

**MINUTES OF THE PART A MEETING OF THE BOARD OF GOVERNORS OF LAMBETH
COLLEGE CORPORATION HELD ON THURSDAY 13 DECEMBER at 17.00 at THE
CLAPHAM CENTRE, LAMBETH COLLEGE**

ATTENDANCE

Present:	Monica Box (Interim Chief Executive) Michael Smith (Vice Chair, Chair of the Meeting) Nigel Duckers Fred Knipe Mohammed Seedat Teum Teklehaimanot Kirsty Wadsley (from 5.35pm) Guy Ware
Apologies	Mary McCormack (Chair) Jennifer Bufton Rob Flinter Emmanuel Quainoo (Student Governor) Stephen Bagley (ESFA)
Non-attendance:	Leslie Bortey (Student Governor)
In attendance:	Richard Allanach (Interim Director of Finance) Phil Cuniffe (Assistant Principal Curriculum and Quality - Item 5 only) Melissa Drayson (Minute taker) Mary Heslop (Interim Clerk) Peter Marsh (Peter Marsh Consulting Ltd - Item 10 only) Fiona Morey (Principal Designate) Jacqueline Mutibwa (Interim Clerk, SBC)

1. INTRODUCTION

1.1 Apologies for Absence

As listed above.

1.2 Declarations of Interests

No new declarations of interests were made in advance of the meeting or at the meeting.

1.3 Chair's Introduction

- 1.3.1 The Chair welcomed all present to the meeting and the following were introduced:
- Melissa Drayson, in attendance as note taker
 - Jacqueline Mutibwa, interim Clerk to SBC, as an observer up to agenda item 12.
- 1.3.2 A number of important approvals would be required at the meeting relating to the dissolution of the Corporation and the transfer of property, rights and liabilities to SBC. These were in addition to the approval of the Annual Report and Financial Statements 2017-18, the Self Assessment Report 2017-18 and items relating to NESC.

1.3.3 The meeting would, therefore, be undertaken in two halves, with a short break between Item 10 and matters relating to the dissolution and transfer.

1.3.4 As usual, it would be assumed that papers had been read.

2. MINUTES OF THE MEETING HELD ON 18 October

2.1 The Part A and Part B Minutes of 18 October 2018 were **APPROVED** as a correct record and were signed by the Chair.

3. MATTERS ARISING

3.1 The Matters Arising report was **NOTED**. Most actions had been completed or were on the agenda.

3.2 The Principal Designate and Chief Executive provided an update on Item Ref 4.2; issues raised by the Student Governors were reported under Item 4 of the agenda.

3.3 In respect of Item Ref 5.2, three governors had yet to complete their Safeguarding training. This would be followed up by the Clerk.

4. LEARNER VOICE

4.1 An oral update from the Principal Designate and Chief Executive on issues previously raised by the Student Governor was **RECEIVED**.

4.1.1 Conversations had been held with the Head of Estates to find alternative, larger accommodation for the prayer room. It would be difficult logistically to timetable prayer room usage for all faiths and denominations, and it was considered that there would also be drawbacks to timetabling in terms of meeting individual needs. Students would be expected to be respectful of each other's requirements for prayer room use.

4.1.2 There had been discussions with the company running the canteen about providing some cheaper options as high prices continued to be a concern for students. The company would aim to introduce more offers. It was reported that students were currently buying food more cheaply offsite, and that this was causing issues with late return to lessons. Governors asked about the continuation of current catering arrangements after merger. The Principal Designate reported that costs were being compared with those of the LSBU caterers.

4.1.3 Some concern had been raised on the timing of English and maths evening classes and consideration was being given to what changes could be made for next year.

5. SAFEGUARDING

5.1 Safeguarding Policy for approval

5.1.1 The summary of key changes was noted. Many of these reflected new DfE statutory guidance on child on child sexual violence and sexual harassment.

5.1.2 Governors asked about provision for victims and perpetrators of violence under the Policy. It was confirmed that this was reflected in the context of the Policy, reflecting issues specific to the College's locality.

