

**Minutes of the forty sixth meeting of the Board of Governors held
on 17 November 2010**

Present: Clive Jones – Chair
Yeashir Ahmed
Kathy Castle
Kay Dudman
Katherine Farr
Prof Malcolm Gillies
Rob Hull
Maureen Laurie
Tony Millns
Ann Minogue
Dr Daleep Mukarji
Mark Robson
Dianne Willcocks

In attendance: Sean Connolly, Director of the Programmes Office
Lyn Link, Director of Human Resources
Paul Lister, Deputy Vice-Chancellor (Research and
Development)
Pam Nelson, Director of Finance
Rachel Thomas, Assistant Secretary
Jonathan Woodhead, Executive Secretary
David Lane, Director of Marketing
Paul de la Pena, Eversheds - For presentation

Observer: Muhammad Sadi, Vice-President Students' Union (City Campus)

Clerk to the Board: John McParland, Clerk to the Board

Apologies: Laura Carstensen and Emir Khan Feisal

620. Announcements

It was noted that this was the first Board meeting for the newly elected Academic Board Governor, Cathy Castle, and the first meeting for Dianne Willcocks recently

appointed Lay Governor. The Board also welcomed David Lane, newly appointed Director of Marketing and Muhammad Sadi, Vice-President of the Students' Union as observers at the meeting.

621. Minutes of the meeting held on 29 September 2010
(Agenda item BG 46/1)

The minutes of the meeting held on 30 June 2010 were confirmed as a correct record and signed by the Chair.

622. Matters Arising

Minute 603 - Eversheds Report into the Role of Senior Staff

It was noted that the report had been corrected and released 5 days after the meeting. The Vice-Chancellor expressed his disappointment at the release of the contents of the draft report included in the UCU newsletter, which had been inappropriate.

Minute 583 – Management Information Fee and Debt policy

It was noted that this would be submitted to the next meeting of the Finance and Human Resources Committee.

(Action: Pam Nelson, Director of Finance)

623. Presentation – Directors' responsibilities

The Board noted the comments of the Chair concerning the funding challenges that faced the University and that Governors as Directors of the University would need to be aware both of the risks this posed for the University and the actions required by Directors.

The Board welcomed Paul de la Pena to the Board meeting to explain Governors' responsibilities as Directors. The following points were noted:

- That Governors' duties were the same as for Directors of any company and that it was important to understand the nature of these duties.
- That if a company faced possible future financial difficulties the duties of Directors change and influence their decisions because of the need to mitigate any potential problems that may occur and protect the interests of creditors.
- That there was a possibility of Governors (Directors) incurring personal financial liabilities in the event that they breach their legal duties. However, this rarely occurs in practice, and the Directors can help to protect themselves by taking legal advice as they work through the issues facing the company.
- That the University was not currently in immediate financial difficulty, but because of the proposed changes in government funding it would be necessary for the University to ensure that future income would cover expenditure and in particular that its cash position was adequate. Future solvency is likely to depend, in large part, upon the University having sufficient cash to pay its debts as they fall due.

- That such presentations were not uncommon in financially healthy companies and were provided for information and as a necessary briefing.
- That the legal rules which apply to Directors of a distressed company are known as the ‘wrongful trading’ rules. These provide that if at any point Directors conclude that in the future there is no reasonable prospect of avoiding wrongful trading ie trading when there was no reasonable prospect of solvency, then their duty is to take every step to minimise losses to creditors.
- That the best protection, if at any time Governors concluded that there were any future financial concerns, would be to take the following practical steps:

Meet regularly

Minute decisions

Ensure financial issues were properly understood by the Board and debated, taking into account legal advice on wrongful trading.

