

MORLEY COLLEGE LONDON



GOVERNING BODY

Minutes of a Meeting held at Morley College, 61 Westminster Bridge Road London SE1 7HT on Tuesday 19 March 2019 at 4.30 pm.

Present:

Dr Stuart Edwards, External Governor (Chair)
Mr Martin Bamford, Student Governor
Miss Justine Brian, External Governor
Mr Nic Durston, External Governor
Ms Heather Fry, External Governor
Dr Andrew Gower, Principal and Governor
Mr Luke Howson, Staff Governor
Dr Steve Ketteridge, External Governor
Mr Victor Olowe, External Governor
Ms Sara Robertson-Jonas, Staff Governor
Mr Mash Seriki, External Governor
Ms Heather Smith, External Governor
Dr Fiona Stephen, External Governor

In attendance:

Mr Kevin Jones, Director of Finance
Mr Marco Macchitella, Deputy Principal
Mr Nick Rampley, Vice-Principal
Mr Martin McNeill, Clerk to the Governing Body and Company Secretary

Absent:

Ms Pauline Egan, External Governor (Vice-chair)
Ms Marilyn McMenemy, External Governor

RESOLUTIONS

- Subject to securing the required support of funders and strategic stakeholders and to subsequent full due diligence, to work towards a merger in which Kensington and Chelsea dissolves and transfers its staff, assets and liabilities to Morley College London, and to engage with the community throughout this process (Minute 7.5).
 - To appoint Susan Lindsey as a Student Governor, to serve until 30 November 2020 (Minute 9.2)
-

1. Apologies for absence and quorum

Apologies for absence were received from the Vice-chair and from Marilyn McMenemy and accepted. The Clerk confirmed that the meeting was quorate.

2. Welcome, introduction and declarations of interest

The Chair outlined the main issues to be considered at the meeting, following the order set out in the agenda. He had had the opportunity to speak to the Vice-chair and had taken note of her views.

3. Overview of key documents and developments

- 3.1. The Board congratulated the Principal and SMT on preparing an excellent proposal which had set out very clearly the potential benefits to Kensington and Chelsea College (KCC) stakeholders of merger with Morley. The Board noted that the proposal had been submitted on 18 February alongside a stand-alone proposal commissioned by KCC, and had been accepted by the KCC Board following a recommendation from the Evaluation Panel chaired by the FE Commissioner.
- 3.2. The Chair said that he and the Principal had only been informed after the KCC board meeting of the additional £1.6 million in-year deficit revealed in the KCC Chair's letter of 7 March (Item 5a). Since then, conversations had taken place with the KCC Chair and Principal and with the Education and Skills Funding Agency (ESFA)'s Deputy Director (London and South East). There had been earlier discussions with Home Office minister Nick Hurd, who had contacted the Principal prior to the Evaluation Panel meeting. A copy of the stand-alone proposal had also now been provided. There had been some constructive discussions with community representatives, but also some public expressions of negative views outside those meetings.
- 3.3. The Chair went on to propose that, if the Board were minded to proceed, the next stage of the process (Stage 2) should be split into two parts. Stage 2a would involve:
 - revising the financial projections in the light of the new information from KCC and also of Morley's latest financial forecast;
 - working with the ESFA and the Greater London Authority (GLA) to ensure that Morley's financial and property-related 'asks' can be met;
 - gaining a better understanding of community views and conducting some preliminary market analysis to inform the detailed modelling of provision that will form part of Stage 2b. In this context, the Chair observed that the standalone proposal contained a number of curriculum proposals that could potentially be incorporated within the Morley framework and should be explored further.
- 3.4. Due diligence and formal consultation processes would be initiated at Stage 2b if at that point the Board were satisfied that the merger stood a good chance of success and were willing to accept the related risks.
- 3.5. The Board agreed to adopt the approach proposed.

