

Minutes of the Special Corporation Meeting Held virtually at 4pm on 25 May 2021

Present: Prue Amner, Claire Attika (staff governor), Lily Camacho (student governor), Max Craft, Ashley Cullen, Robin Dickens, Tim Jackson, Tim Mason, Rob Nitsch, Mark Pembleton, Paul Quigley and Penny Wycherley (CEO designate).

Apologies: Phoenix Dewhurst (student governor) & Vanessa Cooter (staff governor)

In Attendance: Denise Cheng-Carter CFO (designate)
Jeff Harris BDO (Minutes 3108 & 3109)
Tom Pollitt Eversheds (Minutes 3108 & 3109)
Paola Schweitzer Clerk to the Corporation
Fiona Willmot ESFA (until 5pm)
David Wright BDO (Minutes 3108 & 3109)

Minutes

1 – Standing Items

3105 Attendance and Participation

Phoenix and Vanessa sent their apologies. Paul welcomed Tom, Jeff, David and Fiona to the meeting.

3106 Declarations of Interest

There were no declarations of interest.

3107 Chair's Report

The previous day's Chair's Report provided an update on the Portsmouth College merger and there would be further updates as appropriate to the agenda. On 19 May 2021 Portsmouth College Corporation had agreed in principle to transfer their assets and liabilities to Highbury College and to dissolve on 01 August 2021.

Penny noted that the College's appeal against the 2019/20 *inadequate* financial health grade had not been upheld. This was included in financial due diligence.

Minutes 3108 and 3109 were confidential.

3110 Financial Due Diligence Follow Up (paper 2841/21/C)

Denise presented an update on the College's financial position, including period 9 management accounts (due diligence had used period 6 accounts) and the monthly cashflow forecast.

The Period 9 forecast showed an improved position:

- EBITDA at P9 forecast for 2020/21 was £94k surplus, 0.46%; P6 forecast was -£344k, -1.8%
- Financial Health '*Requires Improvement*' despite score of 190 due to EBITDA below +1% at 0.46%. However, if exclude pre-merger cost of £250k, Financial Health improves to '*Good*', EBITDA improves to 1.7%
- Cash days 50 at P9 forecast, compared to 35 at P6
- Movement on income and expenditure had improved by £388k
- Lennartz refund and tax not payable for JV had not been included in the period 9 forecast.

There had been an increase in income which included AEB funding (£134k) and commercial income (£478k). There were reduced incomes in areas such as exam fees (£86k) and HE tuition fees (£100k). Non pay expenditure had reduced by £350k due to lower Covid-19 expenditure. Denise concluded that the College was £123k above profile forecast (3) year to date, with an operating deficit of £551k against a forecast deficit of £674k.

Paul asked what elements of the £1.3m identified in the report were included in the forecast and Denise clarified that expenditure was included above the line and the Joint Venture exit dividend treated below the line, meaning the College was looking to make a surplus by the end of the current financial year with an improvement to 55 cash days.

Denise cautioned against any further forecasting at this time, pointing out that a huge amount of money had been spent on the financial due diligence process and that the figures had been scrutinised by a number of professional bodies.

Corporation **Noted** the financial due diligence follow up report.

3111 Merger Progress including Shadow Board minutes from 17 April 2021

Paul drew governors' attention to paper 2835/21/C which provided a progress update on the merger and the 19 April 2021 Shadow Board minutes.

Penny stated that good progress was being made on a number of fronts:

- Discussions were ongoing concerning pay and conditions
- There were a number of minor curriculum moves to Highbury College to ensure Portsmouth College had sufficient space to accommodate increased numbers

- There would be a hub and spoke model for apprenticeships, with the hub based at Northarbour where workshop space would also be increased
- Systems alignment was proceeding in areas such as quality, pay and finance. MIS systems would be aligned next year. IT discussions were ongoing
- The transitional leadership and management structure was going well.

Tim J noted the huge workload and credited the management team for their hard work. He recalled discussions at the Shadow Board meeting and asked for an update on the possibility of industrial action at Portsmouth College due to pay and conditions. Penny stated that whilst there was some bad feeling, she did not believe it would culminate in industrial action. This view was shared by a union representative who was also a Portsmouth College governor and member of the Shadow Board. Denise had stated at an earlier joint union meeting that the colleges wanted to negotiate a way forward but that it was not financially viable to adopt Portsmouth College's academic terms and conditions in the new college and that if agreement could not be reached, Highbury College's terms and conditions would be applied. Max did not believe there were any grounds for industrial action and did not therefore believe this risk would materialise. He believed Highbury College was communicating clearly with staff and handling the situation well.

Paul thanked Penny for the update and Corporation **Noted** merger progress and the 19 April 2021 Shadow Board minutes.

3112 Merger with Portsmouth College: Outcome of Public Consultation including Name Change

Penny presented paper 2836/21/C summarising the outcome of the public consultation undertaken by Portsmouth College and Highbury College corporations.