Act quickly and take all necessary advice including external advice

The following points were also noted:

- That the key concerns would be:

Cash balances

Adopting an achievable sustainability action plan

Assessing the viability, implementing and monitoring that plan

- That the law recognised that Directors had different levels of responsibility ie someone who has attended a meeting every two months and been provided with information would not have the same level of responsibility as someone providing that information ie an Executive Director with responsibility for finances. This is because section 214(4) of the Insolvency Act provides that a Director must act as a reasonably diligent person having both:
 - (a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions carried out by that Director in relation to the company, and
 - (b) the general knowledge, skill and experience that that Director has.
- That Directors’ responsibilities for a company like the University that was a registered charity and a company limited by guarantee were the same as for any company. Charitable status and educational purpose made no difference to these responsibilities.

It was agreed that it was important for the Board to be aware that its income sources would change and that it may have to operate differently in the future to retain solvency. There was a need for the Board to work closely with the Executive Group to deliver the University’s mission and comply with its fiduciary duties and responsibilities.

The Board thanked Paul de la Pena for his useful presentation.

624. Higher Education Changes and London Met's Response
(Agenda item BG 46/4.1)

The Board received the report on Higher Education and London Met's Response and noted the comments of the Vice-Chancellor including the Browne Review, Spending Review and the Government Response to Browne (David Willetts).

The following points were noted:

That there could be a need to borrow as for capital investment capital funding may no longer be available.

That the Vice-Chancellor would reflect on how decisions would be made and reported. More Board meetings may be required over the next year including an unscheduled meeting in late January/early February. It was proposed that this be held on the date of the scheduled meeting of the Finance and Human Resources Committee on 26 January 2011. The Clerk would canvass Governors for their availability.

(Action: John McParland, Clerk to the Board)

That there were serious issues facing the University and it was right to concentrate on the overall strategy. Initially it would be premature to become involved in too much detail until the actual proposals became clearer through the imminent White Paper. It would also be important to have more discussion on the reaction of the market to these funding issues and also to take account of the determination of the Chief Executive of the Funding Council to protect the "public good". What was being proposed in the Vice-Chancellor's 10 guidelines indicated that the University had the opportunity to distinguish itself within the sector although this transformational change would not be without risks.

The Board stressed that it would be important to remain focused on the University's mission although anxieties remained about handling the uncertainties and what effect funding changes would have on student recruitment. There was a risk in any transformational change that the University would lose its brand identity and it was important to maintain this and for the University to serve the community as it had done in the past. The Board, beside its fiduciary responsibilities, was also guardian of the University's mission.

In reducing costs it would be important to consider the best way of retaining the University's distinctiveness and its core activities.

The Vice-Chancellor suggested that in accordance with Guideline 8 (Partners both "Public" and Private) the University needed to consider its activity as being substitute, parallel or additional and how partnerships might relate to the delivery of these activities if defined in this way. LondonMet could be a brand of activity(ies) delivered through a federated structure including partners. Relations with other providers may be the way to most effectively preserve the

University's mission.

That the courses and the fee levels the University would be offering for 2010 needed to be in place for the UCAS deadline, although the usual deadline had been put back to April 2011 from December 2010. The number of University courses might be reduced as currently c95% of the University's students were enrolled on c100 courses out of c280 offered. It was essential to have a clear plan about the courses on offer by the UCAS deadline. The current Undergraduate Review was addressing this. Partnerships might be a way to retain breadth of provision.

That in late 2008 PricewaterhouseCoopers had conducted a review of the options for the University to inform the preparation of the then Strategic Plan. It was noted that the review would be distributed to Governors for background information.

(Action: John McParland, Clerk to the Board)

The Chair concluded from the debate that there was consensus on the 10 guidelines proposed in the report and overwhelming support for transformational change. It was recognised that reviews would need to be brought forward and the University would need to compare well with changing sector benchmarks to meet new political demands. Communication would be an important issue both internally and externally. The issues raised in the debate would be taken into account as the University moved towards the transformational changes envisaged. This issue would remain a prominent item on future Board agendas.

(Action: Malcolm Gillies, Vice-Chancellor)

625. Financial Forecasts
(Agenda item BG 46/4.2)

The Board received the report on Financial Forecasts together with a comprehensive presentation from Pam Nelson, Director of Finance.