4. SPA (Structure and Prospects Appraisal) evaluation event

- 4.1. The Principal outlined the content of the documents submitted to the Evaluation Panel on 4 March. Most of the information in those documents had previously been reviewed directly by the Board or through the Finance, Resources and Fundraising Committee (as reported in Item 5e). The letter to the FE Commissioner (Item 4a) explained Morley's position in relation to the principles set out by the KCC Board at the outset of the SPA. This position was further developed in the Proposal (Item 4b), supported by the planning worksheets (Item 4c) and the summary of 'asks' (Item 4d).
- 4.2. The Principal explained that the indicative student number projections were a key element of the planning; they were based on the assumption that the College would be able, post-merger, not only to expand its curriculum offer but also, by 2023-24, to increase enrolments at the Chelsea and Kensington centres sufficiently to ensure

delivery of 80 per cent of the planned curriculum (compared with the 85 per cent currently achieved at Waterloo).

- 4.3. Asked about the status of the 'asks' – were they aspirations or 'red lines'? - The Principal said that their importance was well understood by both the ESFA and the GLA; a key role for the implementation group envisaged in the email from the ESFA (Item 5c) would be to take a synoptic view of all eight 'asks' and determine to what extent they could be met. It would then be for the Morley Board to decide whether, over all, the conditions for a successful merger were likely to be satisfied.
- 4.4. Turning to the presentation to the Evaluation Panel (Item 4e), the Principal said that the Chair and he had emphasised two aspects of the proposal: the quality gains that Morley was confident could be delivered through the application of its successful Quality Enhancement Framework; and the three key risks of negative stakeholder reactions, a shortfall in recruitment and loss of staffing stability and expertise.

5. Information available subsequent to the evaluation event

- 5.1. Reviewing the letter of 7 March from the KCC Chair (Item 5a), governors welcomed the confirmation that the KCC Board had passed a resolution to adopt Morley as its preferred partner and the timely update on KCC's financial situation (albeit the actual situation was considerably worse than had previously been believed). The Director of Finance told the Board that he had been working closely with successive finance directors at KCC and there had been no prior indication of this deterioration; the financial projections were based on what he had believed to be a cautious estimate that KCC's deficit might be £200k greater than the £4.4 million originally indicated, and not £1.6 million greater, as now appeared to be the case.
- 5.2. Asked to comment on KCC's analysis of the reasons for the increased deficit, the Director of Finance said that over half of the increase was due to a decision to sub-contract provision worth approximately £1 million. While this would help to preserve KCC's funding allocation (and thus benefit the merged college), KCC's expenditure would increase significantly as around 85 per cent of the income was payable to the sub-contractor, while staffing and infrastructure costs remained the same as they would have been had KCC itself been delivering these programmes. In answer to a question, the Director of Finance confirmed his understanding that the sub-contracts were of short duration and would not impact on KCC's income or expenditure beyond the end of 2018-19.
- 5.3. Other significant contributions to the increased deficit came from a reduction in fee income (particularly from students eligible for Advanced Learner Loans), and increases in both support staff costs and premises costs (the latter including a large element of additional security costs). The support staff costs were high because a large proportion of senior and middle managers were employed on an interim basis, giving KCC a high degree of flexibility but also a much higher cost. KCC had, however, now made a permanent appointment to the post of Vice Principal for Finance and Resources.
- 5.4. Reviewing the Director of Finance's update on the 2018-19 financial forecasts of the two colleges (Item 5b), the Board noted that the latest figures for Morley projected a deficit of £171k for the year, compared with a budgeted deficit of £54k, but was satisfied that action was in hand to improve on this projection. At KCC, steps were being taken through review of curriculum and staffing not only to reduce the forecast deficit for 2018-19 but also to ensure that a realistic delivery model was in place for 2019-20. Governors emphasised the importance of maintaining a strong cash position to enable necessary improvements to be made at the Chelsea site.