5.1.3 A further question was raised about the College's obligations relating to children missing from education. The College had checked with the Local Authority (LA) and the duties on schools did not apply to Further Education. However, if the student was a Looked After Child or was considered vulnerable, they would be covered by the College's safeguarding duties.

5.1.4 It was acknowledged that 16-18-year olds often fell into a gap in terms of local authority support. The College had made representations to the LA about this.

5.1.5 There was a discussion about how the definitions within Prevent related to gang culture. It was considered that this would come within the definition of grooming.

5.1.6 Governors were assured that the Policy followed statutory guidance closely, had been thoroughly checked for robustness, and measures were being taken to ensure all staff were aware of their responsibilities.

5.1.7 It was noted that the contact number for the Lead Safeguarding Governor needed to be corrected.

The revised Safeguarding Policy was APPROVED.

6. QUALITY AND IMPROVEMENT

6.1 College Self-Assessment Report (SAR) 2017-18

6.1.1 Governors noted that the draft SAR had been validated by an external expert and practicing Ofsted inspector.

6.1.2 A grade of 'Requires Improvement' (RI) had been awarded for all areas apart from Personal Development, Behaviour and Welfare, which was "Good". Due to significant improvements in learner outcomes, and in recognition of other improvements, the RI areas were now far closer to 'Good' than for the previous year.

6.1.3 Overall strengths and areas for development were noted. A key area for development was apprenticeships. It was confirmed that LSBU had also identified this as a priority. Governors were reminded that numbers had dipped partly because of the conscious decision to withdraw learners who were not engaging with the course. There would be a targeted focus on English and Maths delivery within apprenticeships. Tracking of learners would also be strengthened; the decision to move apprentices from subcontracted to in-house provision should make tracking easier. A new Head of Apprenticeships had been appointed, which should help to maintain consistency.

6.1.4 Governors asked about the extent to which the grade for Leadership and Management was a reflection of the lack of permanent staff in senior positions, and whether the new permanent structure for 1 February was now in place. Management responded that recruitment to the senior management team was almost complete, but the vacancy for the Assistant Principal, Quality had yet to be filled. Strong structures were in place to support quality improvement, curriculum development and financial management and close support from LSBU was being sought. Management were hopeful that this, combined with the strong college vision, could push the grade for Leadership and Management up to a 2 ('Good').

6.1.5 It was noted that the College was in scope for an Ofsted inspection, and that the SAR would be used as the current position statement. Inspectors would expect Governors to be familiar with key strengths and areas for development.

The Board NOTED the Self-Assessment Report 2017-18 and APPROVED the grades and summary of overall strengths and areas for development.

7. GDPR- Updated GDPR Implementation Tracker

7.1 It was reported that the College was on track with implementation and is GDPR compliant. A representative from LSBU had commended the College on the condition of its archives. Tribute was paid to the staff members who had worked hard to organise the archive and ensure that records were compliant with the college retention policy.

The Board NOTED the progress made on GDPR implementation as represented in the tracker.

8. Executive Principal Designate's Report

8.1 A key strategic focus for the College was quality improvement, as set out in the Self-Assessment Report (Item 6.).

8.2 Recruitment and growth were essential to the delivery of a sustainable financial recovery plan.

8.2.1 16-18 numbers were currently under target, but the College was continuing to recruit small numbers for January to bespoke programmes and Princes Trust provision.

8.2.2 The Adult Education Budget faced a considerable underspend. Work was underway with a number of employers to increase numbers, particularly in adult apprenticeships.

8.2.3 Partnership working was being developed, including with the Battersea power station development and Southwark Construction Centre. Communications with Job Centres had been reopened.

8.3 The Mayor of Lambeth, a former College student and governor, had given an inspirational speech at the student graduation, which had resonated with many students.

8.4 The Board discussed the initiatives underway, involving College students, to tackle serious violence and knife crime.. The College had set up a staff forum to look at steps that the College might take to mitigate this risk.

