

THE COMPANIES ACT 1985 TO 2006
COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION

of

ASSOCIATION OF SCOTLAND'S COLLEGES

Membership

1. The members of the company shall (subject to articles 2 and 6) consist of such bodies as are admitted to membership under article 4.
2. Membership shall cease on dissolution, liquidation, receivership or striking-off of the body which constituted the member.
3. A member may not transfer its membership to any other person or body.

Qualifications for membership

4. Subject to article 1, membership shall be open only to The Scottish Further Education Unit incorporated under the Companies Acts with registered number SC143514 and Scottish Charity Number [SC021876](#) and having its registered office at The Scottish Further Education Unit, Argyll Court, Castle Business Park, Stirling, Stirlingshire, FK9 4TY ("the Holding Company").

The directors may fix an annual subscription to be paid by members of the Company subject to the prior written approval of all members.

Application for membership

5. Any body eligible for membership under article 4 which wishes to become a member shall lodge with the company a written application for membership (in such form as the directors require), signed by one of the appropriate officers of that body; the body will automatically constitute a member of the company with effect from the date on which the application is received by the company.

Withdrawal from membership

6. Any body which wishes to withdraw from membership shall lodge with the company a written notice of retiral, signed by one of the appropriate officers of that body (and on the

basis that on receipt of the notice by the company it shall cease to be a member); a body shall not, however, be entitled to withdraw from membership unless at the time of withdrawal at least one other body is a member of the company.

General meetings

7. The directors may call general meetings and, on the requisition of the member pursuant to the provisions of the Act, shall forthwith proceed to convene a general meeting in accordance with the provisions of the Act.
8. If there are not within the United Kingdom sufficient directors to call a general meeting, any director or any member of the company may call a general meeting.

Notice of general meetings

9. General meetings shall be called by at least fourteen clear days' notice.
10. The reference to "clear days" in article 9 shall be taken to mean that, in calculating the period of notice, the day after the notice is posted, and also the day of the meeting, should be excluded.
11. A notice calling a meeting shall specify the time and place of the meeting and the general nature of the business to be transacted at the meeting.
12. Notice of every general meeting shall be given (either in writing or, where the individual to whom notice is given has notified the company of an address to be used for the purpose of electronic communication, by way of electronic communications) to all the members and directors and (if auditors are in office at the time) to the auditors.
13. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

Special resolutions and ordinary resolutions

14. For the purposes of these articles, a "special resolution" means a resolution passed by members representing not less than 75% of the total voting rights of eligible members as set out in the Companies Act 2006; for the avoidance of doubt, the reference to a 75% majority relates only to the number of votes cast in favour of the resolution as compared with the number of votes cast against the resolution, and accordingly no account shall be taken of abstentions or members absent from the meeting.
15. In addition to the matters expressly referred to elsewhere in these articles, the provisions of the Act allow the company, by special resolution, subject to the requirements of the Charities Act:

- (a) to alter its name
 - (b) to alter its memorandum of association with respect to the company's objects
 - (c) to alter any provision of these articles or adopt new articles of association.
16. For the purpose of these articles, an "ordinary resolution" means a resolution passed by members representing a simple majority of the total voting rights of eligible members as set out in the Companies Act 2006.

Proceedings at general meetings

17. No business shall be transacted at any general meeting unless a quorum is present; one person present and entitled to vote (being a proxy for a member or the duly authorised representative of a member which is a corporate body) shall be a quorum.
18. If the quorum required under article 17 is not present within half an hour after the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting.
19. The chairperson, if any, of the board of directors of the company shall (if present and willing to act) preside as chairperson of the meeting; if the chairperson of the company is not present and willing to act as chairperson of the meeting within half an hour of the time appointed for holding the meeting the directors present shall elect one of their number to be chairperson of the meeting.
20. A director shall, notwithstanding that he/she is not a member, be entitled to attend and speak at any general meeting.
21. The chairperson of the meeting may, with the consent of the meeting at which a quorum is present (and must, if the meeting requests him/her to do so), adjourn the meeting but not for a period in excess of thirty days; no notice need be given of an adjourned meeting.
22. A resolution put to the vote of a meeting shall be decided on a show of hands unless before the show of hands, or immediately after the result of the show of hands is declared, a secret ballot is demanded by the chairperson of the meeting, or by any person present at the meeting and entitled to vote (whether as a proxy for a member or as the representative of a corporate member).
23. If a secret ballot is demanded in accordance with the preceding article, it shall be taken at once and shall be conducted in such manner as the chairperson of the meeting may direct; the result of the ballot shall be declared at the meeting at which the ballot was demanded.