The joint public consultation was held from 26 March 2021 to 28 April 2021 and concerned the proposed merger between the colleges and the proposed City of Portsmouth College name. The *Merger Proposal Consultation* document set out the context for the merger including the proposal, vision and benefits. It was published on both colleges' websites and emailed to a wide variety of stakeholders, including Hampshire Fire and Rescue Service. 95 responses and three questions were received.

There were 26 positive statements in favour of the merger with comments including the merger would further enhance and strengthen the educational offering in the city to meet the needs of all, both now and for the future and that sharing skills and resources would be beneficial to the students. Letters of support were received from Solent LEP, two local MPs, Portsmouth City Council, University of Portsmouth and Shaping Portsmouth.

There were 21 responses disagreeing with the proposed merger with comments including Portsmouth College is a great place to work with a good reputation and would merge with a college that has a poor reputation and devaluing of staff due to

changes in terms and conditions. A letter from Havant and South Downs College (HSDC) raised concerns on aspects of the merger proposal.

There were also 48 comments: 34 concerned the proposed move of SEND provision from the Tangier Road campus to the Cosham Campus; five concerned the worsening of terms and conditions for staff and two concerned moving the BTEC provision between campuses.

The consultation also sought views on the proposed name change: City of Portsmouth College. Of the 95 responses, 49 respondents agreed with the name change, eleven disagreed and 35 did not respond. The proposed name complied with statutory requirements, including a response from at least one emergency service. Hampshire Fire and Rescue had confirmed that: *'providing we receive the details of the buildings to which the name change is going to apply, requests for support will not be impacted. We have no other concerns with the name change.'*

Penny summarised that, excluding responses concerning the transfer of LDD provision (this would not now take place in September 2021) and the HSDC letter (she had spoken with the HSDC principal and responded to the concerns raised), respondents were generally in support of the merger and the proposed college name. One governor asked if consideration had been given to the abbreviation of the proposed name. Penny confirmed that this had been considered and there were no anticipated negative connotations. She noted that staff views would be sought to determine the names of each college campus.

Paola reminded governors that, as the surviving legal entity, it was for Highbury College Corporation to agree to change its name to City of Portsmouth College Corporation, following which an application would be made to the Secretary of State.

Corporation **Noted** the outcome of the public consultation and that in line with statutory guidelines, a summary report would be published by 28 June 2021. Corporation also **Noted** the outcome of the public consultation on the name change including feedback from the emergency service on the proposed name. Finally, Corporation **Agreed** to proceed with the name change from Highbury College Corporation to the City of Portsmouth College Corporation and that an application for this name change be made to the Secretary of State for approval.

3113 Merger with Portsmouth College: New College Board Composition

Paola declared an interest in the clerking proposals set out in the paper.

Paul introduced paper 2837/21/C setting out proposals for establishing governance arrangements for the new college and the appointment of governors. It had been written by Simon Perryman, National Leader of Governance, who was supporting the merger process.

The Shadow Board had substantially agreed the paper at its meeting on 17 May 2021, with the amendment that the Search Group tasked with managing the board appointment process include an additional independent governor. The intention was for the Search Group to report back to the Shadow Board. It was for Highbury College, as the continuing legal entity, to make the appointments. Prior to the Shadow Board meeting it was agreed by Portsmouth College that Simon Barrable in his current role as principal would not be a member of the new college board.

On 19 May 2021 the Portsmouth College board had discussed Simon's paper and had raised some points which Paul relayed to governors. These points had not been raised at the Shadow Board meeting. Paul invited governors' views to inform his discussion with Nick and Simon P later in the week.

Governors recognised Simon P's independence in the merger process and noted that the Shadow Board had agreed the board composition principles. The concerns raised at Portsmouth College's board meeting were different to these principles and further Shadow Board discussion was therefore required.

Governors emphasised their commitment to the merger and the need to focus on creating a strong and effective board. They believed this was best achieved by identifying the skills and experience required, looking to existing governors in the first instance and then bringing in new skills and direction. Max stated this meant not all existing governors would have a place on the new board. Governors did not believe that ensuring equal governor representation from both colleges should be a primary consideration in the creation of a new board.

Rob emphasised that the objective was to create a new board to represent the new college, it was not about building on historical precedence or representing Portsmouth or Highbury interests. Without this shift in thinking it would be difficult to create a single entity and this would inevitably set the tone with the new college. Penny stated that the first two years following the merger would be critical in shaping the new college's success and if nothing changed until year three, it would be too late to change the board's perception and culture.

Governors agreed the new college should have a traditional FE college board structure with a maximum of +/- 20 governors to facilitate the quality of discussion and decision-making. One governor believed a board of 16 would be optimal. Mark suggested the board could be larger for a limited time, after which it would reduce to a more manageable number. One governor emphasised the importance of a strong, workable board that supported staff, especially senior managers. Consideration would need to be given to existing governors' terms of office to ensure that not all former Highbury/Portsmouth governors left the new college board at the same time.

Governors believed there should be two student and two staff governors, with student voice and staff forum meetings used to gather a broader range of views. A

consultative/advisory body comprising a range of stakeholders could be created to support the new board and support board succession planning. One governor noted the importance of ensuring that non-statutory community groups were represented.