8.5 Governors asked for an update on 2019-20 recruitment plan. There was no sign that merger was having an impact, as enquiries were roughly in line with the same point last year. Numbers were, however, under target. A launch event for South Bank Colleges (SBC) was planned for February; invitations would be sent to current and applying students. Interviews were being held for a permanent Head of Marketing the following day. The recent open day had been very well attended, with live applications being available on the day. Local competition for 16-18 year olds was increasing. There was already over-capacity at post-16 level, and a new academy had been given permission to open a Sixth Form Centre. It was considered that being part of a university would be a unique selling point for the College. The issues of low conversion rates from enquiry to application, and the numbers of individuals who did not turn up for interview, were being investigated.

The Board NOTED the Report from the Executive Principal Designate.

9. AUDIT AND FINANCE

9.1 Financial Statements 2017-18, including Post Audit Management Report and Letter of Representation

9.1.1 The Financial Statements and Post Audit Management Report of the External Auditors had been reviewed by a joint meeting of the Audit and Finance Committees.

9.1.2 The External Auditors' report had identified six outstanding items. All those that it was possible to complete had been addressed.

9.1.3 Some minor amendments had been made to the wording of the Annual Report and Financial Statements since the joint Committee meeting, but there had been no changes to the figures.

9.1.4 The External Auditors had confirmed that the financial statements represented a true and fair view, and there was no evidence of irregularity in the College's spending.

9.1.5 The Chair of the Audit Committee drew attention to the going concern statement. The Bank had provided a waiver to the breach of financial covenants the previous year but, in the

light of the proposed merger, had declined to provide a waiver this year. It was confirmed that the College met with the Bank monthly. There was no indication that the Bank was planning to call in the remaining secured term loan, and it would not be in the Bank's interests to enter into a lengthy and complex legal process to do this. It was understood that the Bank was now in discussion with LSBU.

The Board:

- a. **RECEIVED and NOTED the external auditor's draft management letter**
- b. **APPROVED the Annual Report and Financial Statements 2017-18**
- c. **AUTHORISED the Chief Accounting Officer to sign the letter of representation on behalf of the Board**
- d. **AUTHORISED the Chief Accounting Officer and the Vice Chair to sign the Corporation's Financial Statements and included within that authority the power to correct any minor technical matters, spelling and presentational issues which may be identified between the Corporation's decision and the signing of the financial statements.**

9.2 Annual Report from the Audit Committee to the Board 2017-18

- 9.2.1 The Chair of the Audit Committee presented the Annual Report of the Audit Committee and highlighted Section 7, which provided the Internal Auditors' overall assurance opinion that the College has an adequate and effective framework for risk management, governance and internal control.

The Board NOTED and APPROVED the Annual Report from the Audit Committee 2017-18.

9.3 Management Accounts – October 2018

- 9.3.1 The Management Accounts for the first three months of the year to 31 October had been reviewed in detail by the Finance Committee. These highlighted the student recruitment picture previously discussed under the Executive Principal Designate's report. Together, these accounted for a significant negative variance from the deficit budget set in July 2018.
- 9.3.2 It was reported that the November accounts were in draft. These showed an improving picture for learner loans, but significant pressure on the staffing budget caused chiefly by agency staff costs, fees and VAT. It was acknowledged that this was a temporary situation and the pressure should alleviate once the permanent staff team was in place. It was clarified that the later merger date was partly responsible for the increased costs, as it had been necessary to retain senior interim posts until merger.

The Board RECEIVED and NOTED the management accounts for the three month period ending October 2018.

9.4 Loan from LSBU (Vauxhall)

- 9.4.1 Governors considered the Draft Facility Letter. It was explained that it had been confirmed that day that the facility agreement wording would be changed. Subject to the delegation of authority by the Board, the Chief Accounting Officer would need to be satisfied that the wording of the facility agreement was appropriate. Changes would include:
 - Making SBC a party to the agreement
 - The inclusion of a clause regarding the purpose to which the funds would be applied.
 - Clarification about how any funding gap would be covered.

