



CORPORATE GOVERNANCE GUIDE

for

Regional Board Members

BORDERS COLLEGE
CORPORATE GOVERNANCE

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1. **INTRODUCTION**

The history of Borders College goes back as far as 1928 as Scotland's oldest Technical College based in Hawick. In 1984, an amalgamation took place of Galashiels Technical College, Henderson Technical College (Hawick), Duns Agricultural Centre and the Agricultural Centre, Newtown St Boswells. On 1 April 1993, under the terms of the Further and Higher Education (Scotland) Act 1992, the College became a body corporate, transferring from the control of the former Borders Regional Council.

The College, in its present form, operates from three different sites, namely Galashiels, Hawick and Newtown St Boswells. It also has an 'outreach' location in Jedburgh as well as providing provision in Peebles and Duns. It employs over 350 staff and provides further and higher education to almost 5000 students per year.

The main funding source for the College comes as grant-in-aid from the Scottish Funding Council; in addition a small percentage is earned through commercial means. To increase income in 1999 the College set up BC Consultants Ltd, which is a wholly-owned subsidiary company of Borders College; however in 2010 following an internal review it was decided that the work of the company would be incorporated into the main College structure. The company provided staff development, training and consultancy services for corporate customers with the emphasis being on tailoring those services to the specific needs and demands of each customer's particular business. These services have now been incorporated into the College as part of the Business Development Unit.

The College's current Corporate Plan, covering the period 2013 to 2016, sets out a full list of National and Local Priorities and includes strategic themes covering Portfolio and Partners, Learning and Learners, Workforce Development and finally Quality and Sustainability along with a series of KPIs.

The following paragraphs and appendices contain details as to how the College and its Regional Board meet its obligations to ensure an effective management and corporate governance framework. It also contains details of the Board's Standing Orders, Terms of Reference for committees, Code of Conduct and other relevant documents. As with all paper documents they quickly become outdated; however the College website will hold an up to date version of this Guide and the paper version will be updated as and when appropriate.

It is also recommended that Board Members refer to the more extensive information provided in Scotland College's "Guide for College Board Members" in relation to governance matters. This Guide was issued in 2012.

2. REGIONAL BOARD STATEMENT OF PRIMARY RESPONSIBILITY

The Board has adopted the following Statement of Primary Responsibilities and will ensure that these responsibilities meet the needs of the College Community as well as key stakeholders.

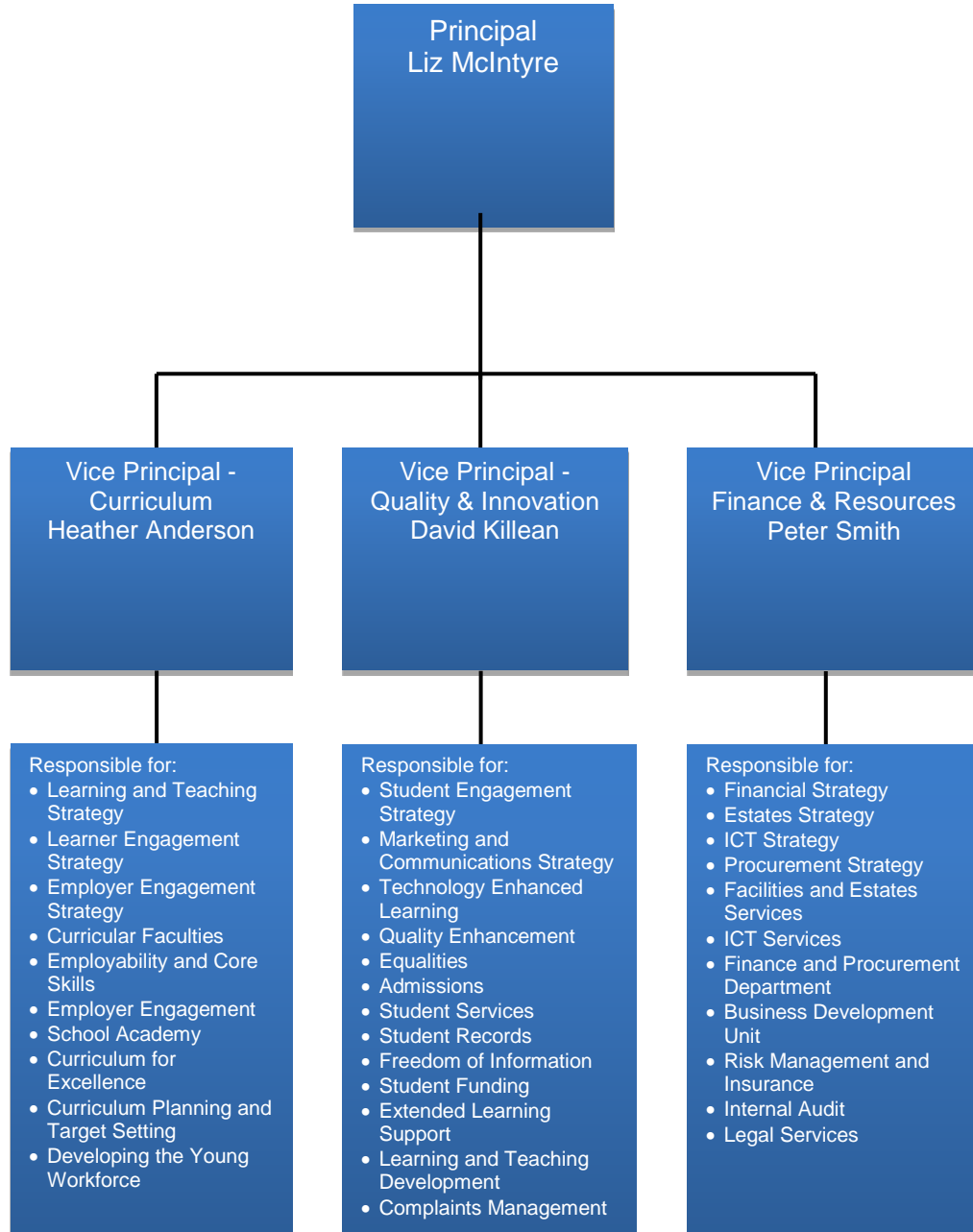
- a. The Board will approve the Mission Statement and Corporate Plan of the College.
- b. The Board will be responsible for approving long-term business plans and key performance indicators (KPIs).
- c. The Board will approve annual budgets and any other financial commitments. They will also approve the College Financial Regulations and the delegated powers contained therein.
- d. The Board will be responsible for appointing the Principal/Chief Executive of the College and putting in place suitable arrangements for monitoring his/her performance.
- e. The Board will ensure the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, clear procedures for handling internal grievances and managing conflicts of interest.
- f. The Board will monitor college performance against plans and KPIs, which should be, where possible and appropriate, benchmarked against other colleges.

3. REGIONAL BOARD

Details of the current members of the Regional Board are held on the College website www.borderscollege.ac.uk under the section 'About Our College'.

SENIOR MANAGEMENT TEAM

The Senior Management Team and their key responsibilities are as follows:



4. **LEGISLATION AND MINISTERIAL GUIDANCE FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992**

The Further and Higher Education (Scotland) Act 1992 (hereinafter referred to as the 1992 Act) is the legislation which, with effect from 1 April 1993, transferred Colleges of Further Education in Scotland from local education authorities to Boards of Management, which are independent corporate bodies. The Act is in effect the Constitution of the College (the Act can be found at www.legislation.gov.uk/ukpga/1992/37/contents).

The specific powers of the Board of Management were listed in Chapter 3 Section 12 (2) of the 1992 Act. Again, in summary, these powers were:-

- the provision/securing of provision of further education;
- to charge fees for such provision;
- to provide financial assistance (including e.g. waiving/reducing fees);
- to receive property, rights liabilities and obligations (for the administration and management of the College);
- to provide necessary College facilities including boarding accommodation and recreational facilities for students and staff and facilities for students with learning difficulties and disabled staff;
- to supply goods and services;
- to acquire, hold and dispose of land and other property;
- to enter contracts, including employment contracts (with teachers and other staff) and contracts to enable the Board to carry out any of the activities which the Board has a duty or power to carry out in terms of the legislation;
- to form/promote or join with others in forming/promoting companies (within the meaning of the Companies Act 2006);
- to borrow sums and grant securities or indemnities (with the consent of the Secretary of State);
- to invest certain sums;
- to raise funds, accept gifts and apply to or hold/administer in trust for the purpose of carrying on any of the activities which the Board have power to carry on (with the consent of the Secretary of State);
- to do all such other things to facilitate or which are incidental or conducive to carrying on any of the activities which the Board have power to carry on.

