

SOLIHULL COLLEGE AND UNIVERSITY CENTRE

MINUTES OF THE CORPORATION MEETING HELD ON TUESDAY 19TH DECEMBER 2017 AT THE BLOSSOMFIELD CAMPUS

PRESENT: John Bolt (Chair)
Stan Baldwin
John Callaghan (Principal)
Jane Coleman
Mark Hayes
Barbara Hughes
Paul Large
Keith Marriott
Sukhy Nijjar
Geraldine Swanton
Sally Tomlinson (*by phone*)

IN ATTENDANCE: Lindsey Stewart (Deputy Principal)
Heather Evans (Vice Principal Finance)
Pete Haynes (Vice Principal HR and Student Services)
Beth Selwood (Vice Principal Teaching, Learning and Assessment)
Theresa Lynch (Clerk to the Corporation)

Adriana Mihai – Student Governor (*to be formally appointed*)
Gary Delderfield – Partner and Head of Public Sector Pensions, Eversheds Sutherland (*Item 4.2 only*)

1. **Apologies for Absence**

Apologies for absence were received from Joe Kelly and Lucy Lee.

2. **Declarations of Interest**

There were no new declarations of interest.

3. **Minutes of the Audit and Corporation Meetings held on 29th November 2017 and matters arising**

The minutes of the meetings held on 29th November 2017 were **agreed** as a correct record and were signed by the Chair

4. **Merger with Stratford upon Avon College Update**

4.1 Banking Update

The Vice Principal Finance provided an update regarding banking arrangements. She explained that negotiations were on-going to finalise the Facilities Agreement. Squire Patton Boggs were acting on behalf of the College and had produced a report on the Facilities Agreement that had been circulated. Detailed discussion took place regarding the contents of the Agreement. It was suggested that a report be produced to provide a commentary on the items identified as 'red' by Squires to be presented at the next meeting. **ACTION.**

Q. The events of default described in the Squires Facilities Agreement Report seem to be

inflexible and could result in the College being in default due to circumstances outside of their control. Is it possible to negotiate some of the issues raised?

A. The Vice Principal Finance explained that this was a standard banking agreement and Squires had advised that there would be limited changes, as this presented the bank's expectations. The report to be produced by EMT should provide a commentary of the items identified as red and why EMT were accepting the requirement and where there were on-going concerns. It was suggested that the default clauses be identified where actions were prohibited and where they required Bank permission.

4.2 Pension Update

The Principal provided a verbal update with regard to pension arrangements and explained that a Direction Order application had been submitted to the Secretary of State for the Department of Communities and Local Government, to avoid crystallisation of the debt to the Warwickshire Pension Fund, which could amount to c£11m. It was noted that approval of the Direction Order could take 6-8 weeks.

The Partner and Head of Public Sector Pensions from Eversheds Sutherland explained the implications relating to the transfer of Stratford upon Avon College (SuAC) employees. He confirmed that once SUAC employees transferred to Solihull College and University Centre the Warwickshire Pension Fund would do a final valuation and notify the exit payment required. The Direction Order overrules the pension scheme rules and allows the transfer to the West Midlands Pension Fund, without debt crystallisation by the Warwickshire Pension Fund. It was noted that the merger could take place prior to approval of the Direction Order, however, there was no guarantee that the Order would be approved and therefore presented a risk of crystallisation of the debt. Whilst the likelihood of this take place was low, the value of the risk was extensive.

Q. Would the liability for crystallisation of the debt to the Warwickshire Pension Fund, fall to the dissolved College?

A. No all liabilities would transfer to Solihull College and University Centre on the date of merger. Whilst it was unlikely that approval would not be given it did pose a potential risk. It was noted that crystallisation would be automatic under the Pension Fund regulations if the Order was not approved and Warwickshire Pension Fund would be unable to change the position.

Q. Would it be likely that pensioners or people with deferred pensions would make any negative representations?

A. In theory they could make representations, however, their benefits are guaranteed they would just be paid by another Pension Fund. They could object, but are unlikely to do so.

Q. Is it possible to get approval in principle with regard to the Direction Order?

A. The College had requested this, but had been told that only the final and official Order would be made. It is not possible to obtain approval in principle.

Q. It seems that the need for a Direction Order was known very late in the merger process – why was this the case?

A. The Partner and Head of Public Sector Pensions explained that the requirement for approval was noted in the legal due diligence and that Eversheds were not advising on pensions as KPMG were providing advice at this stage. The West Midlands Pension Fund had noted the need for approval, but advice had been to wait until the way to progress with the pension transfer was fully known.

It was noted that West Midlands Pension Fund had not mentioned this at the presentation to governors on 16th November 2017.

The Principal explained that should the merger be delayed beyond 1st February 2018 there would be issues relating to financial support by the EFSA and overdraft facilities.

Q. Will Lloyds Bank and the ESFA extend the period beyond 1st February 2018?

A. The Principal explained that the EFSA had a one year limit for financial support. However, he and the Vice Principal Finance had already raised this with the ESFA and Lloyds.

The Partner and Head of Public Sector Pensions (Eversheds) was asked for advice with regard to whether the College should go ahead and merge. It was noted that there was not specific criteria with regard to the /direction Order application and approval was subject to the discretion of the Secretary of State. There was no guarantee that approval would be given, although any decision would be subject to judicial review if the application was rejected, so there would need to be clear grounds for refusal.

