

**Minutes of the Corporation meeting
Thursday 8 December 2022
2pm Zoom**

Present: Allan Schofield (Chair) Ian Pryce CBE, Principal & CEO
Dennis Buckley Sheila Selwood
Richard Dimpleby Alasdair Simmons
Luke Ferebee Vinod Tailor
Joe Gallacher Amanda Wagstaff
Cliff Wragg
Raj Randhawa

In attendance Sheraz Amin (Executive Director Digital Transformation)
Caroline Biddle (Executive Director HR)
Karen Campbell (Principal Bedford)
Jonathan Creed (JC) (ICCA)
Pat Jones, (Deputy CEO-Finance)
Em Lowe (Deputy CEO-Education)(part)
Rachel Nicol (Group Director of Governance)
Robin Webber-Jones (Principal Northamptonshire)
Louise Castle (Stone King)
Tom Morrison (Stone King)
Ciara Campfield (Stone King)
Vic Cadwallander-Webb (VCW) (ICCA)

C/93/22 Apologies for absence & Declarations of interest

Apologies

Apologies for absence were received from Sharon De Leonardis, Luisa Vecchio, Emily Parnwell and Emelia Mustoe.

Declarations of interest

There were no declarations of interest relevant to the matters on the agenda.

C/94/22 Matters arising

The Chair outlined the agenda and structure of the meeting and confirmed the MTFS item will be taken after the financial due diligence report followed by the legal due diligence and review of academic risk.

C/95/22 Update on the Merger from the CEO

The CEO outlined the current position, work being done and further assurances being looked at.

The relevance of the merger to the “patch”, the strategic fit and opportunities a merger presents were reiterated. Stakeholder feedback had been positive on consultation including from staff and the FE Commissioner. Available benchmarking has confirmed two well run colleges. The implementation of the previous merger has been reflected on as part of the process.

Central Bedfordshire College (“CBC”) is considered to be a simpler operation and heavily reliant on 16-18. There are thought to be greater gains if a merger is actioned more quickly, future support staff to be engaged on BCPS contracts, potential cross selling for adult provision, a geographical uplift for CBC and a larger asset base.

Key issues are included in later reports.

The Chair, CEO and Group Director of Governance had met with representatives from the Education and Skills Funding Agency (“ESFA”) and the Department for Education (“DfE”) who had expressed general support for the merger but confirmed it was ultimately a decision for governors.

The update was noted.

C/96/22 Financial due diligence

The paper provided by ICCA was confirmed as read. JC outlined the scope of work from a financial perspective and then the reflections on curriculum, quality and funding underpinning the overall position. Section 2.1.2 of the executive summary sets out key issues to address namely:

- 2021-2022, no adjustments made for LGPS pension, therefore movement reflected in the future will need to go through profit and loss account. Although these are considered notional the Bedford practice is to assess and include an estimate.
- Adult Education Budget (“AEB”), CBC has struggled to deliver the full allocation and had benefitted from protection during the pandemic. There has been improvement but a provision has been made for under performance. Work has however been done since the report to improve the AEB position
- Scholars Schools System (“SSS”) model of HE delivery through the partnership with the UK Curriculum and Accreditation Body (“UKCAB”). This has generated contributions of circa 30% historically for CBC but with no detail of how this is constituted. CBC is currently behind by a third on planned HE delivery.



VCW highlighted areas from student number analysis:

- Underperformance on AEB, funding claim has been maximised and follows the Bedford College process which has been through audit.
- Apprenticeships, no longer recruiting to programmes. Employers remain keen to work with the College and it is considered they will be willing to work with the College post-merger.
- Risks around HE subcontractor provision.
- In terms of student achievement, it looks like CBC is performing under national benchmarks. However, the published benchmark data related to 2018-2019, with thinking being that most colleges have seen a decline in achievement rates since then. On the information currently available the CBC position may be slightly worse than other colleges.

The thorough nature of the reports was noted. The Deputy CEO Finance confirmed the reports were a fair representation of what the College had found. CBC had let go of a subcontractor relating to AEB delivery and this could be reinstated if appropriate. Other potential options for delivery of budgets could be rolled across from Bedford College on merger.

Board questions to ICCA centred around:

The ICCA report comments on problems getting information during due diligence, are there any further thoughts on processes and concerns around transparency? It was reported that it had been difficult to get to the required detail at the outset of the process but more recent access to a wider management team had increased the openness of the responses.

Statutory pension charges wipe out surpluses year on year and raise concerns over the income and expenditure position? The surplus history pre the FRS102 adjustments was set out showing break even or small losses each year although there is a robust balance sheet.

What is the thinking behind them not making-adjustments for pensions? The finance work has centred around transactional operations and ledger management with analytical work taking place in the executive team.

Given the duty of care owed to Bedford College and early responses from CBC around them not being aware of any ongoing litigation is there sufficient trust and confidence in current information? It is now considered that required information has been disclosed to enable assessment of the position.

The potential numbers on the pension seem large, what is the impact? Nationally there are colleges with deficits, some with assets and the scheme is in middle of a triannual review. Bedford College has always made an estimate and shows a charge in the income and expenditure account. It is the income and expenditure movement that matters and this is known.

The Deputy CEO Finance confirmed that lots of colleges don't model for pensions. The future merged MTFS has been modelled on the same basis as that used by Bedford College.

It was confirmed that in the event of merger CBC will operate under the same systems and work flows as Bedford College.

The update was noted.

