



University Circular

Instrument of Government

May 2005

This Circular sets out the constitutional framework of the University of Portsmouth Higher Education Corporation in the terms of the Instrument of Government made by the Privy Council on 5 March 1993.

WHEREAS section 124A(3) and (4) of the Education Reform Act 1988(a) (hereinafter referred to as “The Act”) provide that the Privy Council may by Order make an instrument of government of any higher education corporation with respect to which Schedule 7 to the Act has effect, and that the said instrument of government shall comply with the requirements of Schedule 7A to the Act and may make any provision authorised to be made by the said Schedule 7A and such other provision as may be necessary or desirable:

AND WHEREAS the University of Portsmouth higher education corporation is a higher education corporation with respect to which the said Schedule 7 has effect:

NOW, THEREFORE, Their Lordships, in exercise of the powers conferred on Them by the said section 124A(3) are pleased to, and do hereby, make an instrument of government for the University of Portsmouth higher education corporation as set out in the Schedule to this Order, which shall come into force forthwith.

Schedule

INSTRUMENT OF GOVERNMENT REFERRED TO IN THE FOREGOING ORDER

1 Interpretation

- 1.1** In this Instrument, the following words and expressions shall have the meanings indicated in this paragraph:
“The Act” means the Education Reform Act

1988 as amended from time to time;
“The Corporation” means the University of Portsmouth higher education corporation;
“The Board of Governors” means the members of the Corporation;
“The University” means the University of Portsmouth conducted by the Corporation;
“The Principal” means the Vice-Chancellor of the University;
“The Academic Board” means the Academic Council of the University constituted in accordance with the Articles;
“The Instrument” means the Instrument of Government of the Corporation;
“The Articles” means the Articles of Government in accordance with which the University is conducted;
“The Clerk” means the person appointed to the office of the Clerk to the Board of Governors under the Articles;
“The Secretary of State” means the Secretary of State for Education; and
“The appointing authority” means the Corporation unless otherwise specified.

- 1.2** References in this Instrument, in relation to the Board of Governors, to a variable category of members are references to any category of members in relation to which the number applicable in accordance with paragraph 3 below is subject to variation.
- 2 Name of the Corporation**
- 2.1** The Board of Governors may, by resolution, change the name of the Corporation, with the consent of the Privy Council.
- 3 Membership of the Board of Governors**
- 3.1** The Board of Governors shall consist of:

- a not less than twelve and not more than twenty-four members appointed in accordance with the following provisions; and
- b the Principal, unless he chooses not to be a member.

3.2 Of the appointed members:

- a up to thirteen shall be independent members;
- b up to two may be teachers at the University nominated by the Academic Board and up to two may be students of the University nominated by the students thereof; and
- c at least one and not more than nine shall be coopted members nominated by the members of the Board of Governors who are not coopted members.

3.3 Independent members shall be persons appearing to the appointing authority to have experience of, and to have shown capacity in, industrial, commercial or employment matters or the practice of any profession.

3.4 The coopted member required by sub-paragraph 3.2(c) above shall be a person who has experience in the provision of education.

3.5 A person (other than a person appointed in pursuance of sub-paragraph 3.2(b) above) who is:

- a employed at the University (whether or not as a teacher);
- b a full-time student at the University; or
- c an elected member of any local authority; is not eligible for appointment as a member of the Board of Governors otherwise than as a coopted member.

3.6 For the purposes of this paragraph, a person who is not for the time being enrolled as a student at the University shall be treated as such a student during any period when he has been granted leave of absence from the University for the purposes of study or travel or for carrying out the duties of any office held by him in the Students' Union at the University.

3.7 It shall be for the appointing authority to determine any question as to whether any person is qualified in accordance with the preceding provisions of this paragraph for

appointment as a member of the Board of Governors of any description or category.

4 Determination of Membership Numbers

4.1 The Board of Governors shall make a determination with respect to their membership numbers.

4.2 Such a determination shall fix the number of members of each variable category of which the Board of Governors are to consist, subject to the limits applicable in relation to that category in accordance with paragraph 3.2 above.

4.3 In making such a determination, the Board of Governors shall secure that at least half of all the members of the Board of Governors, when constituted in accordance with the determination, will be independent members.

4.4 Such a determination shall not have effect so as to terminate the appointment of any person who is a member of the board of Governors at the time when it takes effect.