- 9.4.2 The consent of the Bank was also required. The indications were that the Bank supported the need to progress capital works, but was cautious about the College extending its borrowing.
- 9.4.3 The Board was advised that there was a strong need to progress the loan arrangement as the pre-planning work could not be delayed.

The Board AUTHORISED the Chief Accounting Officer to enter into a loan arrangement for up to £1.1 million with LSBU for the purposes set out in the paper and using a facility agreement similar to the one supplied with the paper, taking legal advice as necessary.

10. CAPITAL PROJECTS: NESC

Peter Marsh, project consultant, joined the meeting for this item.

It was resolved that a confidential minute should be taken of this item on the grounds of commercial sensitivity.

Mohammed Seedat left the meeting at 19.30

11. DISSOLUTION AND TRANSFER: UPDATE

11.1 Update on progress

11.1.1 The Interim Chief Executive highlighted that LSBU / SBC and the Corporation's HR team had been working together to ensure compliance with the TUPE Regulations and consultations had begun with staff. Consultation has also started with employees of SW4. There had been two meetings with unions and it was now believed that the unions were satisfied with proposals. A letter to the unions dated 23 November 2018 setting these out was tabled. It was planned that an agreed letter would go out to all staff before the end of term. It was confirmed to Governors that this would include an explicit reference to the transfer of pension rights.

11.1.2 There had been no further progress on appointments to the SBC board. A further five governors were needed, including LSBU nominees but the identification of an independent Chair remained outstanding. It was understood that decisions regarding the appointment of a staff Governor should be completed before transfer.

11.1.3 The Chair reminded Governors that the Corporation's outstanding debt due to the Bank would be transferred to LSBU on the Completion Date. In order to achieve this, LSBU had informed him that the Corporation would need to enter into the Deed of Novation, which, he was told in summary, confirms that the Corporation will be released from all liabilities owed to the Bank (including the release of the legal charges in favour of the Bank secured over the Vauxhall and Clapham sites) and all of the Corporation's obligations will pass to LSBU. Clearly when the draft Deed of Novation was received by the Corporation, this would need to be checked by the Corporation's Solicitors.

11.1.4 It was noted that a draft lease was outstanding from the SoS in relation to the Brixton Hill site. It was understood that the draft lease would be issued upon formal completion of the development agreement by the leaseholder, Trinity Academy. Accordingly, it was noted that SBC had confirmed that it would be prepared to waive this condition precedent in the Transfer Agreement. The Chair said that he had requested that SBC confirm that in writing to the Corporation.

The Board NOTED the assurance that TUPE consultations were taking place.

Jacqueline Mutibwa and Fiona Morey left the meeting at 20.00

11.2 Dissolution and transfer timeline

The Board NOTED the draft timeline to dissolution and transfer, which was mostly on track

with the exception of those items flagged under Item 12.

12. DISSOLUTION AND TRANSFER: APPROVALS AND ASSURANCES

12.1 Approvals, Assurances and proposed formation of sub committee

12.1.1 The interim Clerk referred to the accompanying paper for this item and apologised that its circulation had been necessarily late.

12.1.2 Ref A. The Chair reminded Governors that the Corporation's outstanding debt due to the Bank would be transferred to LSBU on the Completion Date. In order to achieve this, LSBU had informed him that the Corporation would need to enter into the Deed of Novation, which, he was told in summary, confirms that the Corporation will be released from all liabilities owed to the Bank (including the release of the legal charges in favour of the Bank secured over the Vauxhall and Clapham sites) and all of the Corporation's obligations will pass to LSBU. Clearly when the draft Deed of Novation was received by the Corporation, this would need to be checked by the Corporation's Solicitors.

The Board NOTED progress on the transfer of the Barclays Debt. A Deed of novation and consent letters were in the process of being agreed by each side's legal advisers.

12.1.3 Ref B. The Chair asked Governors to note that he had been informed by LSBU that LSBU and SBC had agreed to enter into a "Governance Agreement" in respect of the ongoing governance relationship between the two organisations, the agreement had been approved and signed by both and that it was proposed that this agreement should be effective on the Completion Date.

