STATUTORY INSTRUMENTS

2016 No. 834

EDUCATION, ENGLAND

The National College for the Creative and Cultural Industries (Government) Regulations 2016

Made - - - -	*5th August 2016*
Laid before Parliament	*8th August 2016*
Coming into force - -	*1st September 2016*

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 20(2) and 21(1) of, and Schedule 4 to, the Further and Higher Education Act 1992(**1**).

1. These Regulations may be cited as the National College for the Creative and Cultural Industries (Government) Regulations 2016 and come into force on 1st September 2016.

2. The instrument of government and the articles of government of the further education corporation called "the National College for the Creative and Cultural Industries" are set out in Schedules 1 and 2 to these Regulations respectively.

Joseph Johnson
Minister of State
Department for Education

5th August 2016

(**1**) 1992 c.13; section 20(2) was amended by section 2(1) of the Further and Higher Education (Governance and Information) (Wales) Act 2014 anaw. 1. See section 61(1) for the definition of "regulations".

SCHEDULE 1 Regulation 2

INSTRUMENT OF GOVERNMENT

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Explanatory Note

Interpretation of the terms used

1. In this Instrument of Government—

(a) "business day" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

(b) "Chair" means the Chair of the Corporation appointed in accordance with clause 4;

(c) any reference to the "Chief Executive" shall include a person acting as Principal or Chief Executive;

(d) "Chief Financial Officer" means the Chief Financial Officer to the Corporation;

(e) "Clerk" means the Clerk to the Corporation;

(f) "connected person" has the meaning set out in clause 188 of the Charities Act 2011(**2**);

(g) "Corporation" means the further education corporation to which this Instrument applies and any subsidiary company of the Corporation;

(**2**) 2011 c.25.

(h) "electronic form" or "electronic means" have the meaning set out in section 1168(3) to (6) (inclusive) of the Companies Act 2006(**3**);

(i) "general member", "staff member" and "student member" have the meanings given to them in clause 2;

(j) "institution" means the institution which the Corporation is established to conduct and any institution for the time being conducted by the Corporation in exercise of its powers under the Further and Higher Education Act 1992(**4**);

(k) "Instrument" means this Instrument of Government;

(l) "members" means the general members, the Chief Executive (unless the Chief Executive chooses not to be a member), the staff member and the student member;

(m) "meeting" includes a meeting at which the members participate from more than one place, provided that it is possible for every participating member to communicate with each other as set out in paragraph 11(8);

(n) "necessary skills" means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for members to have taking account, if appropriate, of the category of that member;

(o) "Secretary of State" means the Secretary of State for Education (or any successor responsible for further education);

(p) "special meeting" has the meaning given in paragraph 11(5);

(q) "staff" means persons who have a contract of employment with the Corporation or with its subsidiaries (if any);

(r) "staff matters" means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff;

(s) "student" means a student of the institution;

(t) "students' association" means any association of students of the institution formed to further the educational purposes of the institution and the interests of students, as students;

(u) "subsidiary" means a subsidiary as defined in section 1159 of the Companies Act 2006;

(v) "Vice-Chair" means the Vice-Chair of the Corporation appointed in accordance with clause 4;

(w) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

Composition of the Corporation

2.—(1) Subject to the transitional arrangements set out in paragraph 2(3), the Corporation shall consist of the following categories of members—

(a) not less than seven nor more than twelve members who appear to the Corporation to have the necessary skills to ensure that the Corporation carries out its functions under article 3 of the Articles of Government ("general member");

(b) the Chief Executive, unless the Chief Executive chooses not to be a member;

(c) one member who is a member of staff who has been nominated and elected by his or her fellow members of staff in such manner as the staff approve from time to time ("staff member"); and

(**3**) 2006 c.46.
(**4**) 1992 c.13.

(d) one member who is a student enrolled on a course of at least a one year duration who has been nominated and elected by his or her fellow students, in such manner as the students approve from time to time, or if the Corporation so decides, by a recognised association representing the students ("student member").

(2) A person who is not for the time being enrolled as a student, shall nevertheless be treated as a student during any period of authorised absence from the institution for study, travel or for carrying out the duties of any office held by that person in the institution's students' association.

(3) Where the number of members of the Corporation or the number of members in any category do not comply with the requirements of paragraph 2(1), or any subsequent determination, the Corporation shall make new appointments so that its composition conforms to the determination as soon as possible, and all decisions of the Corporation in the interim shall be valid.