Schedule 2 of the Act sets out the detailed provisions relative to the constitution and proceedings of the Board itself. The Post 16 Education (Scotland) Act 2013 and subsequent ministerial guidance directs the procedure for appointments of non-executive Board Members. The Act covers:

- Terms and conditions of higher education funding;
- College reorganisation;
- Regional Strategic bodies and Regional Boards including their constitution and management;
- Good governance;
- Duties of Scottish Funding Council;
- Collective bargaining framework

5. **COLLEGE COMMITTEE STRUCTURE**

In terms of Schedule 2, paragraph 13, of the Further and Higher Education (Scotland) Act 1992, the Board of Management may establish committees and, in turn, such committees may appoint sub-committees. Although such committees may include persons who are not members of the Board, such persons are not entitled to vote at meetings of a committee. Similarly, although the Principal is entitled to attend and speak at any meeting of a committee of the Board, s/he is entitled to vote at such meeting only if s/he is a member of the relevant committee.

N.B. Reference to a committee of the Board includes reference to any sub-committee appointed by such committee. Attached at Annexes E to J are copies of the Terms of Reference for Board Committees, which provide details of the various committees of Borders College and the powers delegated by the Board to each committee. Also attached is a copy of the College's Standing Orders which regulate the proceedings and business of the Board and Committees.

6. **ROLES OF BOARD MEMBERS, CHAIRMAN, PRINCIPAL AND CLERK TO THE BOARD**

It is important to distinguish between the different roles and responsibilities of the above.

Board Members

The role of a Board Member (with the exception of the Principal) is similar to that of a non-executive company director. The position is an unpaid one, apart from the reimbursement of necessary travel and other reasonable expenses.

Generally there are around 5 Board meetings per annum. The meetings consider either the College's future strategy or current operational matters including its financial position. Board Members are expected to attend all meetings and in addition, may be requested to give further advice depending on their individual areas of expertise.

Board Members are responsible for the approval and overseeing of the College's policy and strategy framework. In addition, the Board has the duty of appointing and monitoring the performance of the Principal who is also the Chief Accounting Officer of the College.

It is one of the main further duties of the Board to ensure that its activities do not bring the name of the College into disrepute and in particular, to ensure that the College remains solvent and that its assets are safeguarded.

Regional Boards have the duty of managing and conducting the College and to ensure that it provides suitable and efficient education for its students, having regard to the provision of education within the area in which the College is situated and the likely needs of potential students. More details on the specific powers of

Board Members under the legislation, to fulfil these duties, are as detailed in paragraph 4 above (Further and Higher Education (Scotland) Act 1992).

The Chair

The Chair's role, having been appointed by Scottish Ministers, is to lead the Board in carrying out its duties and responsibilities in terms of the 1992 Act (as amended) and the Further and Higher Education (Scotland) Act 2005 (as amended) and the Post 16 Education (Scotland) Act 2013.

The Chair is the main point of contact on the Board for the College Principal and with the Principal will often represent the College in the public domain and respond on matters of media interest.

The Chair provides active and effective leadership, direction, support and guidance to ensure the College delivers, and is committed to delivering its functions effectively in accordance with the aims, policies and priorities of Scottish Ministers.

The Chair provides a strong challenge function, carefully scrutinising planned and underlying assumptions before decisions are taken. This includes challenging members and Senior Management Team of the College.

The schedule of delegations to the Chair is attached at Annex C.

The Principal

The Principal is appointed by the Board and on appointment becomes a Member of the Board. His/her salary is determined by the Remuneration Committee of the Board.

The Principal has various management functions; however his/her main duties are to implement the College's corporate plan in order to ensure the efficient and effective provision of education and training. In addition s/he oversees the development of further income generating business activities for the College.

It is also the duty of the Principal to manage the College's resources and s/he has ultimate responsibility for staffing matters. With regard to College staff, the Principal requires to lead, appoint, assign, grade, appraise, and suspend staff, and discuss and determine pay and conditions of staff.

The Principal should consider discussing his/her ideas with the Board, the Chair or the appropriate committee before taking action on serious or potentially contentious issues which may have a reputational or negative impact on the College.

The schedule of delegations to the Principal is at Annex C

The Clerk to the Board

The Clerk to the Board is responsible for the proper conduct of the Board's business. The Clerk should not however participate in the discussions and decisions of the Board, although s/he should ensure issues are fully debated and

clear decisions are recorded. The Clerk should be available to offer advice and guidance on procedural and governance issues when required.

It is important that the Clerk preserves independence from the Management of the College.

7. **BOARD MEMBER RECRUITMENT**

(a) Statutory Provisions

Para. 3(1) of Schedule 2 of the Further and Higher Education (Scotland) Act. 1992 sets the number of Board Members as no fewer than 15 and no more than 18.

The Board shall include –

A Chair appointed by Scottish Ministers
The Principal of the College
2 elected staff representatives (one teaching, one non-teaching)
2 student representatives

No fewer than half of the Board Members shall be individuals with experience of/capacity in industrial, commercial, employment matters or the practice of any profession;

The remaining members shall be appointed from persons appearing to have, or to represent persons who have, an interest in the work of Borders College.

Qualifications and tenure of office

With the exception of the Principal (who, while holding that appointment remains a Member of the Board), and the Student Representative (whose membership of the Board lasts for the period of his/her appointment), Members of the Board hold office for up to 4 years although they may be extended for a single period of up to 4 years. Such extension requires approval of the Chair and Scottish Ministers.

In addition, Schedule 2 contains detailed provisions which would prevent appointment as a Board Member, e.g. criminal convictions, sequestration or bankruptcy, incapacity due to mental illness, removal from office by the Secretary of State in terms of Section 24 of the Act (which deals with mis-management by Boards).

(b) Policy

The policy and procedure of Borders College for recruitment of new Board Members are contained in the Terms of Reference of the Nominations Committee.

(c) Board Meetings

The meetings of the Regional Board are held on such dates and at such times as the Board may determine. Notice of meetings is given by the Clerk to the Board of Management at least 5 days before the date of the meeting and an Agenda specifying the business of the meeting is issued at that time. The rules regulating the proceedings and business of the Board and its Committees and sub-Committees are as set out in the Standing Orders referred to under paragraph 5 above and are found in detail below.

8. CODE OF CONDUCT FOR BOARD MEMBERS

The Code of Conduct for Board Members is attached at Annex B.

As members of a public body, Board Members must ensure that they are familiar with and their actions comply with the provisions of the Code of Conduct.

9. REGISTER OF INTERESTS

The Ethical Standards in Public Life etc (Scotland) Act 1992 sets out “Registerable Interests” which require to be disclosed by Board Members on appointment to the Board and whenever there is any change in circumstances which would require amendment or addition to the Register of Members’ Interests in respect of the Board.

Accordingly, Board Members are required to complete the Register of Interests on taking up appointment and thereafter to intimate any subsequent changes/additions to the Clerk to the Board. The Register of Interests will be made available on the college website and is therefore in the public domain. Details of what constitute Registerable Interests is also set out in the Code of Conduct at Appendix A

In addition, a Register of Gifts is held by the College’s Head of Finance for the recording of gifts offered to members of the College’s management or staff by outside parties. The College also has an anti-Fraud Policy and Corruption Policy which sets out the Board of Management’s policy and provides guidance to the College on the action which should be taken when fraud, theft or corruption is suspected involving employees of the College, suppliers/contractors or any third party.

10. COLLEGE POLICIES AND PROCEDURES

There are a large number of College Policies and Procedures dealing with matters such as Health and Safety, Staff and Student Disciplinary matters, Quality issues etc. All College Policies and Procedures can be accessed via the College website www.borderscollege.ac.uk

Following the recommendation of the Committee on Standards in Public Life, Borders College has also introduced a Whistleblowing Policy and Procedure, a

copy of which is also on the website. The purpose of such a procedure is to support propriety and openness by allowing concerns of Members of the Board or members of staff to be raised and investigated confidentially within and if necessary, outwith the College. This policy was last updated and approved in 2012 and is consistent with the aims and objectives expressed within the Code of Conduct.

11. SELF ASSESSMENT/EVALUATION FOR THE BOARD

New Members of the Board of Management are provided with governance, induction and training programmes. In addition, regular refresher courses are arranged and details of Governance Courses run by Scotland's colleges are circulated to Board Members.

To promote the most effective governance, Board Members will carry out regular review of the performance of the Board as part of a continuing process of self-evaluation. Various indicators can be used to evaluate Board performance.

Such evaluation is necessary to ensure that there is some measure that the Board conducts its business in accordance with the Further & Higher Education (Scotland) Act 1992 and fulfils its responsibilities under the Financial Memorandum with the Scottish Funding Council.