The Board NOTED that the Boards of LSBU and SBC had approved the Governance Agreement between the two parties.

12.1.4 Ref C. The Chair explained that LSBU had been assisting in reviewing the contracts the Corporation has in place in order to ensure that they are properly assigned or novated to SBC from the Completion Date and a division between those large contracts to be novated and the smaller contracts to be assigned had been agreed. Letters relating to the novation/assignment are to be sent to contracting parties informing them of the proposed transfer of the College (on the basis that it was a reasonable assumption that the transfer would take place) to SBC and, where necessary, requesting that the contracting party consents to the transfer of the contract. The Chair said that the novations and assignments would not be effective if completion did not take place.

12.1.5 The Board was informed that LSBU was in broad agreement regarding the removal of liability of Lambeth College Governors but the detail of the template assignment and novation letters had yet to be finalised by the legal advisers.

The Board NOTED progress on the novation of contracts and DELEGATED AUTHORITY to the Chief Executive to agree the final form of letters for novation and assignment.

12.1.6 Ref D. The meeting resolved to pass on to LSBU their real concern at the apparent lack of progress in obtaining charitable status for SBC which is critical. Charitable status had been obtained for the equivalent companies in the other HE/FE group structures the subject of the DfE pilot and thus the lack of transparency at the issue was worrying. The Corporation's solicitors (who were involved in the other models) had offered to help.

The Board AGREED that all parties to the transfer should be asked to push for charitable status to be granted to SBC

12.1.7 After due and careful consideration of the documents and all other factors affecting the Corporation and the College, and subject to the Governors being satisfied that action is being taken to ensure that:

- 12.1.7.1 the outstanding debt owed by the Corporation to Barclays Bank plc will be assigned to LSBU with effect from the Completion Date; and
- 12.1.7.2 SBC will have appropriate funding arrangements in place with the SoS to operate the College from the Completion Date (including receipt of a conditional and non-conditional grant and the College, as operated by SBC, being designated to receive public funding)

It was **RESOLVED** that the Proposed Transaction is expedient and in the best interests of the Corporation (including its current and future beneficiaries) and accordingly it was resolved that (subject always to the passing of the Dissolution Resolution):

- 12.1.7.3 the terms of, and entry into the following documents (subject to any amendments that any two Governors may in their discretion approve for and on behalf of the Corporation) be approved for completion on 31st January 2019:
- a) TR5;
 - b) STF;
 - c) IPR Assignment (subject to review by the Corporation's solicitors first); and
 - d) Admissions Agreement;
- (together the **Documents**)
- 12.1.7.4 Any two Governors are authorised to negotiate, agree and execute the Documents, and any other deeds, instruments, contracts or other documents necessary to give effect to the Proposed Transaction, for and on behalf of the Corporation, provided that where any document, deed, instrument or contract is required to be executed as a deed on behalf of the Corporation the seal of the Corporation shall be applied to such document, deed, instrument or contract and authenticated by any two Governors;
- 12.1.7.5 any two Governors be authorised to take any other action that may be required (or authorise certain individuals to do so on the Corporation's behalf) as may be necessary or desirable to complete the Proposed Transaction for and on behalf of the Corporation.

12.1.8 Ref E. An executed SW4 Catering LTD stock transfer form was required as a condition to completion and the stock transfer form drawn up by Eversheds Sutherland was presented.

The Board RESOLVED to APPROVE the stock transfer form (STR) for SW4 Ltd, and APPROVED the following Minute:

1. The Chair reported that under the transfer agreement signed between the College and South Bank Colleges (SBC) (Company registration number 11395376 dated 8th November 2018) ("Agreement"), the College had agreed on completion (as defined in the Agreement) the transfer of the entire issued share capital of SW4 Catering Limited (Company registration number 09125790) "The Company" (being a wholly owned subsidiary of the College) to SBC (the "Transaction").
2. The entire issued capital of the Company comprised of one ordinary share held by the Corporation
3. There was produced to the meeting a stock transfer form to effect the transaction

IT WAS RESOLVED that the stock transfer form be approved and in accordance with the Corporation's Instrument and Articles of Government the stock transfer form be executed (but not dated) by application of the Corporation's seal authenticated by the signature of the Chair or other Governor authorised to do so, and any other Governor and the Governors to do all other acts or things as might be necessary to give effect to the Transaction or which might

otherwise be desirable.

