



HEREFORDSHIRE COLLEGE OF TECHNOLOGY

THE CLERK'S RESPONSIBILITIES WHERE GOVERNORS ACT BEYOND THEIR POWERS

**Linda Watkins, Clerk to the Corporation
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HEREFORDSHIRE COLLEGE OF TECHNOLOGY

FURTHER EDUCATION CORPORATION

THE CLERK'S RESPONSIBILITIES WHERE GOVERNORS ACT BEYOND THEIR POWERS

1. Definition

- 1.1 A revised Financial Memorandum was issued by LSC in December 2006. This sets out the financial relationship between the Learning and Skills Council (LSC) and the College and replaces the previous memorandum which has been in place since 1999 under the former Further Education Funding Council (FEFC) – circular 99/48.
- 1.2 This policy ensures that the Corporation formally adopts the procedure required by the Financial Memorandum by which the Clerk ensures proper governance of the College ultimately through access to the LSC.

2. Objectives - Clerk's Responsibilities under the Financial Memorandum

- 2.1 The Financial Memorandum requires each Corporation to specify procedures it would expect the Clerk to follow if they believed the Corporation or any of its Governors were seeking to act beyond their powers.

The Financial Memorandum states that: -

“The Clerk is responsible for the administrative support for the Board's work, for advising on proper procedure and for intervening when the Clerk considers that the Board is acting inappropriately or beyond its powers.

Each Board should specify the procedures they would expect the Clerk and the Board to follow if there were difficulties in this area. The [LSC] Council would not consider that action within the specified procedures should provide grounds for disciplinary action or the suspension of the Clerk.”

3. Actions and Responsibilities - The Clerk's Responsibilities where Governors act beyond their powers

- 3.1 The Corporation of Herefordshire College of Technology adopts the following policy based on the FEFC “Guide for Clerks” Section 8.12 to 8.17:

“There may be occasions when the Clerk feels their advice is being disregarded or overruled, and because of this the proper conduct of the Corporation is being put at risk. The Clerk should make every effort to resolve the matter through the avenues available to them within the College.

The Clerk may take some or all of the following steps:

1. Ensure that the reasons for concern have been put in writing and sent by the Clerk to the Chair and Principal;
 2. Ensure the Chair of the Audit Committee has been informed of those issues relevant to the Committee's terms of reference;
 3. Report the matter to the next meeting of the relevant committee or full Corporation and ensure the matter is placed in the publicly available Minutes;
 4. Consult the College's external auditors.
- 3.2 The Clerk is authorised to obtain initial legal advice on such issues without the agreement of the College Management or the Corporation. In such a case the Corporation may decide to obtain further legal advice.
- 3.3 If no action results from the preceding sequence of actions and if the grounds for concern still present a threat to the proper governance of the College in his judgement, the Clerk is authorised to refer the matter to the Learning and Skills Council, and inform the Chair and Principal that this has been done.
- 3.4 The Corporation adopts the advice in the Financial Memorandum that action within the above specified procedures should not provide grounds for disciplinary action against or dismissal of the Clerk".

4. Summary

By adopting this policy, the Corporation has accepted the Financial Memorandum and has specified the procedures it would expect the Clerk to follow if they believed the Corporation or any of its Governors were seeking to act beyond their powers.

Document Management

Person responsible: – Linda Watkins, Clerk to the Corporation

Review – In accordance with LSC revisions to the Financial Memorandum

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