Approved by
Board of Management: August 2015

Review date: July 2018

BORDERS COLLEGE
STANDING ORDERS

For the Regulation of Proceedings and Business
of the Regional Board and its Committees

These Standing Orders shall apply to all meetings of the Board and its Committees and shall, subject to a resolution by the Board for their suspension, remain in force unless and until they are varied or revoked as provided below. Standing Orders marked * are laid down by legislation and cannot be departed from in Standing Orders adopted by the Board of Management.

Part I

Members

1. The Board will comprise a maximum of 18 Members and a minimum of 15 Members. The detailed composition is contained in Paragraph 3.2 of the College Sector Board Appointments: 2014 Ministerial Guidance.

Chair and Vice Chair

- 2.* The Chair of the Regional Board is appointed by Scottish Ministers for a period not exceeding four years, as they may determine.
- 3.* The Regional Board shall appoint one of their Members, not being a person who is:
 - (a) a student of the College
 - (b) an employee of the Board
 - (c) the Principal for the time being of the College or
 - (d) a member (whether elected or appointed) or an employee of a local authority to be the Vice Chair.
4. The Chair is responsible for leadership of the Board and ensuring its effectiveness in all aspects of its role. The Chair is responsible for setting the Board's agenda and ensuring that adequate time is available for discussion of all agenda items,

particularly strategic issues. The Chair must promote a culture of openness and debate by encouraging the effective contribution of all Board Members and fostering constructive relations among Board Members.

5. The Chair shall also be responsible for the general conduct of the meeting and shall, among other things,
 - (a) preserve order and ensure that every Board Member has a fair hearing
 - (b) decide on all matters of order, competency and relevance
 - (c) determine all questions of procedure in reference to which no express provision is made in legislation or under these Standing Orders.
6. The ruling of the Chair on all matters within his or her jurisdiction as Chair is final.
7. In the absence of the Chair, the Vice-Chair shall undertake all duties as set out in paragraphs 4, 5 and 6 above and any other powers delegated by the Board to the Chair.

Powers

8. In the absence of the Chair, the Vice Chair shall preside at any meetings, and in the absence of the Chair and Vice Chair, the Board shall appoint one of their members to preside over any meetings. The Vice Chair or a member appointed to preside over a meeting shall have the same powers as the Chair would have had.

Conflicts of Interest

- 9.* Subject to Standing Order 12 below, where, whether before or during any meeting of the Regional Board or any Committee of theirs, any Member of the Board or of such Committee becomes aware that s/he or any person connected with her/him has a material interest in or relating to any matter to be or being considered by the Board, or as the case may be, the Committee, s/he shall declare such interest and withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.

* Section 346(2) of the Companies Act 1985 as amended by the Companies act 2006 (meaning of "connected person") shall apply for the purpose of determining whether the person is connected with a Member of the Board or, as the case may be, a member of any Committee of theirs as it applies for the purpose of determining whether a person is connected with a director of a Company; and for such purpose references in that section to a director of a Company shall be construed as if they were references to a Member of the Board or, as the case may be, a member of such Committee.

- 10.* Notwithstanding Standing Order 9, where in relation to any Member of the Board or of a Committee mentioned in Standing Order 11 any matter referred to in Standing Order 11 is to be considered by any meeting of the Board of any Committee of theirs s/he shall, unless invited to remain by resolution of the other

Members of the Board present, withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.

- 11.* The Members of the Board mentioned in Standing order 10 in relation to particular matters are:
- (a) the Principal of the College in relation to their terms and conditions of employment, their suspension or dismissal or any other disciplinary measures relating to her/him and the appointment of their successor;
 - (b) a member of the staff of the College in relation to their terms and conditions of employment, the terms and conditions of employment of any group of employees of the College to which s/he belongs, their promotion, suspension or dismissal or any other disciplinary measure relating to them; and
 - (c) a student of the College in relation to their academic performance, any disciplinary measures relating to themselves or the terms and conditions, appointment, promotion, suspension or dismissal of or any other disciplinary measures relating to any employee of the College.
- 12.* Subject to Standing Order 11, nothing in this Standing Order shall require the Principal or a member of staff or student to declare an interest or withdraw from consideration of any matter where their interest exists only by reason of their being the Principal or, as the case may be, a member of staff or student.
13. As a guide and for the purposes of Standing Order 9, a person is connected with a Member of the Board if, but only if, s/he (not being a member of it) is:
- (a) that member's spouse, civil partner, child or step-child; or
 - (b) except where the context otherwise requires, a body corporate with which the member is associated; or
 - (c) a person acting in his/her capacity as trustee of any trust the beneficiaries of which include
 - (i) the member, his/her spouse or civil partner or any children or step-children of his; or
 - (ii) a body corporate with which he/she is associated, or of a trust whose terms confer a power on the trustees that may be exercised for the benefit of the member, his/herspouse or civil partner, or any children or step-children of his, or any such body corporate; or
 - (iii) a person acting in their capacity as partner of that member or of any person who, by virtue of paragraph (a), (b) or (c) above, is connected with that member; or
 - (iv) a Scottish firm in which:
 - (i) that member is a partner,
 - (ii) a partner is a person who, by virtue of paragraph (a), (b) or (c) above, is connected with that member, or
 - (iii) a partner is a Scottish firm in which that member is a partner or in which there is a partner who, by virtue of paragraph (a), (b) or (c) above, is connected with that member.

Substitutes

14. In the event of both Students' Association representatives being absent from the College and being unable to attend an Ordinary Meeting of the Board, an alternative nominated for such purpose by the Student's Association is empowered to attend in his/her place. No other Member of the Board (whether elected or appointed) may nominate a substitute to attend in his/her absence.

Co-options

15. The Board and any Committee of the Board reserves the right to invite any person to attend a Board or Committee meeting for any particular agenda item for which that person's advice and guidance is deemed desirable.
- 16.* In the event of an individual being invited to attend Board or Committee meetings such persons are not entitled to participate in decision making.

Part II

Meetings

Ordinary Meetings

17. Ordinary meetings of the Board shall be held at least four times per calendar year, at such day and such time as the Board shall determine.

Extraordinary Meetings

18. Extraordinary meetings may be called on the instructions of the Chair or on a requisition signed by not less than five members.

Notice of Meetings

19. Whilst the Board will meet as required, dates for the ordinary meetings per academic year will be set in advance and advised to Board Members. The Clerk shall issue members with notices of meetings of the Board at least five days before the day of the meeting, specifying the time, place, day and hour of the meeting and the business to be considered.

Notice of Proposals

20. Board Members wishing to place items on the agenda should advise the Clerk at least 10 days before the meeting at which it is to be considered. No other items may be discussed at a meeting of the Board unless (a) it arises from a matter already on the agenda; or (b) is notified for this purpose to the Clerk at least 24 hours before a meeting and approved for discussion by a majority of the

members present at the meeting; or (c) approved for discussion by a two thirds of the members present at the meeting.

Agenda

21. The agenda of ordinary meetings of the Board shall always include the following agenda items; 'Declaration of Conflicts of Interest' followed by 'Update of Register of Interests'.

Voting

22. Decision making shall normally be done by consensus. However any member may ask for the answers to be ratified by a formal vote and this request must be met.
23. The voting shall be by a show of hands, unless the Regional Board decide that the voting shall be by a division in which case the names for and against the motion or amendment shall be taken down in writing and entered in the minutes.
24. Where there is a motion and no countermotion (which means a proposition which is the direct negative of the motion) no vote is required and will be deemed to be carried.
25. Where there is a motion and a countermotion a vote shall be taken for each.
26. Where a motion is amended, voting will take place on the amendment against the proposal, or the series of amendments, in the order of last amendment first, until a single amendment is put against the proposal. Thereafter, voting will take place upon the motion or the motion amended. All members have a single vote. In the event of an equality of votes the Chairman will have a second or casting vote except where the matter relates to the appointment of a Member of the Board to any particular office or committee, in which case the decision will be by lot.

Recession of a Decision

27. No proposal, nor any amendment to any such proposal, shall be moved if it involves a reconsideration of any question or proposal which has been decided or adopted by the Board at any time within the preceding 6 months unless:
 - (a) it is moved by the Chair; or
 - (b) in addition to being signed by the mover, it is signed by at least one third of the Members of the Board.

Electronic Decision Making

28. In exceptional circumstances electronic decision making is permissible. Approval to use electronic means to obtain a decision must be given by the Chair or Vice-Chair on a case by case basis. An electronic decision will only be deemed to have been approved where a minimum of 51% of the overall respondents agree to the proposal. All responses to the proposal must be returned to the Clerk. The overall results of the responses from Members must be circulated to the other Board Members by the Clerk and the decision reported back to the Board at its next meeting.