The following points were noted:

That over the period of the forecast grant income dropped substantially and income from all sources would reduce.

That the breakdown of staff costs was set out on page 31 of the report. The Cost Improvement Plan (CIP) had reduced staff FTEs equally across all categories in 2009/10 (see page 66 of the Final Accounts) but now a more strategic approach would be required.

That the fixed /variable costs assumed the same pattern.

That the plan had been costed to reflect net savings.

That the forecasts included repayments to HEFCE. It was noted that HEFCE

could only offer a re-payment period of 3 years whereas a bank loan could be re-payable over a more normal period ie 10 years.

That serious and early action was required now to reduce staff costs to 55% of income and to bring these in line with the sector benchmark. A KPI could be to keep staff costs at 55% of income.

That staff were aware of the financial difficulties facing the University and communications should be open and appropriate in the Vice-Chancellor's address to staff on Monday 22 November.

That many factors were currently unknown such as future tuition fee levels that some broad assumptions had been necessary in the forecasts ie 10% reduction in student numbers. A contingency had been made through the deferring of capital expenditure, in future if necessary.

That the aggregated Holloway Road estate (estimated value of £130m) could be used as security for any future loans.

That there was a risk as all the reviews would not be completed before decisions needed to be made. Financial forecasts were based on assumptions and would be adjusted as further information became available.

That it was important to improve the "retention" rate and a student's experience during the first 6 weeks of a course was crucial if overall student numbers were to be maintained.

The Board agreed that a Sustainability Action Plan was essential and the minimum required to ensure a sustainable future for the University. It was also the necessary concomitant for the transformation of the University and the sustaining of its mission.

The Board approved the financial forecasts for submission to HEFCE and inclusion with the financial statements. The elected staff Governor expressed the opinion that she had not had enough time to consider all the information provided and also wanted to await the outcome of the Strategic Plan reviews. Consequently she wished to be recorded as abstaining from the Board's decision.

626. General Report (Agenda item BG 46/4.3.1)

The Board received and noted the General Report from the Vice-Chancellor.

The following main points were also noted:

Senior Management Changes

That Professor Mull had been appointed as a Conjoint Dean. In addition to his current role as Dean of the Faculty of Architecture and Spatial Design he would also serve as Dean of the Sir John Cass Faculty of Art, Media and

Design for a period of five years.

That Paul Lister would be retiring on 31 July 2011. The Board recorded its thanks to Paul in particular for his work on Data Quality Improvements.

That the announcement about a further retirement from among senior staff would be made at a later date.

(Action: Malcolm Gillies, Vice-Chancellor)

627. Deputy Vice-Chancellor and Deputy Chief Executive
(Agenda item BG 46/4.3.2)

The Board received the report on the Deputy Vice-Chancellor and Chief Executive. The Board requested greater clarity on the roles and reporting lines of the Executive Group and Senior Staff. It was noted that the Vice-Chancellor would provide an organogram for the Board showing how they would be connected to each other and to the Board. Job Descriptions for the two Deputy roles would also be drawn up.

(Action: Malcolm Gillies, Vice-Chancellor)

The Board approved:

1. the discontinuation of the current Deputy posts of Deputy Vice-Chancellor (Academic) and Deputy Vice-Chancellor (Research and Development) from 31 July 2011 or earlier by mutual agreement.
2. the revised and redesignated Deputy posts of Deputy Vice-Chancellor and Deputy Chief Executive from 31 July 2011 or earlier by mutual agreement.
3. that in accordance with Article 9 d a change, from 31 July 2011 or such time as the two Deputy posts were filled, whichever was the sooner, of the Senior Staff, as defined under the University's Articles of Association (2), to comprise of the members of staff as set out below:

Vice-Chancellor and Chief Executive
Deputy Vice-Chancellor
Deputy Chief Executive
Director of Finance
Director of Human Resources
Secretary
4. that in keeping with Article 43 (b), a change, from 31 July 2011 or whenever the two Deputy posts were filled whichever was the sooner of the Vice-Chancellor's proposed membership of the Executive Group, namely the six Senior Staff (as set out in 3 above) and also two Faculty Deans, by rotation.
5. that in accordance with the current Schedule of Matters reserved to the Board the Appointment Panel(s) for the two Deputy posts would include two lay Governors being either the Chair and Vice Chair or two Independent Governors nominated by

the Chair and that the final approval of the Board would be sought for both the proposed appointments in accordance with Article 12 a) vi).