Votes of members

24. On a show of hands every member present in person (and in the case of a member which is a corporate body, via its duly authorised representative) or by proxy shall have one vote. On a secret ballot every member present in person (and in the case of a member which is a corporate body, via its duly authorised representative) or by proxy shall have one vote.
25. A member which wishes to appoint a proxy to vote on its behalf at any meeting
 - (a) shall lodge with the company, at the company's registered office, not less than 48 hours before the time for holding the meeting, a written instrument of proxy; or
 - (b) shall send to the company at such address as may have been notified to the members by the company for that purpose, an electronic communication containing the appointment of a proxy, providing such electronic communication is received by the company at such address not less than 48 hours before the time for holding the meeting.
26. The instrument of a proxy shall be executed by or on behalf of the appointer and shall be in such form as the directors require.
27. An instrument of proxy, or electronic communication containing the appointment of a proxy, which does not conform with the provisions of article 26, or which is not lodged or sent in accordance with the provisions of Article 25, shall be invalid.
28. A proxy appointed to attend and vote at any meeting instead of a member shall have the same right as the member which appointed him/her to speak at the meeting and need not be a member of the company.
29. A member which is a corporate body may authorise an individual to act as its representative at any general meeting of the company; the individual so authorised shall be entitled to exercise the same powers on behalf of the member which he/she represents as that corporate body could exercise if it were an individual member .
30. A vote given, or ballot demanded, by proxy or by the duly authorised representative of a corporate member shall be valid notwithstanding that the authority of the person voting or demanding a ballot had terminated prior to the giving of such vote or demanding of such ballot unless notice of such termination was received by the company at the company's registered office (or, where contained in an electronic communication, was received by the company at the address notified by the company to the members for the purpose of electronic communication) before the commencement of the meeting or adjourned meeting at which the vote was given or the ballot demanded.
31. In the case of an equality of votes, whether on a show of hands or on a ballot, the chairperson of the meeting shall not be entitled to a casting vote.

Number of directors

32. The number of directors shall not be subject to any maximum but shall not be less than three.

Appointment/removal of directors

33. The Holding Company, so long as it remains a member of the company, may by notice in writing, signed by one of its appropriate officers and given to the company,
- (a) appoint three directors to the company; or
 - (b) remove such directors from their office as a director.
34. Any appointment or removal of a director under the provisions of article 33 shall have effect from the date on which the relevant notice is given to the company.

Disqualification and removal of directors

35. A director shall vacate office if
- (a) he/she ceases to be a director by virtue of any provision of the Act or becomes prohibited by law from being a director;
 - (b) he/she ceases to be a trustee under the terms of the Charities Act;
 - (c) he/she becomes bankrupt or makes any arrangement or composition with his creditors generally;
 - (d) he/she becomes incapable for medical reasons of fulfilling the duties of his/her office and such incapacity is expected to continue for a period of more than six months;
 - (e) in the case of a director appointed on the basis that he/she is an employee of the Holding Company, he/she ceases to hold that post;
 - (f) he/she resigns office by notice to the company;
 - (g) he is absent (without permission of the directors) for more than six consecutive meetings of directors and the directors resolve to remove him/her from office; or
 - (h) he is removed from office by ordinary resolution (special notice having been given) in pursuance of section 168 of the Companies Act 2006.

Appointments to offices

36. The directors may appoint one of their number to hold the office of chairperson of the company and may at any time remove him from that office. The directors may appoint any of their number to any other executive office under the company and may enter into an agreement or arrangement with any director for his employment by the company or for the provision by him of any services outside the scope of the ordinary duties of a director. Any such appointment may be made upon such terms as the directors determine any they may remunerate any such director for his services as they think fit, subject to the provisions of Chapter Nine of the Charities Act.
37. The appointments under the preceding article shall be made at meetings of directors.
38. The appointment of any director to an office under article 36 shall terminate if he/she ceases to be a director or if he/she resigns from that office by notice to the company.
39. If the appointment of a director to any office under article 36 terminates, the directors shall appoint another director to hold the office in his/her place.