- 5.5. It was agreed that the email from the ESFA (Item 5c) was helpful, but fell well short of giving the assurance that the Morley Board required. The Chair said that he had pressed the ESFA for an early indication of whether or not Morley's 'asks' could be met; while no commitment had been given, he believed that officials expected to be able to move forward within eight to ten weeks, and possibly sooner. He emphasised that KCC was being viewed within government as a special case, and there were no precedents to indicate what might be expected by when.
- 5.6. Noting that £70k of transition grant was still available to KCC and that the ESFA was encouraging KCC to work closely with Morley to decide how these funds might best be spent, governors asked the Principal to endeavour to ensure that some of the grant was used to fund the preparatory work outlined in Minute 3.3 above. It was understood that Morley's own request for transition grant would be considered along with the other 'asks'.
- 5.7. The Board then considered a note of the points prepared by the Save Wornington College Campaign (SWC) following their meeting with the Principal and others on 7 March, as well as a letter received on 17 March and claiming to be sent on behalf of 'staff, students and local community of K&CC' calling on Morley governors to halt the merger (Appendix 1). It was agreed that the questions raised by SWC all needed to be, and generally were being, addressed. The Principal said that further meetings with SWC were planned.
- 5.8. Asked to explain the demand in the letter for 'alternative provision from 14 years and upwards', the Principal said that KCC had in the past provided learning opportunities for some 14-to-16-year-olds in partnership with local schools. He understood that these initiatives had not been found to be sustainable, and he did not think that there was a case for Morley providing directly for Key Stage 4 students; it would, however, be important to work closely with schools to raise awareness of the opportunities available for 16-to-19-year-olds through the foundation programmes that Morley would run in Kensington and Chelsea. The Board expressed its support for this approach.
- 5.9. Governors then discussed the views that had been expressed in the letter and through social media from individuals and groups opposed to any merger. They recognised that, despite the close engagement of the FE Commissioner team with community representatives, some of those who were contributing to the debate would not be aware of the details of the Morley proposal; more particularly, many of the social media criticisms of unaccredited learning programmes ignored the fact that many of these programmes provided pathways to accredited learning (and others generated fees that helped to support the full range of learning provision).
- 5.10 The Board agreed that, while there might continue to be opposition to any merger from some individuals and groups within the North Kensington community, the priority should be to conduct a broadly-based consultation, obtaining the widest possible range of views and perspectives, building the trust of community representatives and going on to demonstrate real benefits for local people. Morley had substantial experience of working with local communities in Lambeth to develop community learning programmes, and this would help the College, in consultation with Kensington and Chelsea residents, to identify relevant learning opportunities.
- 5.10. The Board then reviewed the financial and quality issues raised at the committee meetings (Item 5e), all of which would need to be addressed. Four main concerns were identified:
- the timescale for the merger;
 - the reliability of the growth projections;

- the opportunities for risk sharing and the option to withdraw from merger negotiations; and
- the importance of stakeholder communications and engagement.

Timescale

5.11. Governors noted that the proposal document indicated a preferred merger date of 1 August 2019, and asked whether this was achievable, given the need to go through three potentially lengthy processes – due diligence, stakeholder consultation and TUPE (staff transfer) consultation. The Principal said that recent discussions had focused on a target date of 1 November, with a suggestion from the ESFA that a date early in 2020 might be more realistic. The target date should not, however, in his view, be too distant as, given KCC's financial position, it would be vital to work at a rapid pace while still conducting a rigorous review of assets, liabilities and projections and giving proper consideration to stakeholders' views. The Board endorsed this approach, making clear that it was not in a position to assume any additional risk that might result from delay.

Growth projections

- 5.12. A number of governors questioned the growth projections, which at first sight might seem ambitious rather than prudent. The Director of Finance explained that the projections assumed no growth in unaccredited and lower-level accredited provision at Waterloo, and only modest growth in advanced and higher learning. On the basis of past performance, the College should be able to better the growth projections for Morley's existing business.
- 5.13. For the Kensington and Chelsea centres, the baseline projections had originally been based on KCC's latest return to the ESFA, but they had since been adjusted downwards in the light of performance data for the first six months of 2018-19. At North Kensington, student numbers were projected to remain unchanged over the first two years while the building was being renovated; there would, however, be a concerted effort to market a new curriculum for delivery from 2021-22 on, once the works were complete, and that was expected to result in a significant increase in enrolments.
- 5.14. The Director of Finance also made clear that he had assumed that the Adult Education Budget (AEB) grant payable to the combined colleges post-merger in respect of unaccredited learning would remain unchanged. This funding stream offered a high degree of flexibility, with the option to boost total returns by generating additional fee income through increased efficiency, but it was not guaranteed to remain at the same level and might be cut in the event that student numbers fell short of expectations.
- 5.15. A particular concern in negotiations to date with the ESFA had been to maintain healthy cash balances in the first two years following merger as the College developed its new curriculum. The Director of Finance expressed confidence that the ESFA had accepted the importance of this and was willing in principle not only for Morley to retain KCC's remaining cash but also to re-visit this issue should KCC's cash holdings become depleted prior to merger.
- 5.16. Following discussion, governors agreed that the reliability of the projections would need to be further tested through the due diligence process. That would also provide an opportunity to quantify the costs associated with achieving the looked-for growth and to review Morley's capacity to drive through the necessary changes.