Quorum

- 29.. A quorum shall not be less than one third of the members, 50% of whom must be external Members of the Board appointed under Clause 3 of Schedule 2 of The Act. If 15 minutes after the time appointed for a meeting of the Board a quorum of members is not then present, the meeting shall stand adjourned and the Clerk shall minute that owing to the want of the necessary quorum no business was done.
30. No business shall be transacted at a meeting of the Board unless a quorum of members is present, but members present may discuss the business of the Board and those discussions and any conclusions in respect of them will be brought forward to the next meeting of the Board.

Attendance at Meetings

31. Unless there are compelling reasons Members are expected to attend all Meetings.
32. If any member has been absent, without the permission of the Board, from all meetings of the Board or any committee to which they have been appointed for a period of three meetings or 6 months, the Board shall, by giving notice in writing to that person, remove him/her from office.

Part III

Minutes and Papers

33. Minutes

The minutes of the previous meeting of the Board shall be sent to Members of the Board along with the notice calling the next meeting and shall be submitted for approval as a correct record.

34. **Circulation of Papers**

Agenda, papers and minutes will be circulated to all Board Members by the Clerk a minimum of 5 days prior to the date of the meeting and circulated to all relevant members of staff as soon as possible after the meeting and shall be made available for inspection as specified in Clause 11, Schedule 2 of The Act

35. **Confidentiality**

* Any information which is received or obtained by any person in connection with their functions as a Member of the Board or a member of a Committee established by the Board on the basis that such information shall be treated as confidential, shall be treated by that person as confidential to the Board or, as the case may be, the Committee.

All confidential Minutes and Papers of the Board and its Committees will be reviewed every 2 years by the Chair and Clerk to confirm whether or not they need to remain confidential or can be put in the public domain. The Board will be advised of the outcome of the review.

Part IV

General

Delegation

36. * The Regional Board may delegate the performance of any of its functions to the Chair, to any Committee appointed by it or to any member of staff.

Committees of the Board

37. * The Regional Board may establish Committees for any purpose and any such Committee may appoint Sub-Committees.
38. * Such Committees may include persons who are not Members of the Board but invited by the Board to sit on a committee. Such persons shall not be entitled to vote at meetings of a Committee.
39. * The Principal of the College shall be entitled to attend and speak at any meeting of a Committee of the Board; but s/he shall be entitled to vote at such meeting only if s/he is a member of such Committee. Any reference to a Committee of the Board shall include reference to any Sub-Committee appointed by such Committee.

Any Board Member can attend any committee as an observer and should notify that Committee Chair as a courtesy of their intention. The Chair of the Board can attend any committee meeting with the exception of the Audit committee unless invited to do so.

Chairs and Membership of Committees will be reviewed on an annual basis and changes approved by the Board.

Board Members will receive appropriate expenses for their attendance at board and Committee meetings.

Alterations of Standing Orders

40. Standing Orders may only be suspended where not fewer than two thirds of members present agree to such a motion.

Approval and Review of Standing Orders

Approved by the
Board of Management: August 2015

Review Date: July 2018

CODE OF CONDUCT for MEMBERS of the REGIONAL BOARD of BORDERS COLLEGE

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SECTION 1: INTRODUCTION TO THE CODE OF CONDUCT

- 1.1 The Scottish public has a high expectation of those who serve on the boards of public bodies and the way in which they should conduct themselves in undertaking their duties. You must meet those expectations by ensuring that your conduct is above reproach.
- 1.2 The Ethical Standards in Public Life etc. (Scotland) Act 2000, “the Act”, provides for Codes of Conduct for local authority Councillors and members of relevant public bodies; imposes on councils and relevant public bodies a duty to help their members to comply with the relevant code; and establishes a Standards Commission for Scotland, “The Standards Commission” to oversee the new framework and deal with alleged breaches of the codes.
- 1.3 The Act requires the Scottish Ministers to lay before Parliament a Code of Conduct for Councillors and a Model Code for Members of Devolved Public Bodies. The Model Code for members was first introduced in 2002 and has now been revised in December 2013 following consultation and the approval of the Scottish Parliament. These revisions will make it consistent with the relevant parts of the Code of Conduct for Councillors, which was revised in 2010 following the approval of the Scottish Parliament.
- 1.4 As a Member of the Board of Management of Borders College “the Board”, it is your responsibility to make sure that you are familiar with, and that your actions comply with, the provisions of this Code of Conduct which has now been made by the Board.

Appointments to the Boards of Public Bodies

- 1.5 Public bodies in Scotland are required to deliver effective services to meet the needs of an increasingly diverse population. In addition, the Scottish Government’s equality outcome on public appointments is to ensure that all appointments are more diverse than at present. In order to meet both of these aims, a board should ideally be drawn from varied backgrounds with a wide spectrum of characteristics, knowledge and experience. It is crucial to the success of public bodies that they attract the best people for the job and therefore it is essential that a board’s appointments process should encourage as many suitable people to apply for positions and be free from unnecessary barriers. You should therefore be aware of the varied roles and functions of the public body on which you serve and of wider diversity and equality issues.
- 1.6 You should also familiarise yourself with how the public body’s policy operates in relation to succession planning, which should ensure the public body have a strategy to make sure they have the staff in place with the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively.

Guidance on the Code of Conduct

- 1.7 You must observe the rules of conduct contained in this Code. It is your personal responsibility to comply with these and review regularly, and at least annually, your personal circumstances with this in mind, particularly when your circumstances

change. You must not at any time advocate or encourage any action contrary to the Code of Conduct.

- 1.8 The Code has been developed in line with the key principles listed in Section 2 and provides additional information on how the principles should be interpreted and applied in practice. The Standards Commission may also issue guidance. No Code can provide for all circumstances and if you are uncertain about how the rules apply, you should seek advice from the public body. You may also choose to consult your own legal advisers and, on detailed financial and commercial matters, seek advice from other relevant professionals.
- 1.9 You should familiarise yourself with the Scottish Government publication “On Board – a guide for Board Members of public bodies in Scotland”. This publication will provide you with information to help you in your role as a member of a public body in Scotland and can be viewed on the Scottish Government website.

Enforcement

- 1.10 Part 2 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 sets out the provisions for dealing with alleged breaches of this Code of Conduct and where appropriate the sanctions that will be applied if the Standards Commission finds that there has been a breach of the Code. Those sanctions are outlined in **Annex A**.

SECTION 2: KEY PRINCIPLES OF THE CODE OF CONDUCT

- 2.1 The general principles upon which this Code is based should be used for guidance and interpretation only. These general principles are:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the public body of which you are a member and in accordance with the core functions and duties of that body.

Selflessness

You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity

You must make decisions solely on merit and in a way that is consistent with the functions of the public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the public body uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the public body and its members in conducting public business.

Respect

You must respect fellow members of your public body and employees of the body and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties as a member of your public body.

- 2.2 You should apply the principles of this Code to your dealings with fellow members of the public body, its employees and other stakeholders. Similarly you should also observe the principles of this Code in dealings with the public when performing duties as a member of the public body.

SECTION 3: GENERAL CONDUCT

- 3.1 The rules of good conduct in this section must be observed in all situations where you act as a member of the public body.

Conduct at Meetings

- 3.2 You must respect the chair, your colleagues and employees of the public body in meetings. You must comply with rulings from the chair in the conduct of the business of these meetings.

Relationship with Board Members and Employees of the Public Body (including those employed by contractors providing services)

- 3.3 You will treat your fellow Board Members and any staff employed by the body with courtesy and respect. It is expected that fellow Board Members and employees will show you the same consideration in return. It is good practice for employers to provide examples of what is unacceptable behaviour in their organisation. Public

bodies should promote a safe, healthy and fair working environment for all. As a Board Member you should be familiar with the policies of the public body in relation to bullying and harassment in the workplace and also lead by exemplar behaviour.

Remuneration, Allowances and Expenses

- 3.4 You must comply with any rules of the public body regarding remuneration, allowances and expenses.

Gifts and Hospitality

- 3.5 You must not accept any offer by way of gift or hospitality which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour, or disadvantage, to any individual or organisation. You should also consider whether there may be any reasonable perception that any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner, can or would influence your judgement. The term “gift” includes benefits such as relief from indebtedness, loan concessions or provision of services at a cost below that generally charged to members of the public.
- 3.6 You must never ask for gifts or hospitality.
- 3.7 You are personally responsible for all decisions connected with the offer or acceptance of gifts or hospitality offered to you and for avoiding the risk of damage to public confidence in your public body. As a general guide, it is usually appropriate to refuse offers except:
- (a) isolated gifts of a trivial character, the value of which must not exceed £50;
 - (b) normal hospitality associated with your duties and which would reasonably be regarded as appropriate; or
 - (c) gifts received on behalf of the public body.
- 3.8 You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision your body may be involved in determining, or who is seeking to do business with your organisation, and which a person might reasonably consider could have a bearing on your judgement. If you are making a visit in your capacity as a member of your public body then, as a general rule, you should ensure that your body pays for the cost of the visit.
- 3.9 You must not accept repeated hospitality or repeated gifts from the same source.
- 3.10 Members of devolved public bodies should familiarise themselves with the terms of the Bribery Act 2010 which provides for offences of bribing another person and offences relating to being bribed.