C/97/22 Medium Term Financial Strategy (“MTFS”)

The Deputy CEO-Finance had prepared an illustrative post-merger MTFS having independently built the strategies for both colleges using the same model as that used historically at Bedford College.

Savings required to take into account the drop in income and removal of some HE subcontractor activity. Assurance was given that the view of the Bedford College Executive is that the CBC financial position is relatively strong for the sector and that the budget can be balanced.

Further work will be done on curriculum modelling and learner numbers calculations.

It was emphasised that financially there are opportunities that will arise from moving quickly to merger in terms of contracts and systems alignment. In response to a question the Deputy CEO-Finance confirmed that in her view the financial position did not form a major obstacle to the merger going ahead, subject to some of the legal constraints being mitigated successfully.

The report was noted.

C/98/22 Legal due diligence

Tom Morrison, Ciara Campfield and Louise Castle from Stone King were introduced.

The report was confirmed as read.

A power point presentation summarising the legal due diligence findings was shared and highlighted:

- There was a slow start to due diligence data gathering, which subsequently improved after changes in the CBC management team. It was recognised that due diligence is an ongoing process and it has been reiterated to CBC lawyers that there needs to be collaboration.



- Risks around HE subcontracted provision.
- Two small disputes around apprenticeships had been identified but TBCG oversight will be introduced for any future provision.
- AEB sub contracting provision, advice was given on activity regarding compliance to manage any potential claw back risk.
- Subsidiaries, a request had been made to wind these up prior to merger but there is a risk that this may not be complete by the merger date.
- Contact has been made with the bank and lawyers for CBC who are understood to be proactively managing the position from their side.
- Ongoing operations, need to consider contract management, avoiding adaptation of existing paperwork without due guidance, and ensuring clear written protocols to manage and mitigate risks.
- Employment arrangements, the Executive Director of HR is leading on the transfer of staff, assessing the current position and compliance with the transfer of undertakings regulations.
- Third party consents are required, including from the Bank.
- Property matters and risks were outlined including an apparent charge on Dunstable property where no evidence has been found that it has been paid off (accounts will be checked. The lease will only be assignable if the premium has been paid).
- Registered interests have been found in 5 out of 14 arrangements. Risks include terms of leases ranging from 116 years to 10 years, some with no break clauses. Clarity is needed as to whether landlord consent is in place in all cases.
- Licence to JTL in the Incuba building has a risk of clawback around initial investment. Further legal analysis is required and some **information is still outstanding**.

Governor discussion centred around:

Procurement

Have we seen documentation confirming settlement in respect of cleaning contract?
Stone King have seen the expert determination but there are some final arguments over legal fees before we have sight of the final agreement.

What are the implications of the findings on the cleaning contract matter, lack of proper process and collusion? The CBC governing body procured an independent report from RSM and investigated concerns and are reviewing practices. Processes on merger would be aligned to Bedford College processes.

Are executive confident that position over property matters is rectifiable and manageable? TBCG as a larger organisation are considered to have relevant



expertise to manage the position. The primary landlords on the significant leases are public sector bodies. Central support services will come under TBCG post merger with the estate being managed centrally.

Where did the due diligence information come from on processes around leases? A broad view of arrangements was taken and a variety of approaches and different landlords identified. There have been mixed practices in record keeping and contract management at CBC but future arrangements will follow Bedford College processes.

Is there anything that would prevent sale of property where relevant? Options will remain open and some arrangements are restrictive but with potential for discussion on viability and future planning

Are the sites with no break clauses in the leases ones we would be looking to terminate? It is not considered that there is an immediate need to cancel and potential for future flexibility and uses can be explored.

There is an indication of poor property management in some areas, and will this create additional work post-merger? Work required is not considered to be immediate and teams will be reorganised to ensure priorities are met.

Joe Gallacher joined the meeting

The Executive Director of HR provided assurance regarding progress on staff transfer arrangements and current issues.

[Redaction, confidential minute]

The legal due diligence findings were noted

C/99/22 Executive recommendation

On the basis of the due diligence reports and this summary, the Executive and the merger group confirmed their recommendation set out in the report that Bedford College should merge with Central Bedfordshire College (via the dissolution of CBC) on 1 February 2023 or as soon after as possible, subject to reassurances on some matters outlined in the report, and subject to the consent of our bank.

Stone King confirmed terms would not be agreed until additional assurances were received.



It was further clarified that in order to be in a position to agree terms of the transfer as set out in the resolution, and in line with the recommendation made by the Executive, the further assurances required include:

- SK and TBCG having sight of the cleaning contract settlement.
- SK to review contract position re HE subcontractors.
- Confirmation that implementation issues required to be settled have been dealt with, eg. loan repaid, third party consents required, progress made on closing down subsidiaries with no liabilities identified.
- Further information from Pearson not identifying any additional risks.
- The CEO confirmed that Bedford College receives data on the progress on testing and reiterated dangers of further delay.

All governors were asked to confirm their position in relation to the proposed resolution. In summary governors unanimously confirmed their support for the recommendation but confirmed that in doing so they had placed reliance on the executive team, the assurances received and their ability to manage the risks identified.

C/100/22 Decision

Formal resolution

On the basis of the due diligence reports and the report of the CEO, the Board accepted the recommendation that Bedford College should merge with Central Bedfordshire College (via the dissolution of CBC) on 1 February 2023 or as soon after as possible, subject to reassurances on some matters outlined in the report, and subject to the consent of our bank.

C/101/22 Next meeting

The next meeting of the Corporation will take place on 23 March 2023