these Articles, and of any rules and bye-laws, shall be given to every member and shall be available for inspection upon request during normal office hours at the institution to every member of staff and every student.

### **Amendment of Articles of Government**

19. These Articles may be modified or replaced in accordance with section 22 of the Further and Higher Education Act 1992.

### **Date of Articles of Government**

20. These Articles shall apply to—

- (a) the Corporation, on the date of establishment; and
- (b) the institution, on the date on which it is first conducted by the Corporation.

22nd May 1995

*Tim Boswell*  
Parliamentary Under Secretary of State  
Department for Education

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations prescribe the form of Instrument of Government and Articles of Government for Middlesbrough College.



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