Risk sharing and withdrawal options

- 5.17. The Board went on to explore the relationship between the risks being assumed by government agencies and those that would be borne by Morley if the merger were to proceed. Governors acknowledged that in meeting Morley's 'asks' Government would be putting at risk a significant volume of public funding. It followed that it would be keenly interested in the outcomes, and anxious to see the merged college thrive and deliver benefits, particularly for the people of North Kensington, where (the Board assumed) it would have a substantial long-term investment in the form of the (refurbished) Wornington Road building. .
- 5.18. It was therefore unsurprising that the ESFA and other agencies had scrutinised the financial projections closely, and it was encouraging that they appeared to be satisfied with what they had seen. Nevertheless, while this provided some assurance, governors recognised that the onus was on the Morley Board to get the numbers right, as it was Morley and not the Department for Education that would be taking over the assets and liabilities of KCC and committing to deliver a sustainable service at the Kensington and Chelsea centres.
- 5.19. In discussion, governors noted that the balance of risk was very different before and after merger. Up to the date of merger, Morley had some leverage and would be able to walk away if its 'asks' were not met. The Chair reminded the Board that if it were to become apparent at any stage prior to merger that Ask 8 – the overall maintenance of 'good' financial health (see Item 4d) – was likely to be unachievable, for example because of a significant deterioration in KCC's financial position, that might be a reason to withdraw. Thereafter, however, Morley would be exposed to operational risks (such as under-recruitment or cost over-runs) that government would be reluctant to share.
- 5.20. It was essential, therefore, that the business case should be robust. In particular, it must include a full analysis of all the risks – financial, operational and reputational – associated with the North Kensington centre. While the proposal was for Morley to take on KCC as a whole, it might be necessary to consider other options – even to the extent of withdrawing altogether from merger negotiations – if unacceptable risks emerged, if Morley's 'asks' could not be met or if the business case showed the current projections to be unrealistic.

Stakeholder communications and engagement

- 5.21. The need for an effective communications strategy was accepted by all involved. A governor pointed out, however, that for some community campaigners, particularly in North Kensington, the issue of merger was to some extent about the control of a community asset. To engage in a dialogue about the quality and sustainability of provision, or the breadth and relevance of the curriculum available to local people, it would be essential first to build the trust of local communities, paying attention to the views of a range of community representatives and representative organisations and demonstrating Morley's ability to meet local needs.
- 5.22. It would also be important to build a framework for continuing community engagement, recognising that the merger was not just about creating a new corporate structure but also about securing the long-term involvement of new stakeholders; in that sense, the formal transfer of assets and liabilities would represent the beginning, not the end, of the merger process. The ultimate aim should be to have local communities, as well as communities of practice, fully engaged in the co-creation of learning programmes.
- 5.23. The Board agreed that both communications and engagement would be important elements of Phase 2a of the merger process (see Minute 3.3 above).

6. Transition arrangements

- 6.1. The Board approved the transition arrangements set out by the Principal, including the formation of a Merger Project Task Group and a Governors' Joint Transition Committee, and noted the sequence of steps necessary for KCC to dissolve and merge. Asked if heads of terms would be agreed in writing, the Principal explained that the initial agreement between the two colleges would be by exchange of resolutions. Morley governors had the details of the KCC resolution (see Minute 5.1) and any resolution passed at this meeting would be conveyed as quickly as possible to the KCC Board.
- 6.2. It was agreed that the Morley Board should have a further opportunity to consider its merger decision at the end of Stage 2a, following further research and on receipt of clear commitments from KCC and funding bodies to meet Morley's 'asks'. There would, however, be much that Morley would need to do before that point was reached, and the Principal was asked to press for some transition funding to be available, either out of the KCC allocation (see Minute 5.6 above) or as an advance of the transition funding to be paid to Morley at Stage 2b.

