

**Minutes of the thirty third meeting of the Board of Governors held on 26  
February 2009**

**Present:** Peter Anwyl, Chair

Graham Castle	Raj Patel
Stephan John	Abdul Rahim
Katia Kramer	Brian Roper (For item 1)
Bob Morgan	Finlay Scott
Prof Zenobia Nadirshaw	Sir Michael Snyder

**In attendance:** Paul Lister )  
Pam Nelson ) For item 1  
Paul de la Pena, Eversheds )

**Clerk to the Board:** John McParland

**Apologies:** Jeremy Mayhew and Sarah Tyacke

**438. Directors' Responsibilities – Company and Insolvency Legislation**  
(Agenda item 33/2)

The Board received the written advice circulated with the agenda together with the comprehensive oral presentation from Paul de la Pena of Eversheds.

The following particular points emerged:

- the need for the Board to meet regularly and more frequently to continually monitor the financial situation.

- the different responsibilities for directors that arose where there is no reasonable prospect of the company avoiding insolvent liquidation
- the need for directors to act diligently to remove any obstacles to resolution of funding issues which would in turn improve the financial position and avoid insolvency.
- the need for directors to have a robust assessment of the financial position of the company and to clearly document decisions, the reasons for these decisions and the advice sought and taken in respect of those decisions.
- the need for such an assessment to be anticipatory over a three year period not just the short term.
- that members of the Executive Group were arguably de facto directors under the legislation and it would be prudent to assume that this was the case.
- that the FRS 17 Pension Liability required careful monitoring and a clear assessment of the liability. The net revaluation being 2010.
- that the status of the Funding Council as a public agency had no relevance to its status as a creditor under the insolvency legislation.

It was agreed that Paul de la Pena would provide a customized note of advice based on the specific circumstances of the University and the comments made at the meeting. (That advice is attached for Governors).

The Board noted the comments of the Director of Finance on cash flow and balance sheet. In particular the likely need for loan finance from the Funding Council. The next Board meeting would receive revised financial forecasts.

It was noted that depending on the timing of repayment of historical holdback the cash position of the University could become inadequate in 2011/12.

**439. HEFCE Holdback - Update**  
(Agenda item BG 33/3)

The Board received an update on discussions with HEFCE and agreed future action prior to the next Board meeting on 18 March 2009. The Board also noted the oral feedback received from the Funding Council Board meeting held that afternoon.

**AGENDA PART TWO**

**440. HEFCE Framework for At Higher Risk Institutions**  
(Agenda item BG 33/4)

The report was noted.

**441. Date of Next Meeting** – 18 March 2009 in the Parker Room, 41-47 Commercial Road, E1 1LA at **5pm.**