IT WAS FURTHER RESOLVED that, subject to Completion taking place, that the stock transfer form be delivered to SBC on the day of Completion.

12.1.9 Ref F. it was noted the as at completion on 31 January 2019, Lambeth College will transfer to south Bank Colleges its existing sites.

The Board APPROVED form TR5 and authorised the Chief Executive and a Committee of the Board to:

- i. **Make any necessary amendment to the form in order to give effect to the transfers of title**
- ii. **Execute the original form TR5 prior to legal completion of the transaction**
- iii. **Executive any deed, contract, document or HM Land Registry form that are ancillary to and which facilitate the transfer of title under the form TR5.**

12.1.10 Ref G. It was noted that the IPR assignment had only been received in draft form the previous day, but was non-contentious.

12.1.11 Ref H. The Admissions Agreement is almost ready to sign but needed to go through a final step with the London Pensions Authority.

The Board APPROVED the admissions agreement and authorised the Chief Executive and a Committee of the Board to:

- a) **Make any necessary amendment to the form/agreement in order to give effect to the admission of SBC as an admitted body with the LPFA**
- b) **Execute the final admissions agreement prior to legal completion of the transaction**
- c) **Execute any deed, contract or document ancillary to the agreement.**

12.1.12 Ref J. It was further resolved that a Committee of the Board be established to operate from the end of this meeting until the next meeting of governors (currently planned for 30th January 2019) to deal with matters relating to the merger of the College with South Bank Colleges ("SBC"). The Committee to be comprised of the Chair of audit committee (who shall act as Chair of the committee), the Chief Executive and at least one other governor - preferably an independent governor. The interim Clerk shall act as clerk to the Committee. The Committee shall only be entitled to act by unanimous agreement (but shall otherwise be able to regulate its affairs as it sees fit) and shall be responsible for:

- (a) the meeting by Lambeth College of the completion obligations ("Obligations") set out in Schedules 1 and 2 of the Transfer Agreement between the College and SBC dated 8th November 2018 ("Agreement") which shall include, without limitation the approval and execution for the College of all the necessary documents in order for the College to meet the Obligations, the meeting of SBC of its obligations under the Agreement and all other necessary matters; and

The Committee shall be entitled to take such other legal and other advice as it sees fit at the expense of the College. The Committee shall be entitled to authorise two of its members (or at least two governors) to execute (including the use of the College seal where necessary) all and any necessary deeds or other documents to meet its responsibilities set out above without further ratification by the College. The Committee shall do nothing which either is in breach of the Agreement or which would cause the Corporation to lose responsibility for the matters set out in Article 3.1 of the College's Articles of Government.

The Board APPROVED the establishment of the Committee in accordance to the terms set out above, and with a membership of Monica Box (Chief Executive), Fred Knipe and Mohammed Seedat. Nigel Duckers and Michael Smith agreed to be stand-by members if required for a quorum.

12.2 Amendments to Instrument and Articles

12.2.1 A proposal was made for additional paragraphs to be added to the Instrument to permit decisions to be made by written resolution and by teleconferencing in the event that it is not possible to convene a meeting. In addition, the Instrument and Articles had been updated to reflect changes approved by the Board of Governors in previous months,

The Board **APPROVED** the proposed modifications to the Instruments and Articles.

13 ANY OTHER BUSINESS

None.

14 REVIEW OF CONFIDENTIAL ITEMS

The Board **RESOLVED** that discussions and decisions relating to the award of the demolition contract under Item 10.1 should be contained within a separate confidential minute.

15 NEXT AND FINAL BOARD MEETING

Wednesday 30 January 2019 at 17.00

The meeting ended at 20.36

Signature of Chair.....*Mary McBurn*

Date.....*30 January 2019*.....