Paul thanked governors for the helpful discussion, stating that the views expressed represented a strong starting point for his meeting with Nick and Simon. He hoped that the Shadow Board would be able to agree board composition in June so that the matter could be finalised by the merger date of 01 August 2021.

Governors **Agreed** the principles and process outlined in the new college board composition paper and the issues discussed during the meeting, and that a small group of governors (Search Group) would be convened to propose the composition of the new college board.

3114 CFO Appointment

Penny presented paper 2838/21/C setting out the process and timeline for the recruitment of a Chief Finance Officer (CFO).

The CFO was a senior postholder, meaning that Corporation was directly responsible for the post. Denise Cheng Carter's (CFO designate) contract would end on 31 December 2021 and her successor therefore needed to be appointed prior to the merger with Portsmouth College on 01 August 2021. It was Highbury College's responsibility, as the continuing legal entity, to manage the appointment process and make the appointment. Remuneration Committee met on 10 May 2021 to discuss the process and agreed a series of recommendations to Corporation. One of these recommendations was that Mark Cooper and Adele Hodgson, Portsmouth College governors, be appointed to Highbury College Corporation from 25 May 2021 until the merger so they could participate in the CFO recruitment process. This recommendation had been agreed by Search & Governance Committee by email.

Penny noted that whilst the Association of College's had not yet circulated their annual senior pay scales document, it was proposed to advertise the CFO salary at c£105-110k per annum, with scope for further discussion. Governors **Agreed** this pay point, noting that there was no commitment until an appointment was made.

Governors **Noted** that Dodd Partners were facilitating the CFO recruitment process. Governors **Agreed** that two Portsmouth College governors, Mark Cooper and Adele Hodgson, be invited to join Highbury College Corporation from 25 May 2021 to 31 July 2021 with the express purpose of joining the CFO selection panel and that Penny, Paul and Mark P be the remaining selection panel members, with Tim J in reserve.

3115 In Principle Resolution to Receive Assets and Liabilities of Portsmouth College

Penny presented paper 2839/21/C proposing the in principle resolution to receive the assets and liabilities of Portsmouth College.

Governors reflected on their discussions at the meeting, namely the outcome of the public consultation and due diligence processes and their fiduciary responsibility to act in the best interests of Highbury College.

Corporation **Noted** that on 19 May 2021 Portsmouth College Corporation had given their in principle agreement to dissolve at one minute past midnight on 01 August 2021 and to transfer their assets and liabilities to Highbury College Corporation immediately prior to one minute past midnight on 01 August 2021.

Corporation **Agreed** in principle that, subject to a final and binding decision being made at Corporation's meeting on 20 July 2021 and subject to Portsmouth College Corporation resolving to dissolve at one minute past midnight on 01 August 2021, the assets and liabilities of Portsmouth College be transferred to the Highbury College Corporation immediately prior to one minute past midnight on 01 August 2021.

3116 Fees Policy 2021/22 (paper 2840/21/C)

Denise presented the 2021/22 fees policy, noting it required Corporation approval prior to be advertised on the College website. It was a merged college policy, incorporating feedback from Portsmouth College.

Denise noted the commitment to a transparent fee structure to inform individuals and companies about the cost of study and examinations as well as payment exemptions. Fees were set to ensure that the College was able, with public funding, to at least cover the full costs of each study programme. The policy covered areas such as ESFA co-funded courses and 19+ learners starting on Level 3 and 4 courses. It also included nursery fees and hire of College facilities fees.

There was a brief discussion about exam resit fees, with Denise clarifying that these fees would generally be charged unless there was a case for waiving the fees. In response to a question, Denise confirmed that fees were collected by direct debit, with the final payment three months prior to the end of the course thereby reducing the possibility of non-payment (something that had been an issue previously).

Corporation **Agreed** the 2021/22 Fees Policy.

Minutes 3117 and 3118 were confidential.

The meeting ended at 6.30pm

Evaluation of Meeting

Seven governors completed the online self-evaluation questionnaire. All seven felt the agenda and papers were clearly written and believed the objectives of the paper were clear, the right length, contained the relevant detail and provided assurance. They were assured that risks were being actively reviewed and managed. All believed there was sufficient time available for debate and time was well spent and that everyone had a voice. All believed governors held management to account and that management responses to questions were clear and sufficient. All were satisfied that decisions were sound and that there was a clear line of sight through to the student experience. All believed the meeting was chaired effectively. Two governors commented on the IT/their ability to access and take part in the meeting:
Governor 1: *All as expected and whilst I would always prefer face-to-face meetings, in this time of Covid-19 this is a very good second choice medium*

Governor 2: *All worked well.*

Governors were invited to add any comments that they felt might help to enhance the performance of the Board or any training need. Four governors responded:

Governor 1: *Very well chaired.*

Governor 2: *None at this time. I believe the Board are operating very effectively at a time of great change and pressure on our management team.*

Governor 3: *The two large documents could have been separate from the PDF holding all the papers. This would have made moving around the papers and scrolling easier.*

Governor 4: *I would welcome an opportunity to refresh my understanding of how FE colleges operate.*

Date of Next Meeting: 06 July 2021