Confidentiality Requirements

- 3.11 There may be times when you will be required to treat discussions, documents or other information relating to the work of the body in a confidential manner. You will often receive information of a private nature which is not yet public, or which

perhaps would not be intended to be public. You must always respect the confidential nature of such information and comply with the requirement to keep such information private.

- 3.12 It is unacceptable to disclose any information to which you have privileged access, for example derived from a confidential document, either orally or in writing. In the case of other documents and information, you are requested to exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event, such information should never be used for the purposes of personal or financial gain, or for political purposes or used in such a way as to bring the public body into disrepute.

Use of Public Body Facilities

- 3.13 Members of public bodies must not misuse facilities, equipment, stationery, telephony, computer, information technology equipment and services, or use them for party political or campaigning activities. Use of such equipment and services etc. must be in accordance with the public body's policy and rules on their usage. Care must also be exercised when using social media networks not to compromise your position as a member of the public body.

Appointment to Partner Organisations

- 3.14 You may be appointed, or nominated by your public body, as a member of another body or organisation. If so, you are bound by the rules of conduct of these organisations and should observe the rules of this Code in carrying out the duties of that body.
- 3.15 Members who become directors of companies as nominees of their public body will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members between the company and the public body. It is your responsibility to take advice on your responsibilities to the public body and to the company. This will include questions of declarations of interest.

SECTION 4: REGISTRATION OF INTERESTS

- 4.1 The following paragraphs set out the kinds of interests, financial and otherwise which you have to register. These are called "Registerable Interests". You must, at all times, ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the body's Register. It is your duty to ensure any changes in circumstances are reported within one month of them changing.
- 4.2 The Regulations¹ as amended describe the detail and timescale for registering interests. It is your personal responsibility to comply with these regulations and you should review regularly and at least once a year your personal circumstances.

¹ SSI - The Ethical Standards in Public Life etc. (Scotland) Act 2000 (Register of Interests) Regulations 2003 Number 135, as amended.

Annex B contains key definitions and explanatory notes to help you decide what is required when registering your interests under any particular category. The interests which require to be registered are those set out in the following paragraphs and relate to you. It is not necessary to register the interests of your spouse or cohabitee.

Category One: Remuneration

- 4.3 You have a Registerable Interest where you receive remuneration by virtue of being:
- employed;
 - self-employed;
 - the holder of an office;
 - a director of an undertaking;
 - a partner in a firm; or
 - undertaking a trade, profession or vocation or any other work.
- 4.4 In relation to 4.3 above, the amount of remuneration does not require to be registered and remuneration received as a member does not have to be registered.
- 4.5 If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two, “Related Undertakings”.
- 4.6 If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.
- 4.7 When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.
- 4.8 When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.
- 4.9 Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication, and the frequency of articles for which you are paid.
- 4.10 When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.
- 4.11 Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

- 4.12 You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.
- 4.13 You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.
- 4.14 The situations to which the above paragraphs apply are as follows:
- you are a director of a board of an undertaking and receive remuneration declared under category one – and
 - you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

- 4.15 You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares of a value as described in paragraph 4.19 below) have made a contract with the public body of which you are a member:
- (i) under which goods or services are to be provided, or works are to be executed; and
 - (ii) which has not been fully discharged.
- 4.16 You must register a description of the contract, including its duration, but excluding the consideration.

Category Four: Houses, Land and Buildings

- 4.17 You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed.
- 4.18 The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision making.

Category Five: Interest in Shares and Securities

- 4.19 You have a registerable interest where you have an interest in shares comprised in the share capital of a company or other body which may be significant to, of relevance to, or bear upon, the work and operation of (a) the body to which you are appointed and (b) the **nominal value** of the shares is:

- (i) greater than 1% of the issued share capital of the company or other body; or
- (ii) greater than £25,000.

Where you are required to register the interest, you should provide the registered name of the company in which you hold shares; the amount or value of the shares does not have to be registered.

Category Six: Gifts and Hospitality

- 4.20 You must register the details of any gifts or hospitality received within your current term of office. This record will be available for public inspection. It is not however necessary to record any gifts or hospitality as described in paragraph 3.7 (a) to (c) of this Model Code.

Category Seven: Non-Financial Interests

- 4.21 You may also have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the body to which you are appointed. It is important that relevant interests such as membership or holding office in other public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.
- 4.22 In the context of non-financial interests, the test to be applied when considering appropriateness of registration is to ask whether a member of the public might reasonably think that any non-financial interest could potentially affect your responsibilities to the organisation to which you are appointed and to the public, or could influence your actions, speeches or decision-making.

SECTION 5: DECLARATION OF INTERESTS

General

- 5.1 The key principles of the Code, especially those in relation to integrity, honesty and openness, are given further practical effect by the requirement for you to declare certain interests in proceedings of the public body. Together with the rules on registration of interests, this ensures transparency of your interests which might influence, or be thought to influence, your actions.
- 5.2 Public bodies inevitably have dealings with a wide variety of organisations and individuals and this Code indicates the circumstances in which a business or personal interest must be declared. Public confidence in the public body and its members depends on it being clearly understood that decisions are taken in the public interest and not for any other reason.
- 5.3 In considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must, however, always comply with the **objective test** (“the objective test”) which is whether a member of

the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a member of a public body.

- 5.4 If you feel that, in the context of the matter being considered, your involvement is neither capable of being viewed as more significant than that of an ordinary member of the public, nor likely to be perceived by the public as wrong, you may continue to attend the meeting and participate in both discussion and voting. The relevant interest must however be declared. It is your responsibility to judge whether an interest is sufficiently relevant to particular proceedings to require a declaration and you are advised to err on the side of caution. If a Board Member is unsure as to whether a conflict of interest exists, they should seek advice from the board chair.
- 5.5 As a member of a public body you might serve on other bodies. In relation to service on the boards and management committees of limited liability companies, public bodies, societies and other organisations, you must decide, in the particular circumstances surrounding any matter, whether to declare an interest. Only if you believe that, in the particular circumstances, the nature of the interest is so remote or without significance, should it not be declared. You must always remember the public interest points towards transparency and, in particular, a possible divergence of interest between your public body and another body. Keep particularly in mind the advice in paragraph 3.15 of this Model Code about your legal responsibilities to any limited company of which you are a director.

Interests which Require Declaration

- 5.6 Interests which require to be declared if known to you may be financial or non-financial. They may or may not cover interests which are registerable under the terms of this Code. Most of the interests to be declared will be your personal interests but, on occasion, you will have to consider whether the interests of other persons require you to make a declaration. The paragraphs which follow deal with (a) your financial interests (b) your non-financial interests and (c) the interests, financial and non-financial, of other persons.
- 5.7 You will also have other private and personal interests and may serve, or be associated with, bodies, societies and organisations as a result of your private and personal interests and not because of your role as a member of a public body. In the context of any particular matter you will need to decide whether to declare an interest. You should declare an interest unless you believe that, in the particular circumstances, the interest is too remote or without significance. In reaching a view on whether the objective test applies to the interest, you should consider whether your interest (whether taking the form of association or the holding of office) would be seen by a member of the public acting reasonably in a different light because it is the interest of a person who is a member of a public body as opposed to the interest of an ordinary member of the public.

Your Financial Interests

- 5.8 You must declare, if it is known to you, any financial interest (including any

financial interest which is registerable under any of the categories prescribed in Section 4 of this Code). If, under category one (or category seven in respect of non-financial interests) of section 4 of this Code, you have registered an interest

- (a) as the Principal of the College;
- (b) as a member of the teaching staff of the College having been elected from their number to the Board;
- (c) as a member of the non-teaching staff of the College having been elected from their number to the Board;
- (d) as a student of the College having been nominated by the Students' Association of the College to the Board; or
- (e) in relation to any particular experience or position which was relevant to / a reason for your appointment to the public body (for example, as director of an education authority)

you do not, for that reason alone, have to declare that interest.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

Your Non-Financial Interests

5.9 You must declare, if it is known to you, any non-financial interest if:

- (i) that interest has been registered under category seven (Non- Financial Interests) of Section 4 of the Code; or
- (ii) that interest would fall within the terms of the objective test.

There is no need to declare an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

The Financial Interests of Other Persons

5.10 The Code requires only your financial interests to be registered. You also, however, have to consider whether you should declare any financial interest of certain other persons.

You must declare if it is known to you any financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;

- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable expenses.