7. Resolution

- 7.1. Summarising the discussions, the Chair said that Morley was at a point of decision. The Board must now agree either to proceed to Stage 2a of the merger process or to withdraw. In the latter case, the Board would continue to focus on realising the vision set out in its current (2016-20) Strategic Plan and would begin work on a new Strategic Plan to take the College forward from 2021. But an opportunity for a step change in the scope of Morley's work and its reach across London and beyond would have been lost, probably for ever.
- 7.2. The alternative was to invite the ESFA, the GLA and KCC to consider how they could meet the criteria that Morley had laid down (its 'asks'), to enable the Morley Board to take a decision whether or not to proceed to the next, formal stage (Stage 2b). During this first stage of negotiations (Stage 2a), the Board would need to provide confident leadership, while at the same time listening to community and other stakeholders and keeping in mind the conditions that it had set for progressing to the next stage.
- 7.3. A number of governors spoke in support of proceeding to Stage 2a, noting an additional prerequisite of good faith on all sides; while there was already substantial evidence of this, it might need to be spelled out. Governors also recognised that taking over responsibility for provision in North Kensington entailed significant risks, related to the ownership, configuration and maintenance of the Wornington Road building, the costs of delivering an appropriate curriculum there and the engagement of the local community (see Minute 5.21 above). However enticing the prospects of future growth, Morley should not risk losing the strong brand and reputation and the relative financial stability that it had worked hard to achieve from its existing base.
- 7.4. Asked whether Morley's legal status as a Specialist Designated Institution (SDI) could be jeopardised by a merger with a general Further Education college, the Principal said that the maintenance of the funding arrangements associated with SDI status across the merged college was a condition of merger, set out in detail in Ask 7 (Item 4d). He reminded governors that similar arrangements had previously been contemplated when Morley had been asked to consider merging with Richmond Adult and Community College (RACC) and had been put into effect when RACC had later merged with Hillcroft College.

7.5. Governors then considered the wording of the draft resolution and agreed that it should contain a specific reference to community engagement. Following further discussion, the following amended resolution was passed without dissent:

Subject to securing the required support of funders and strategic stakeholders and to subsequent full due diligence, the Governing Body of Morley College London resolves to work towards a merger in which Kensington and Chelsea dissolves and transfers its staff, assets and liabilities to Morley College London. It further commits to engage with the community throughout this process.

7.6. It was agreed that this resolution should be included in a letter to be sent to the Chair of KCC within 24 hours. The remainder of the letter should be as set out in the draft presented (Item 7b), but with the inclusion of a paragraph expressing a positive view of the alternative, stand-alone proposal that had been considered by the KCC Board (see Minute 3.3 above). This additional paragraph should also make clear Morley's willingness to maintain dialogue with all sections of KCC's local community, as well as the need to consider the long-term sustainability of any proposals that might emerge.

8. Next steps

The Board agreed that, if possible, a joint statement should be issued on behalf of the governing bodies of Morley and KCC within 24 hours, referring to the decisions taken by the KCC Board on 4 March and the Morley Board today, and including an explicit reference to the impact of the Grenfell Tower tragedy on the North Kensington community. Further steps should be taken to set up the transition arrangements as set out in Item 6, subject to the availability of funding where required.

9. Appointment of Student Governor

9.1. In accordance with Article 5.3 of the College's Articles of Association, the Chair invited the Student Governor present to remain in the room for this item, subject to his not taking part in any discussion.

9.2. The Board noted that, in the recent Student Governor election, Susan Lindsey had been returned unopposed. It was agreed that, subject to her completing a declaration of eligibility and to the Clerk undertaking the necessary checks, she be appointed to serve as a Student Governor until 30 November 2020.

10. Other business

None.

11. Date of next meeting

Confirmed as Monday, 1 April 2019 at 5.30.

The meeting ended at 7.10 pm

Martin McNeill
Clerk to the Governing Body

Confirmed as a correct record at the meeting held on 15 July 2019

and signed by.....(Stuart Edwards) (Chair of that meeting)

SCHEDULE OF OUTSTANDING ACTIONS

Minute	Action	Responsible	By when	Progress
19 March 2019				
5.6/ 6.2	Seek early access to transition funding	Principal	ASAP	
7.6	Send amended letter to Chair of KCC, including resolution	Chair/ Clerk/ Principal	20 March 2019	
8.0	Issue joint statement with KCC	Chair/ Principal	20 March 2019	