Appointment of the members of the Corporation

3.—(1) The Secretary of State shall be the appointing authority for the first members. Subject thereto the Corporation is the appointing authority in relation to subsequent appointments of its members.

(2) The appointing authority may decline to appoint a person as a member if—

(a) it is satisfied that the person has been removed from office as a member of a further education corporation in the previous ten years;

(b) the appointment of the person would contravene paragraph 7(3) or any rule or bye-law made under article 16 of the Articles of Government concerning the number of terms of office which a person may serve, provided that such rules or bye-laws make the same provision for each category of members appointed by the appointing authority; or

(c) the person is ineligible to be a member under the provisions of clause 6.

(3) Where the office of any member becomes vacant the relevant appointing authority shall as soon as practicable take all necessary steps to appoint a new member to fill the vacancy. Any vacancy of any of the offices of member shall not prevent the members from exercising all of the powers of the Corporation during such vacancy.

(4) If the number of general members falls below the minimum set out in paragraph 2(1)(a), the Clerk shall call a meeting of the members to appoint persons to general membership sufficient to equal or exceed that minimum number.

(5) If the number of members falls below the number needed for a quorum, the Secretary of State is the appointing authority in relation to the appointment of those members needed for a quorum.

Appointment of the Chair and Vice-Chair

4.—(1) The members of the Corporation shall appoint a Chair, and if the Corporation determines from time to time, a Vice-Chair, from among the general members. The Chair (or in the Chair's absence, the Vice-Chair) shall chair meetings of the Corporation.

(2) If both the Chair and the Vice-Chair are absent from any meeting of the Corporation, the members present shall choose someone from among the general members present to act as Chair for that meeting.

(3) The Chair and Vice-Chair shall hold office for such period as the Corporation decides.

(4) The Chair and Vice-Chair may resign from office at any time by giving notice in writing to the Clerk.

(5) If the Corporation is satisfied that the Chair or Vice-Chair (as the case may be) is unfit or unable to carry out the functions of office, it may give written notice, removing the Chair or Vice-Chair (as the case may be) from office and the office shall then be vacant.

(6) At the last meeting before the end of the term of office of the Chair or Vice-Chair (as the case may be), or at the first meeting following the Chair's or Vice-Chair's (as the case may be) resignation or removal from office, the members shall appoint a replacement from among the general members.

(7) Unless the Corporation otherwise resolves from time to time at the end of their respective terms of office, the Chair and Vice-Chair shall be eligible for reappointment subject to any maximum terms of office approved by the Corporation from time to time.

Appointment of the Clerk to the Corporation

5.—(1) The Corporation shall appoint a person to serve as its Clerk. Neither the Chief Executive nor the Chief Financial Officer may be appointed as Clerk.

(2) In the temporary absence of the Clerk, the Corporation shall appoint a person to serve as a temporary Clerk, but the Chief Executive and the Chief Financial Officer may not be appointed as temporary Clerk.

(3) Any reference in this Instrument to the Clerk shall include a temporary Clerk appointed under paragraph 5(2).

(4) The Clerk may also be a member of staff.

Persons who are ineligible to be members

6.—(1) No one under the age of 18 years may be a member.

(2) Only natural persons may be members.

(3) The Chief Financial Officer and the Clerk may not be members.

(4) A person who is a member of staff may not be, or continue as, a member, except as a staff member or as the Chief Executive.

(5) A person who is a student may not be, or continue to as, a member, except as a student member.

(6) Paragraph 6(4) does not apply to a student who is employed or engaged by the Corporation in connection with the student's role as an officer of a students' association.

(7) A person shall be disqualified from holding, or from continuing to hold, office as a member if—

(a) that person is disqualified from acting as a charity trustee by virtue of section 178 – 179 of the Charities Act 2011;

(b) that person is certified by a registered medical practitioner as being physically or mentally incapable of discharging his duties as a member and will remain so for more than three months;

(c) a resolution to remove that person from office is proposed at a properly convened meeting of the members called for that purpose and passed by a two thirds majority of votes cast at the meeting that the person is unfit or unable to discharge his functions as a member or his conduct calls himself or the institution in to disrepute or that person breaches any code of conduct applying to members of the Corporation from time to time; or

(d) that person without the consent of the Corporation is absent from two or more consecutive meetings of the Corporation and the Corporation resolves to remove that member from office.

(8) Upon a member becoming disqualified from continuing to hold office, the member shall immediately give notice of that fact to the Clerk.