There is no need to declare an interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

You must withdraw from the meeting room until discussion of and voting on the relevant item where you have a declarable interest is concluded. There is no need to withdraw in the case of an interest which is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

- 5.11 This Code does not attempt the task of defining “relative” or “friend” or “associate”. Not only is such a task fraught with difficulty but is also unlikely that such definitions would reflect the intention of this part of the Code. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the public body and, as such, would be covered by the objective test.

The Non-Financial Interests of Other Persons

- 5.12 You must declare if it is known to you any non-financial interest of:-

- (i) a spouse, a civil partner or a co-habitee;
- (ii) a close relative, close friend or close associate;
- (iii) an employer or a partner in a firm;
- (iv) a body (or subsidiary or parent of a body) of which you are a remunerated member or director;
- (v) a person from whom you have received a registerable gift or registerable hospitality;
- (vi) a person from whom you have received registerable election expenses.

There is no need to declare the interest if it is so remote or insignificant that it could not reasonably be taken to fall within the objective test.

There is only a need to withdraw from the meeting if the interest is clear and substantial.

Making a Declaration

- 5.13 You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

- 5.14 The oral statement of declaration of interest should identify the item or items of business to which it relates. The statement should begin with the words “I declare an interest”. The statement must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

Frequent Declarations of Interest

- 5.15 Public confidence in a public body is damaged by perception that decisions taken by that body are substantially influenced by factors other than the public interest. If you would have to declare interests frequently at meetings in respect of your role as a Board Member you should not accept a role or appointment with that attendant consequence. If members are frequently declaring interests at meetings then they should consider whether they can carry out their role effectively and discuss with their chair. Similarly, if any appointment or nomination to another body would give rise to objective concern because of your existing personal involvement or affiliations, you should not accept the appointment or nomination.

Dispensations

- 5.16 In some very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non-financial interests which would otherwise prohibit you from taking part and voting on matters coming before your public body and its committees.
- 5.17 Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible in order to allow proper consideration of the application in advance of meetings where dispensation is sought. You should not take part in the consideration of the matter in question until the application has been granted.

SECTION 6: LOBBYING AND ACCESS TO MEMBERS OF PUBLIC BODIES

Introduction

- 6.1 In order for the public body to fulfil its commitment to being open and accessible, it needs to encourage participation by organisations and individuals in the decision-making process. Clearly however, the desire to involve the public and other interest groups in the decision-making process must take account of the need to ensure transparency and probity in the way in which the public body conducts its business.
- 6.2 You will need to be able to consider evidence and arguments advanced by a wide range of organisations and individuals in order to perform your duties effectively. Some of these organisations and individuals will make their views known directly to individual members. The rules in this Code set out how you should conduct yourself in your contacts with those who would seek to influence you. They are designed to encourage proper interaction between members of public bodies, those they represent and interest groups.

Rules and Guidance

- 6.3 You must not, in relation to contact with any person or organisation that lobbies do anything which contravenes this Code or any other relevant rule of the public body or any statutory provision.
- 6.4 You must not, in relation to contact with any person or organisation who lobbies, act in any way which could bring discredit upon the public body.
- 6.5 The public must be assured that no person or organisation will gain better access to or treatment by, you as a result of employing a company or individual to lobby on a fee basis on their behalf. You must not, therefore, offer or accord any preferential access or treatment to those lobbying on a fee basis on behalf of clients compared with that which you accord any other person or organisation who lobbies or approaches you. Nor should those lobbying on a fee basis on behalf of clients be given to understand that preferential access or treatment, compared to that accorded to any other person or organisation, might be forthcoming from another member of the public body.
- 6.6 Before taking any action as a result of being lobbied, you should seek to satisfy yourself about the identity of the person or organisation that is lobbying and the motive for lobbying. You may choose to act in response to a person or organisation lobbying on a fee basis on behalf of clients but it is important that you know the basis on which you are being lobbied in order to ensure that any action taken in connection with the lobbyist complies with the standards set out in this Code.
- 6.7 You should not accept any paid work:-
- (a) which would involve you lobbying on behalf of any person or organisation or any clients of a person or organisation.
 - (b) to provide services as a strategist, adviser or consultant, for example, advising on how to influence the public body and its members. This does not prohibit you from being remunerated for activity which may arise because of, or relate to, membership of the public body, such as journalism or broadcasting, or involvement in representative or presentational work, such as participation in delegations, conferences or other events.
- 6.8 If you have concerns about the approach or methods used by any person or organisation in their contacts with you, you must seek the guidance of the public body.

ANNEX A

SANCTIONS AVAILABLE TO THE STANDARDS COMMISSION FOR BREACH OF THE CODE

- (a) Censure – the Commission may reprimand the member but otherwise take no action against them;
- (b) Suspension – of the member for a maximum period of one year from attending one or more, but not all, of the following:
 - i) all meetings of the public body;
 - ii) all meetings of one or more committees or sub-committees of the public body;
 - iii) all meetings of any other public body on which that member is a representative or nominee of the public body of which they are a member.
- (c) Suspension – for a period not exceeding one year, of the member’s entitlement to attend all of the meetings referred to in (b) above;
- (d) Disqualification – removing the member from membership of that public body for a period of no more than five years.

Where a member has been suspended, the Standards Commission may direct that any remuneration or allowance received from membership of that public body be reduced, or not paid.

Where the Standards Commission disqualifies a member of a public body, it may go on to impose the following further sanctions:

- (a) Where the member of a public body is also a councillor, the Standards Commission may disqualify that member (for a period of no more than five years) from being nominated for election as, or from being elected, a councillor. Disqualification of a councillor has the effect of disqualifying that member from their public body and terminating membership of any committee, sub-committee, joint committee, joint board or any other body on which that member sits as a representative of their local authority.
- (b) Direct that the member be removed from membership, and disqualified in respect of membership, of any other devolved public body (provided the members’ code applicable to that body is then in force) and may disqualify that person from office as the Water Industry Commissioner.

In some cases the Standards Commission do not have the legislative powers to deal with sanctions, for example if the respondent is an executive Member of the Board or appointed by the Queen. Sections 23 and 24 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 refer.

Full details of the sanctions are set out in Section 19 of the Act.

ANNEX B

DEFINITIONS

“**Chair**” includes Board Convener or any person discharging similar functions under alternative decision making structures.

“**Code**” code of conduct for members of devolved public bodies

“**Cohabitee**” includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of husband and wife.

“**Group of companies**” has the same meaning as “group” in section 262(1) of the Companies Act 1985. A “group”, within s262 (1) of the Companies Act 1985, means a parent undertaking and its subsidiary undertakings.

“**Parent Undertaking**” is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking’s memorandum or articles or (ii) by virtue of a control contract; or d) it is a councillor of the undertaking and controls alone, pursuant to an agreement with other shareholders or councillors, a majority of the rights in the undertaking.

“**A person**” means a single individual or legal person and includes a group of companies.

“**Any person**” includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.

“**Public body**” means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, as amended.

“**Related Undertaking**” is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.

“**Remuneration**” includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.

“**Spouse**” does not include a former spouse or a spouse who is living separately and apart from you.

“**Undertaking**” means:

- a) a body corporate or partnership; or
- b) an unincorporated association carrying on a trade or business, with or without a view to a profit.

BORDERS COLLEGE
REGIONAL BOARD
SCHEME OF DELEGATION

1 Introduction

This scheme specifies the functions that are delegated by the Regional Board in terms of Section 12(4) of the 1992 Act, as amended by the 2005 Act and the 2013 Act.

All delegations must be exercised in accordance with the law and having regard to any lawful direction and/or guidance subsequently issued by the UK or Scottish Parliament or the Scottish Further and Higher Education Funding Council (SFC).

The delegations are dealt with in three sections:

- authority reserved to the Board;
- delegation to the Chair of the Regional;
- delegation to the Principal.

2 Compliance

Where a responsibility has been delegated, there is nothing to prevent the delegator from dealing with the responsibility delegated, or from withdrawing or amending the delegation granted. Exercise by a delegate of a delegated responsibility is as if it had been done by the Board itself.

3 Review

The Scheme of Delegation will be reviewed at least every three years and normally alongside a review of the Standing Orders. This shall not preclude a review being conducted before such time, should it be considered necessary by the Board, or to bring the Scheme of Delegation into line with Financial Memoranda which may be issued from time to time by the SFC.