4.5 Such a determination may be varied by a subsequent determination.

5 Appointment of Members of the Board of Governors

5.1 Subject to the provisions of section 124C of the Act, no appointment of members of the Board of Governors may be made before the first determination of the membership in accordance with paragraph 4.1 above takes effect.

5.2 The Board of Governors are the appointing authority in relation to the appointment of any member of the Board of Governors other than an independent member.

5.3 Where an appointment of an additional independent member of the Board of Governors fails to be made in consequence of a determination in accordance with paragraph 4 above, the appointing authority in relation to the appointment:

- a shall be the Board of Governors if the appointment is made within the period of three months beginning with the date of the determination; or
- b if the appointment is not made within that

period, shall be the current independent members of the Board of Governors.

5.4 Where a vacancy in the office of an independent member of the Board of Governors arises on any existing independent member ceasing to hold office on the expiry of his term of office:

- a** his successor shall not be appointed more than six months before the expiry of that term; or
- b** the appointing authority in relation to the appointment of his successor:
 - i** shall be the Board of Governors if the appointment is made not less than three months before the expiry of that term; or
 - ii** if the appointment is not so made, shall be the current independent members of the Board of Governors.

5.5 Where a vacancy in the office of an independent member of the Board of Governors arises on the death of any such member or on any such member ceasing to hold office in accordance with the Instrument, the appointing authority in relation to the appointment of his successor:

- a** shall be the Board of Governors if the appointment is made within the period of three months beginning with the date of death or the date on which the office becomes vacant (as the case may be); or
- b** if the appointment is not made within that period, shall be the current independent members of the Board of Governors.

5.6 No appointment of an independent member of the Board of Governors by the Board of Governors in accordance with sub-paragraphs 5.3a, 5.4b(i) and 5.5a above shall be made unless the appointment has been approved by the current independent members of the Board of Governors.

5.7 If the number of independent members of the Board of Governors falls below the number needed in accordance with the Articles for a quorum, the Secretary of State is the appointing authority in relation to the appointment of such a number of independent members as is required for a quorum.

6 Tenure of Office of Members of the Board of Governors

6.1 The Board of Governors shall determine the period of office of members in each of the variable categories set out in paragraph 3.2 above. Such members shall hold and vacate office in accordance with the terms of their appointment and shall, on ceasing to be a member on completion of their period of office, be eligible for reappointment.

6.2 A member of the Board of Governors may at any time by notice in writing to the Clerk resign his office, which will thereupon become vacant from the date of receipt of the notice or date of resignation specified therein whichever shall be the later.

6.3 If at any time the Board of Governors is satisfied that any member of the Board of Governors:

- a** has been absent from meetings of the Board of Governors for a period of twelve months without the permission of the Board of Governors; or
- b** is unable or unfit to discharge the functions of a member, the Board of Governors may by notice in writing to that member remove him from office; and thereupon the office shall become vacant.

6.4 Where a member of the Board of Governors appointed as an Academic Board nominee or a student nominee, or a member of staff or student appointed as a coopted member of the Board of Governors, ceases before the end of his period of office to be a member of staff or a student of the University, as the case may be, his office shall thereupon become vacant.

6.5 Subject to paragraphs 6.6 and 6.7 below, a person shall be disqualified for holding, or for continuing to hold, office as a member if that person has been adjudged bankrupt or has made a composition or arrangement with his creditors; and a member, on becoming so disqualified, shall give written notice of that fact to the Clerk.

6.6 Where a person is disqualified by reason of his having been adjudged bankrupt, that disqualification shall cease:

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

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

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

7 Officers

7.1 The Board of Governors shall appoint from among their members a Chairman and any other officers which the Board may determine.

8 Committees

8.1 The Board of Governors may establish committees and permit such committees to include persons who are not members of the Board of Governors.

9 Allowances

9.1 The Board of Governors shall determine any allowances to be paid to members of the Board of Governors.

10 Seal of Corporation

10.1 The application of the seal of the Corporation shall be authenticated by two signatures, of which at least one shall be that of a member of the Board of Governors and one may be that of an officer appointed under paragraph 7 of the Corporation authorised generally or specially by the Board of Governors to act for that purpose.

10.2 The Corporation Seal shall be held under secure arrangements by the Clerk or by such

other officer of the Corporation as the Board of Governors may from time to time determine.

11 Copies of the Instrument of Government

11.1 Copies of the Instrument of Government shall be provided to each member of the Board of Governors.

Responsible Officer: Clerk to the Board of Governors