6. that the method of recruitment to these positions would be by using an established search firm.

628. Financial Statements 2009/10
(Agenda item BG 46/5.1)

The Board received the Financial Statements 2009/10. It was noted that all outstanding matters had now been cleared with the External Auditors at the preceding Audit Committee meeting. The final amendments would be made to the accounts as set out in tabled pages 14, 15 and 19 of the Financial Statements. The Board also received the revised tabled Letter of Representation.

The Board on the recommendation of the Finance and Human Resources Committee, and the recommendation of the Audit Committee:

- (i) Confirmed the preparation of the Financial Statements on a going concern basis
- (ii) Approved the Financial Statements
- (iii) Authorised the Chair to sign the Report of the Governors as required under Section 415 (1) of the Companies Act 2006 prior to the Annual General Meeting
- (iv) Authorised the Chair and Vice-Chancellor and Chief Executive to sign the Statement of Corporate Governance, the Balance Sheet of the University and Balance Sheet of the Group as required under Section 414 (1) and (2) of the Companies Act
- (v) Authorised the Chair and the Vice-Chancellor and Chief Executive to sign the tabled Letter of Representation to Grant Thornton.

(Action: Director of Finance/Clerk to the Board)

629. Audit Committee Annual Report
(Agenda item BG 46/5.2)

The Board received the Audit Committee Annual Report. The Audit Committee had reviewed the Annual Report at a meeting prior to the Board. The Chair of the Audit Committee confirmed that the Annual Report had been approved subject to some presentational and minor drafting changes (Minute 273, AC 33/5 refers).

The Board approved the Audit Committee Annual Report subject to the changes referred to above and noted that it would be submitted to HEFCE on 1 December as part of the University's Annual Accountability Return.

(Action: John McParland, Clerk to the Board)

630. Governance Review
(Agenda item BG 46/5.3)

The Board received the report on Governance Review from Tony Millns, Chair of the Governance Committee.

The Board noted the key recommendations as well as the suggestions for further discussion.

The Board also noted the proposed Terms of Reference for the Academic Strategy Committee but agreed that the third term of reference be amended to include policy on access fees and bursaries.

The elected staff Governor welcomed holding an annual meeting between the governors and staff. It was also agreed that the Chair of the Committee and the President of the Students' Union would liaise regarding the Student/Governor Forum arrangements.

The Board supported the proposals set out on page 129 and also approved:

- (a) that the Governance Committee be authorised to approve revised terms of reference for the Committees referred to under Key Issues.
- (b) that the Finance and Human Resources Committee should hold one meeting a year focusing on Human Resources matters. It was noted the Governance Committee would consider this point.
- (c) the membership of these Committees be approved by the Governance Committee
- (d) the revised Committee structure and membership then commence operation at the start of 2011
- (e) the detail of the implementation of the remaining actions under Key Issues be remitted to the Governance Committee reporting back to the Board in January.

(Action: John McParland, Clerk to the Board)

631. Health and Safety Annual Report
(Agenda item BG 46/5.4)

The Board received the Health and Safety Annual report.

Governors were of the opinion that the future reports should be revised setting out the key findings and conclusions in a comprehensive manner and providing an overall opinion on Health and Safety.

(Action: John McParland, Clerk to the Board)

632. Women's Library Council
(Agenda item BG 46/5.5)

The Board received the report on the Women's Library Council.