4 Scheme of Delegation

Authority Reserved to the Board

The following are reserved to the Board and are, in such circumstances, excluded from any Scheme of Delegation:

- 4.1 determining the objectives of the Board;
- 4.2 matters of new policy or variation of existing policy which is core to the business of the College;
- 4.3 borrowing money (other than overdraft facilities within the Principal's delegated authority) and, in connection with such borrowing, granting securities or giving guarantees or indemnities, Any such borrowing, granting securities or indemnities must comply with Section 12.7(a) of the 1992 Act as amended by the 2005 Act and the 2013 Act;
- 4.4 final approval of the College's Strategic Plan;
- 4.5 final approval of the audited annual accounts;
- 4.6 approval of the annual budget;
- 4.7 approval of financial forecasts prior to submission to the Scottish Funding Council;
- 4.8 final approval of the Outcome Agreement;
- 4.9 final consideration of the Annual Audit Report;
- 4.10 acquisition and disposal of heritable property;
- 4.11 appointment and dismissal of the Principal;
- 4.12 determining the processes and procedures for appointment and removal of the Clerk to the Board;
- 4.13 delegation of functions of the Board of Governors;
- 4.14 the making, amendment and revocation of the document entitled 'Constitution and Standing Orders for the Board of Governors'.

Whilst the process of monitoring risk management has been delegated to the Audit and Risk Committee, the full Board of Management retains responsibility for risk within the College.

The Principal, as Chief Executive of the College, shall be responsible for the operational management of the College subject to strategic direction by the Board.

SECTION 1: DELEGATION TO THE CHAIR OF THE BOARD

The Chair of the Board is authorised:

1. in the absence of both the Principal and the deputising Principal (the mechanism for appointing the deputising Principal is outlined in paragraph 2 below), in conjunction with a designated member of senior staff, to take such measures as may be required in emergencies subject to reporting to the appropriate Committees or to the Board as soon as possible thereafter on any items for which approval of the Committee or the Board would normally be necessary (in the Principal's absence the deputising Principal is responsible for the operational management of the College).
2. the Chair is also required to nominate, after a period of four weeks' continuous absence of the Principal, a deputy Accounting Officer (normally the deputising Principal) to discharge this role in the Principal's absence (such action should, at the earliest opportunity be brought to the attention of the Scottish Funding Council and the Board).
 - a. In the event of continuous absence of eight weeks (including the four week absence referred to above) of the Principal (except in the case of serious illness when the period of continuous absence will be four weeks), the entire Board shall (in a special meeting called for this purpose) be required to invest the delegations ascribed to the Principal in this document to the deputising Principal and other members of the Senior Management Team as the Board considers appropriate until such time as the Principal is capable of discharging fully his functions as Principal/Chief Executive/Accounting Officer and academic leader of the College.
3. to exercise judgment in the event of a need for an urgent decision during the period between Board meetings, such that:
 - a. either an emergency Board meeting is called in the case of material decisions;
or
 - b. to make the required decision, subject to homologation at the next Board meeting.
4. to conduct annual staff development and performance review interviews with the Principal, including setting of performance standards for the Principal;
5. to initiate disciplinary action against the Principal or to suspend the Principal, with or without pay, which may later result in disciplinary action against the Principal;
6. to sign the College's Annual Financial Report prior to its submission to the Scottish Funding Council and after it has been approved by the Board;
7. to undertake external representation of the College as appropriate;
8. to approve Board papers for public consultation;

9. to lead the recruitment process and determine the terms and conditions for the Secretary in conjunction with the Chair's Committee when a vacancy arises with matters of remuneration agreed by the Chair's Committee;
10. appointment of members and co-opted members to standing committees with the Chair's Committee making recommendations to the Board;
11. removal from office of Board Members with the Chair's Committee making recommendations to the Board;
12. to conduct annual development and performance review interviews with the Clerk, including setting performance standards for the Clerk;
13. to conduct Annual Review meetings with Board Members.

SECTION 2 : DELEGATION BY THE REGIONAL BOARD TO THE PRINCIPAL, BORDERS COLLEGE

The following list of functions may be exercised by the Principal of Borders College.

The Principal is authorised:-

1. to manage and delegate as appropriate all College activities on a day to day basis subject to regular reporting to the Regional Board
2. to carry out all functions necessary to enable him/her to fulfil the responsibilities of Principal and Accounting Officer and to implement through his/her management of the College the policy and decisions of the Board and Committees.
3. in emergency situations, to take such measures as may be required, subject to advising the Chair where possible and reporting to the appropriate Committee and to the Board as soon as possible thereafter on any items for which approval of the Committee or the Board would normally be necessary.
4. to represent the College in furtherance of the duties of the position of Principal and the interests of the College.
5. to sign all deeds and other documents binding the Board for all purposes to which Schedule 2, paragraph 20 of the 1992 Act as amended by the 2005 Act and the 2013 Act applies, when approved by minute.
6. approval of items of expenditure up to the limits as set out in the College's Financial Regulations
7. writing off of debts up to a value of £5,000 subject to the reporting requests specified in the current Financial Memorandum as issued to Colleges by the Scottish Funding Council.

BORDERS COLLEGE
AUDIT COMMITTEE
TERMS OF REFERENCE

1 Constitution

A minimum of five Members of the Board of Management, excluding the Chair of the Board, Chair or Member of the Finance and General Purposes Committee and Principal.

At least one member of the Committee should have a background in finance, accounting or auditing, if no such member has the requisite background then the Committee may co-opt an individual with the appropriate background. The Board of Management will be advised of the details of any proposed co-opted individual. The co-opted individual will not count for the purposes of constituting a quorum. The Vice Principal, Finance and Resources should also be in attendance.

1.1 Quorum: Three members of the Committee shall constitute a quorum.

1.2 Chair: To be elected by the Committee Members.

2 Terms of Reference

2.1 To advise the Board of Management on the appointment, reappointment, remuneration or removal of internal and external auditors;

2.2 To review the processes and advise the Board of Management on the internal and external auditor's assessment of the College's financial and other internal control systems;

2.3 To review and advise the Board of Management on compliance with corporate governance requirements and good practice guidance;

2.4 Reviewing the scope, efficiency and effectiveness of the work of internal audit and advise the Board of Management thereon;

2.5 To establish appropriate performance measures and indicators to monitor the effectiveness of external audit;

- 2.6 To consider the College's annual financial statements and the external auditor's report after review by the Finance and General Purposes Committee and prior to submission to the Board of Management;
- 2.7 To advise the Board of Management on relevant issues arising from the Audit Committee's consideration of internal audit, progress reports, annual reports and College Management's response thereto;
- 2.8 To respond appropriately to any notification to the Audit Committee of fraud or other improprieties;
- 2.9 To review the external auditor's Management letter and monitor Management's response;
- 2.10 To advise the Board of Management on relevant issues arising from the external auditor's management letter, other external audit reports and College's Management's response thereto;
- 2.11 To have access to and ensure attendance of external auditors at Audit Committee and Board of Management meetings as required;
- 2.12 To advise the Board of Management of any potential conflict of interest following consideration of any non-statutory audit work;
- 2.13 To ensure the College has effective arrangements for securing economic and efficient use of the College's resources and report to the Board of Management thereon and on the identification of potential topics for value for money reviews, having regard to national value for money studies in the further education sector;
- 2.14 To produce and submit an annual report to the Board of Management;
- 2.15 To review previously reported cases of impropriety to establish whether they have been handled appropriately;
- 2.16 To note any updates of Register of Board Members' Interests;
- 2.17 To note any updates of Register of Gifts.

3 Meetings

The Committee shall meet four times a year.

4 Reporting

All Members of the Board shall receive a copy of the minutes of each meeting and the Chair of the Committee shall make an oral or written report at the following Board of Management meeting. A formal Annual Report shall also be submitted to the Board.

Approved by the Board - 11 December 2014

Date of next review – December 2016

BORDERS COLLEGE
FINANCE & GENERAL PURPOSES COMMITTEE (F&GPC)

TERMS OF REFERENCE

1 Constitution

A minimum of six members comprising the Board Chair, Principal and a minimum of four other Members of the Board. No member of this committee may serve concurrently on the Audit Committee. The Vice Principal, Finance and Resources should be in attendance.

1.1 Quorum: Four members of the Committee shall constitute a quorum.

1.2 Chair: To be elected by the Committee Members.

2 Terms of Reference

2.1 To monitor the financial control of the College and to keep the College Financial Regulations under review;

2.2 To review and monitor banking arrangements;

2.3 To monitor the income and expenditure against budget;

2.4 To monitor the capital expenditure against plan;

2.5 To consider financial benchmarking information;

2.6 To advise about financial strategy;

2.7 To recommend the Annual Budget to the Board;

2.8 To consider the Financial Forecast Return and recommend for approval by the Board;

2.9 To approve all key decisions in relation to Finance;

- 2.10 To liaise with external audit to ensure accounts show a true and fair view and exhibit regularity of spend;
- 2.11 To determine policy in relation to tuition and other fees;
- 2.12 To advise the Board of the financial status of any College Companies;
- 2.13 To approve and monitor the ICT Strategy.