Directors' interests

40. A director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the company shall declare the nature and extent of his interest to the other directors before the company enters into the transaction or arrangement in accordance with the Act.
41. A director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance with the Act, unless the interest has already been declared under article 40.
42. Subject, where applicable, to the disclosures required under article 40 and article 41, and provided he/she has obtained the prior approval of the Holding Company, a director shall be entitled to vote in respect of any proposed or existing transaction or arrangement with the company in which he is interested and if he shall do so his vote shall be counted and he shall be taken into account in ascertaining whether a quorum is present.
43. A director need not declare an interest under article 40 or article 41 as the case may be:
 - (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - (b) of which the director is not aware, although for this purpose a director is treated as being aware of matters of which he ought reasonably to be aware;
 - (c) if, or to the extent that, the other directors are already aware of it, and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware; or
 - (d) if, or to the extent that, it concerns the terms of his service contract that have been, or are to be, considered at a board meeting.

44. A director shall not be deemed to have an interest in any transaction or arrangement to which the Holding Company is a party by reason only of the fact that he/she is an officer or employee of that body.
45. A letter by the secretary of the Holding Company recording the decision at the relevant management committee meeting of the Holding Company as to approval or otherwise of the director voting in respect of any proposed or existing transaction may be regarded by the directors as conclusive evidence of that decision, in the absence of any information to the contrary available to the directors.

Directors' remuneration and expenses

46. The directors shall be entitled to such remuneration as the company may by ordinary resolution determine, subject to the provisions of Chapter Nine of the Charities Act.
47. The directors may be paid all travelling and other expenses properly incurred by them in connection with their attendance at meetings of directors, general meetings, meetings of committees of directors or otherwise in connection with the carrying-out of their duties.

Powers of directors

48. Subject to the provisions of the Act, the Charities Act, the memorandum of association and these articles and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company.
49. A meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.

Proceedings of directors

50. Subject to the provisions of these articles, the directors may regulate their proceedings as they think fit.
51. Any director may call a meeting of the directors or request the secretary to call a meeting of the directors.
52. Questions arising at a meeting of directors shall be decided by a majority of votes; in the case of an equality of votes, the chairperson of a meeting of directors shall not be entitled to a casting vote.
53. The quorum for the transaction of the business of the directors shall be 2.
54. If the quorum required under article 53 is not present within half an hour after the time appointed for the meeting, or if during a meeting such a quorum ceases to be present, the meeting shall stand adjourned to such time and place as may be fixed by the chairperson of the meeting.

55. The continuing directors or a sole continuing director may act notwithstanding vacancies, but if the number of remaining directors is less than the number fixed as the quorum they may act only for the purpose of calling a general meeting.
56. Unless he/she is unwilling to do so, the chairperson of the company shall preside as chairperson at every meeting of directors at which he/she is present.
57. If the chairperson of the company is unwilling to act as chairperson of a meeting of directors or is not present within 15 minutes after the time appointed for the meeting the directors present may appoint one of their number to be chairperson of the meeting.
58. A director may participate in a meeting of the directors or a meeting of a committee of directors by means of a conference telephone, videoconferencing facility or similar communications equipment whereby all the directors participating in the meeting can hear each other; a director participating in a meeting in this manner shall be deemed to be present in person at the meeting.
59. The directors shall be entitled to allow any person to attend and speak (but not vote) at any meeting of the directors; a person invited to attend a meeting of the directors under the preceding provisions of this article shall not be entitled to exercise any of the powers of a director, and shall not be deemed to constitute a director for the purposes of the Act or any provision of these articles.
60. All acts done by a meeting of directors or by a meeting of a committee of directors or by a person acting as a director shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of any director or that any of them was disqualified from holding office or had vacated office or was not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.
61. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held; it may consist of several documents in the same form, each signed by one or more directors.
62. The directors may, in accordance with the requirements set out in these Articles, authorise any matter proposed to them by any director which would, if not authorised, involve a director breaching his duty under section 175 of the Companies Act 2006 to avoid conflicts of interest ('Conflict').
63. Any authorisation under these Articles will be effective only if:
 - (a) the matter in question shall have been proposed by any director for consideration at a meeting of directors in the same way that any other matter may be proposed to the directors under the provisions of these articles or in such other manner as

the directors may determine;

- (b) any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question; and
- (c) the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.

64. Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the Conflict so authorised;
- (b) be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine;
- (c) be terminated or varied by the directors at any time.

This will not affect anything done by the director prior to such termination or variation in accordance with the terms of the authorisation.

65. In authorising a Conflict the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the company and in respect of which he owes a duty of confidentiality to another person the director is under no obligation to:

- (a) disclose such information to the directors or to any director or other officer or employee of the company;
- (b) use or apply any such information in performing his duties as a director;

where to do so would amount to a breach of that confidence.

66. Where the directors authorise a Conflict they may provide, without limitation (whether at the time of giving the authorisation or subsequently) that the director:

- (a) is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict;
- (b) is not given any documents or other information relating to the Conflict;
- (c) may or may not vote (or may or may not be counted in the quorum) at any future meeting of directors in relation to any resolution relating to the Conflict.

67. Where the directors authorise a Conflict:

- (a) the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the Conflict;
- (b) the director will not infringe any duty he owes to the company by virtue of

sections 171 to 177 of the Companies Act 2006 provided he acts in accordance with such terms, limits and conditions (if any) as the directors impose in respect of its authorisation.

68. A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.
69. If a question arises at a meeting of directors or at a meeting of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chairperson of the meeting; his/her ruling in relation to any director other than himself/herself shall be final and conclusive.

Delegation to committees of directors and holders of offices

70. The directors may delegate any of their powers to any committee consisting of one or more directors; they may also delegate to the chairperson of the company or a director holding any other office such of their powers as they consider appropriate.
71. Any delegation of powers under the preceding article may be made subject to such conditions as the directors may impose and may be revoked or altered.
72. Subject to any condition imposed in pursuance of the preceding article, the proceedings of a committee consisting of two or more directors shall be governed by the articles regulating the proceedings of meetings of directors so far as they are capable of applying.

Secretary

73. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

Minutes

74. The directors shall ensure that minutes are made (in books kept for the purpose) of all proceedings at general meetings, meetings of the directors and meetings of committees of directors; a minute of a meeting of directors or of a committee of directors shall include the names of the directors present, and the minutes of each meeting shall be signed by the chairperson of that meeting.

Notices

75. Any notice to be given in pursuance of these articles shall be given either in writing or by way of an electronic communication.
76. The company may give any notice to a member either personally or by sending it by post in a pre-paid envelope addressed to the member at its registered address or by leaving it at that address; in the case of a member which has notified the company of an address to be used for the purpose of electronic communications, the company may give any notice to that member by way of an electronic communication.
77. A member may give any notice to the company either by sending it by post in a pre-paid envelope addressed to the company at its registered office or by leaving it, addressed to the company secretary, at the company's registered office or (where the company has notified the member of an address to be used for the purpose of electronic communications) by way of an electronic communication.
78. Any notice, if sent by post, shall be deemed to have been given at the expiry of 24 hours after posting; for the purpose of proving that any notice was given, it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted.
79. Any notice contained in an electronic communication shall be deemed to have been given at the expiry of 24 hours after it is sent; for the purpose of proving that any electronic communication was sent, it shall be sufficient to provide any of the evidence referred to in the relevant guidance issued from time to time by the Chartered Institute of Secretaries and Administrators.
80. A member present or represented at any meeting of the company shall be deemed to have received notice of the meeting and, where requisite, of the purposes for which it was called.

Winding-up

81. If the company is wound up, the liquidator shall give effect to the provisions of the memorandum of association.

Indemnity

82. Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the company shall be indemnified out of the assets of the company against liability which he/she may incur in connection with him/her defending any proceedings, whether civil or criminal, in which judgement is given in his/her favour or in which he/she is acquitted or in connection with any application in which relief is granted to him/her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.

Interpretation

83. In these articles,

"the Act" means the provisions of the Companies Act 1985 and the Companies Act 2006 as amended or in force prior to the adoption of these Articles.

"the Charities Act" means the provisions of the Charities and Trustee Investment (Scotland) Act 2005 including any statutory modification or re-enactment thereof for the time being in force.

"electronic communication" has the same meaning as is assigned to that expression in the Electronic Communications Act 2000.

84. References in these Articles to the singular shall be deemed to include the plural.

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ASSOCIATION OF SCOTLAND'S COLLEGES

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