The Board in accordance with the recommendation of the Governance Committee approved the appointment of Laura Carstensen as Chair of the Women's Library Council.

(Action: John McParland, Clerk to the Board)

633. Management Information
(Agenda item BG 46/6.1)

The Board received the Monthly Management information for the University for the two months to 30 September 2010 and the forecast for the year to 31 July 2011.

The Board noted the Key risks which included:

HEFCE Teaching Grant
Tuition Fees
Pension Costs

The Board also expressed its concerns about the University's investments in Ireland. It was noted that the University could not exit from its current arrangements until February 2011 but deposits with EBA Building Society, Irish Life and Permanent Plc and Anglo Irish Bank totalling £5.5m were guaranteed by the Irish government.

It was agreed that monthly management information would be circulated to Governors by email between Board meetings.

(Action: Pam Nelson, Director of Finance/John McParland, Clerk to the Board)

634. Strategic Plan
(Agenda item BG 46/6.2)

The Board received and noted the progress of the Strategic Plan and the implementation dates for the reviews.

635. Update on Risk Management
(Agenda item BG 46/6.3)

The Board received the report on Update on Risk Management and noted the comments from Sean Connolly, Director of the Programmes Office.

The Board noted the level of assurances given by the Internal Auditors and the management responses to their recommendations. The Board welcomed the fact that

risk management across the University had improved to a level where assurance could be raised from “Limited” to “Satisfactory”.

The Board noted the proposed new arrangements on reporting and also that reports on risk would be expected to be submitted to the Board annually or when any new risk or significant change arose.

The Board also approved the proposed changes to risk reporting as set out in Section 1 of the report.

(Action: Sean Connolly, Director of the Programmes Office)

636. Report from the President of the Students’ Union

(Agenda item BG 46/7)

The Board received and noted the report from the President of the Students’ Union.

The Board was of the opinion that it was not appropriate for the Board to consider the recommendations made by the President on the motions passed by the Student Council which had not been discussed with the management. It was noted that this matter should be dealt with outside the meeting with the Board receiving a summary of the conclusions.

(Action: John McParland, Clerk to the Board)

AGENDA PART TWO

637. The Board noted for information

(Agenda items BG 45/8.1 - BG 45/8.8)

- a) Dates for Future Meetings
- b) Current Membership
- c) Outline Agendas for Next Meetings
- d) Annual Accountability Return

It was noted that the Corporate Planning Statement and Annual Monitoring Statement which formed part of the Annual Accountability Return was in preparation and would be circulated to Governors as soon as possible.

(Action: Sean Connolly, Director of the Programmes Office)

- e) Report from Academic Board
- f) Vice-Chancellor’s Quarterly Report to HEFCE
- g) Update on Road Map for Student Data Process improvement
- h) Guidance for directors on Going Concern and Liquidity Risk

638. The Board noted the unconfirmed Minutes of:

(Agenda items BG 46/9.1 – 46/9.5)

- a) The Minutes of the Finance and Human Resources Committee – 22 September 2010
- b) The Minutes of the Governance Committee 20 October 2010
- c) The Minutes of the Health and Safety Council – 20 October 2010
- d) The Minutes of the Audit Committee – 26 October 2010
- e) The Minutes of the Finance and Human Resources Committee – 3 November 2010

The elected Staff Governor questioned the decisions under Minutes 479 and 480 in respect of Redundancy Payments. The Chair confirmed that while the Committee had deferred decision on policy for the future about the level of payments, a position for the current exercise had been required. That position might not be the one adopted in a future policy when determined.

639. Date of Next Meeting

It was noted that the date of the next scheduled meeting of the Board would take place on Wednesday 16 March 2011 in the Clore Seminar Room, The Women's Library, Old Castle Street, E1 7NT (City Campus) at 5pm. An additional meeting would be convened in January and Governors would be canvassed on their availability on 26 January either preceding or following the Finance and Human Resources Committee taking place on that date.

(Action: John McParland, Clerk to the Board)