3 Meetings

The Committee shall meet 4 times yearly and more frequently as necessary.

4 Reporting

All Members of the Board shall receive a copy of the Minutes of each meeting. The Chair of the Committee shall make an oral and/or written report to the following Board meeting. An Annual Report shall be submitted to the Board for its perusal.

4.1 Particular items which require reporting:

- 4.1.1 Recommended College and annual revenue, capital budgets and associated issues for Board approval;
- 4.1.2 Summary of financial and functional performance against budget;
- 4.1.3 Development plan with action plans on variances;
- 4.1.4 Budgeted items of expenditure in excess of £100k;
- 4.1.5 Non-budgeted items of expenditure in excess of £50k;
- 4.1.6 Statutory Accounts of the College;
- 4.1.7 Irrecoverable debts written off.

Approved by the Board – 11 December 2014

Date of next review – December 2016

BORDERS COLLEGE
HUMAN RESOURCES (HR) COMMITTEE
TERMS OF REFERENCE

1 Constitution

A minimum of five members. A minimum of three non executive independent members. The Committee should also include one member with a background in HR. The Head of HR and Development of HR should attend or his/her Deputy, but will not have voting rights. The Principal should be in attendance.

1.1 Quorum: Three members of the Committee shall constitute a quorum.

1.2 Chair: The Committee shall elect a Chair from among its members.

2 Terms of Reference

2.1 To monitor that the College is operating within all legal requirements relating to employment law and other legislation affecting employment;

2.2 To advise the Board on the HR strategy and to monitor the implementation of this and actual performance against KPIs;

2.3 To make recommendations to the Board on HR and staffing matters;

2.4 To advise on pay, conditions of employment and pension arrangements and that these are properly determined and monitored;

2.5 To advise on appropriate arrangements for effective dialogue with trade unions;

2.6 To advise on policies for appointments, promotion, staff development and appraisal.

3 Meetings

The Committee shall meet 2 times yearly and more frequently as necessary.

4 Reporting

All Members of the Board shall receive a copy of the Minutes of each meeting. The Chair of the Committee shall make an oral and/or written report to the Board following the meeting.

Approved by the Board – 11 December 2014

Date of next review – December 2016

BORDERS COLLEGE
NOMINATIONS COMMITTEE
TERMS OF REFERENCE

1 Constitution

A minimum of five members. A minimum of 3 members of the Committee will be independent non-executive directors one of whom should be the Chair of the Board. For the avoidance of doubt, the Principal of the College is ineligible for appointment. All appointments to the Committee shall be made by the Board with exception of the Chair of the Regional College Board. Members of the College Management Team should be in attendance as requested by the Chair.

- 1.1 Quorum:** Three members of the Committee shall constitute a quorum. Members are able to co-opt other members with particular expertise.
- 1.2 Chair:** The Chair of the Regional College Board will chair the committee. In the absence of the Chair, the remaining members present shall elect one of their own number to chair the meeting.

2 Terms of Reference

- 2.1** To determine the process for nominations, appointments /extensions to the Board of 'ordinary' members;
- 2.2** To nominate candidates for the approval of the Board, Chair and Ministers to fill vacancies on the Board;
- 2.4** To consider the composition and balance of the Board in relation to equality and diversity of representation, as well as particular skills/knowledge that may be required and which reflects the makeup of the population which they serve;
- 2.5** To develop policies and procedures for the induction, training and development of Board Members.
- 2.6** To review and approve procedures for search, nomination and appointment of new members. Ensure that these follow Ministerial guidelines in relation to the

appointment, re appointment/extension of 'ordinary' members, incorporating consideration of the Board Member's performance and contribution to the Board;

- 2.7** Consideration of formal succession planning arrangements, for 'ordinary' members and in particular the key roles of Principal and Vice Chair; taking into account the challenges and opportunities facing the college and the impact these have on the skills and expertise required by the Board going forward;
- 2.8** Take into account Scottish Ministers power under section 12 of the 1992 Act to require information in order to consider whether to approve the appointment or extension of a Board Member;
- 2.9** The Committee will conduct an open, transparent and merit based recruitment process;
- 2.10** To consider any matters relating to suspension or termination of service of an executive member as an employee of the College subject to the provisions of the law and their service contract.
- 2.11** To consider and make representations to the Board on the appointment of co-opted members.

3 Meetings

The Committee shall meet annually and more frequently as necessary; or at such times as the chair of the Committee shall require.

4 Reporting

All Members of the Board shall receive a copy of the Minutes of each meeting. The Chair of the Committee shall make an oral and/or written report following the meeting. A formal Annual Report shall be submitted to the Board for its perusal which details the activities of the Committee on all matters within its duties and responsibilities.

Approved by the Board – 11 December 2014 Date of Next Review - December 2016

BORDERS COLLEGE
CURRICULUM AND QUALITY COMMITTEE
TERMS OF REFERENCE

1 Constitution

There will be a minimum of 5 Board Members (one will be the Academic Staff Board Member and one Student Association Executive Member) and there may be other committee members co-opted as appropriate.

In attendance will be Vice Principal, Curriculum and Vice Principal, Quality and Innovation and others may attend by invitation.

1.1 Quorum: Meetings shall be quorate if 3 members of the committee are present.

1.2 Chair: To be elected by the Board of Management.

2 Terms of Reference

2.1 To discuss and monitor issues relating to development of the College's Academic Programme and wider curriculum;

2.2 To monitor and review progress on the College's Strategic Education Objectives;

2.3 To monitor the College's Key Performance Indicators relating to the performance of students, teaching and learning across the College;

2.4 To receive reports annually on the work of Academic Board;

2.5 To monitor Student Satisfaction;

2.6 To monitor College complaints and compliments;

2.7 To monitor College arrangements for Student Representation;

- 2.8** To monitor the Quality Assurance Strategy;
- 2.9** To receive reports on curriculum visits by Board Members on a bi-annual basis;
- 2.10** To receive and approve the College's annual College level Self-evaluation and Development Plans;
- 2.11** To scrutinise relevant policies as set by the Board of Management;
- 2.12** To oversee the disbursement of the Trust Funds.

3 Meetings

The Committee shall meet at least once each term and more frequently as necessary.

4 Reporting

All Members of the Board of Management shall receive a copy of the minutes of each meeting and the Chair of the Committee shall make an oral or written report at the following Board of Management meeting.

Approved by the Board – 11 December 2014

Date of next review – December 2016

BORDERS COLLEGE
CHAIR'S COMMITTEE
TERMS OF REFERENCE

1 Constitution

A minimum of five members – Board Chair and a minimum of four other Members of the Board. There will be no SMT representative unless requested to attend by the Chair.

1.1 Quorum: Three members of the Committee will constitute a quorum.

1.2 Chair: The Board Chair shall be Chair.

2 Terms of Reference

2.1 To advise the Board of Management on the selection/appointment of the Principal;

2.2 To manage disciplinary procedure appeals (staff and students);

2.3 To manage grievance procedure for staff;

2.4 To oversee any urgent matter that may affect the operation of the College;

2.5 To consider and make recommendations to the Board of Management on any matters of unusual or special interest not within the remit of another Committee.

Note: The membership of this Committee will be constituted for each meeting to reflect the issues to be dealt with.

Approved by the Board – 11 December 2014 Date of next review – December 2016

BORDERS COLLEGE
REMUNERATION COMMITTEE
TERMS OF REFERENCE

1 Constitution

A minimum of four non executive independent members including the Chair of the Board of Management. For the avoidance of doubt, the Principal of the College is ineligible for appointment but shall be an adviser to the committee regarding proposals relating to other members of the senior management team. He or she may not take part in the determination of any such matter. Members of the College Management Team can be in attendance by invitation of the Chair.

1.3 Quorum: Three members of the Committee shall constitute a quorum.

1.4 Chair: The Committee shall elect a Chair from amongst its members. The Chair of the Board of Management shall not act as Chair of the Committee.

2 Terms of Reference

2.1 To determine and review the salaries, terms and conditions and pension arrangements of the Principal and other Senior Management Team.

2.2 To consider any proposed severance package prior to submission to the Board in terms of the College's Staff Severance Policy, where this relates to the Principal and Senior Management Team.

2.3 To consider and respond to any appeals made by senior executives in relation to 2.1 and 2.2 above.

3 Authority

The Committee is authorised by the Board of management to obtain independent professional advice if it considers it necessary.

4 Meetings

The Committee shall meet at least once yearly and more frequently as necessary.

5 Reporting

All Members of the Board shall receive a copy of the Minutes of each meeting. The Chair of the Committee shall make an oral and/or written report to the following Board meeting.

Approved by the Board - 11 December 2014

Date of Next Review – December 2016