Q. Was there anyone that could have advised the College earlier of this requirement?

A. The Partner and Head of Public Sector Pensions (Eversheds) explained that discussions about moving between Pension Funds had been taking place, so Eversheds only gave advice once the decision to transfer to the West Midlands Pension Fund had been finally made and communicated to them. KPMG had been giving advice on this during discussions with the Pension Funds.

Q. What % of mergers have taken place obtaining retrospective approval?

A. The Partner and Head of Public Sector Pensions (Eversheds) explained that he would advise to get approval prior to merger. However, the DCLG had given approval retrospectively where an application had been made afterwards, so there is a precedent for doing a merger without a Direction Order in place, although the % of mergers that had taken place without approval was not known.

Q. Have any Direction Order Applications ever been refused?

A. No, normally everything would change at the point of merger and what is different about this merger is that there is a transition period. DCLG had confirmed that colleges had applied for a transition period in the past, but it did add a level of complexity.

The Partner and Head of Public Sector Pensions (Eversheds) was thanked and he left the meeting.

4.3 Interim Arrangements

The Chair explained that the SLT at SUAC were on temporary contracts that ended on 22nd December 2017. It was noted that the SUAC Corporation would continue to operate and it was agreed that the following members of EMT would take on management roles at Stratford upon Avon College until the date of merger:

Principal and Chief Accounting Officer – John Callaghan
Deputy Principal and Stratford Chief Operating Officer – Lindsey Stewart
Director of Finance – Heather Evans

There would be no financial implications and letters of appointment would be finalised and provided. A review of the interim arrangements would take place at the next Corporation meetings. **ACTION.** A letter outlining the arrangements would be signed by Corporation chairs.

Q. During the interim period, will Stratford upon Avon College be insured?

A. Yes, the College remains a separate legal entity so all insurance arrangements remain in place.

Discussion took place regarding transfer of the financial liability of the pension to West Midlands Pension Fund and it was confirmed that the Warwickshire Pension Fund had no wish to keep any contributors at all.

4.4 Governance Work Strand

The Chair presented the Governance Work Strand document and provided updates on specific elements.

It was noted that negotiations were on-going with Sanctuary Housing with regard to the lease of the Halls of Residence buildings. Advice had been obtained from Irwin Mitchell and Eversheds regarding the liability of £496k that Sanctuary Housing claimed was owed by SUAC. It was felt that the liability was low risk.

TUPE – the Vice Principal HR and Student Services explained that the TUPE process was straight-forward and was in progress. He also explained, however, that there would be an issue with teachers' contracts post-merger. Ultimately contracts would be harmonised, but there may be a period of differentiated contracts to ensure all staff at the Stratford upon Avon campus are on the same contracts as colleagues when newly appointed. Further details would be presented at the next Corporation meeting. **ACTION.**

Q. Having the 2 different contracts won't stop the College changing the terms and conditions post-merger?

A. No, negotiations would commence immediately with the unions to work towards a new harmonised contract for all teaching staff at the college from the new academic year.

Q. So, would all new staff at the Stratford upon Avon campus be appointed on the current contract, but made aware that there would be a review of the terms of conditions?

A. Yes.

Q. When will staff at the colleges be informed about the interim arrangements?

A. Staff had been informed that the merger had been delayed and would be informed about the interim arrangements.

4.5 Transfer Deeds and Resolution to accept the property, rights and liabilities of Stratford upon Avon College

The contents of the Transfer Deeds and Resolution were noted and it was confirmed that this would be finalised once the final merger date was known.

4.6 Merger Steering Group Notes 7th December 2017

The contents of the Merger Steering Group notes of 7th December 2017 were noted.

4.7 Property Transfer Deeds for Freehold Properties

The contents of the property transfer deeds for freehold properties were noted.

4.8 Property Transfer Documents for Leasehold Properties

The contents of the property transfer deeds for leasehold properties were noted.

5. Ofsted Update 2017

The Vice Principal Teaching, Learning and Assessment presented information about Ofsted changes and the focus for recent inspections. It was noted that Ofsted were still considering campus-based inspections, particularly for large college, so it would be advantageous to evaluate provision at campus level and think about how the self-assessment report would be structured.

It was suggested that a presentation be made for governors regarding T-levels (new technical qualifications for vocational training in England) that would be implemented in 2020. **ACTION.**

6. Student Governor Appointment

Adriana Mihai left the meeting during consideration of the Student Governor Appointment

The Chair explained that Barbara Hughes and Sally Tomlinson had conducted the student governor interviews. The students attending for interview had performed well. Thanks were expressed to the Barbara Hughes and Sally Tomlinson.

RESOLVED to approve the appointment of Adriana Mihai, as Student Governor for a period of 4 years to 18th December 2021 or when she ceases to be a student at the College.

7. Remuneration Committee minutes and reports for meeting held on 20th November 2017

This item was deemed confidential and Staff and Student Governors and members of EMT left the meeting.

8. Regular Reports: Bids and Projects

The contents of the Bids and Projects Report were noted and an update provided.

9. Dates of the next meeting:

It was agreed to hold an extra Corporation meeting for a further update on progression towards merger with Stratford upon Avon College. The date was set as Monday 22nd January 2018 at 6pm.

Governors' Development – Induction Session: Saturday 20th January 2018 9.30-1pm

The meeting ended at 7.45pm.

Signed: J.R.B.H. Date: 22nd Jan 18.

