south essex college
SKILLS | EDUCATION | CAREERS

Policy & Resources Committee

Approved Minutes

Minutes of a Meeting of the Committee held on Monday 4 February 2019 at the Southend Campus at 6.00 pm.

Present:	Dr R Gray (Chairman) Ms O Buck Mr R Launder Ms A O'Donoghue CBE Ms M West
In Attendance:	Mr A McGarel (Deputy Principal & Chief Executive) Ms R Brooks (Head of Human Resources – item 6) Ms S Lane (Deputy Principal, Curriculum & Quality) Ms K Mulvey (Vice Principal, Student Support) Mr S Smith (Vice Principal, Corporate Resources) Mr P Moore (Director of Finance) Mr R I Millea FCA (Clerk to the Corporation)

1. Apologies for Absence

Apologies for absence were received from Mr D O'Halloran (on leave of absence from the Board).

2. Declarations of Interest

The Clerk declared his interest as Clerk of Chelmsford College and as Company Secretary of Essex Shared Services Limited.

The DPCE and Richard Launder declared their interests as Directors of Essex Shared Services Limited.

3. Urgent Business

<u>Insolvency Regime</u>

The Clerk **REPORTED** that the FE College Insolvency Regime came into force on 31 January 2019 and that he is arranging for a copy of the guidance in this regard issued by the DfE to be sent to all Board Members, accompanied by a link to the legislation itself and a copy of the AoC FAQs on the subject.

There will be a training session on this subject, alongside governor responsibilities and governor liability at the Board Development Day on 15 July 2019.

4. Minutes of the Meeting held on Monday 19 November 2018

The Minutes of the Meeting held on Monday 19 November 2018 were **APPROVED** and **SIGNED** by the Chairman.

5. Matters Arising

The Clerk **REPORTED** that the Board had approved the following documents at their Meeting on 3 December 2018 on the recommendation of this Committee:

- HE Annual Provider Review
- Audited Financial Statements for the year ended 31 July 2018 for the College Group and for South Essex Commercial Services Limited

6. Human Resources Report (Paper PRC.19.01)

Staff Absence and Turnover

The Committee **RECEIVED** a Report from the College's Head of Human Resources providing the Committee with information regarding staff absence and staff turnover matching actual experience to KPIs. This is a standing item on the agenda of this Committee.

The **current rolling absence rate** is 8.22 days absence per person per annum against the College KPI of 7 days per person per annum during the twelve month rolling period to 30 November 2018, which is lower than the rolling rate reported in the last Report at the November Meeting (10.18) and the rate last year (11.19).

The actual rate therefore exceeds the KPI for 2018/19 of 7 days per person per annum.

Short term sickness remains a key concern as it equates to 89.3% (November Meeting figure was 86.31%) of absences, the balance being long-term. Short term is higher than in the last Report. Roney Brooks reiterated that reasons for sickness are explored for validity and to ensure consistency of treatment across the College, as well as supporting staff genuinely unwell.

The principal reasons for recent absence have been back & neck problems and stomach infections, followed by neurological issues and colds and flu.
There were 13 incidents of stress reported up to November 2018. This remains a focus of attention.

HR Advisers have targets to review all absence incurred within their areas and develop action plans to effectively manage absence and their work is reported through to the Senior Management Team. The aim is to decrease the overall level of absence.

The **staff turnover** rate for the period to 30 November 2018 was 3.89%. On an annualised basis, this would equate to 15.56%, slightly below the KPI set for this year of 17%.

The AoC Workforce Data Report (published June 2018) indicates vast majority of Colleges report an average turnover of 17.4%.

Following the merger with PROCAT on 1 February 2019, the College now has access to data relating to absence and staff turnover in respect of continuing PROCAT employees and the KPIs established for 2018/19 will be reviewed in the light of the PROCAT information.

Governor questions

Rod Gray asked about staff data of PROCAT. Roney Brooks agreed that their data will need to be examined as a matter of urgency so that SEC can establish how sickness, which may be an issue, is reported. Consistency with SEC practice is important and there may be a need for some training of their staff. Roney said that there are some doubts about their historical data.

Roney agreed to report back on findings at the next Meeting of the Committee on 29 April.

Olga Buck asked about organisational changes consequent on the merger and the PCE explained that each post is being reviewed if the incumbent is leaving. Also, the PCE reported that some staff have left at both Colleges as part of the merger and there is an ongoing review to ensure staffing levels are sufficient but no excessive.

Rod Gray asked if there were any adverse consequences around voluntary redundancy which had been offered in the merger consultation. The PCE said that there was no issues because, if the post is required, then redundancy was not entertained. Individuals have not complained about the outcome of any applications they made under VR. It had been noted that there was some disappointment amongst PROCAT staff who were refused VR as their role was required.

Rod Gray asked about an HR liability case which had been reported by Eversheds in their legal due diligence on PROCAT. Roney Brooks informed the Committee that this matter has been concluded through a signed settlement agreement with the employee.

Roney Brooks also reported that an SEC Employment Tribunal claim remains ongoing. It has been scheduled for a five day hearing in May and concerns a redundancy complaint and alleged sex discrimination. It is believed that the College has a strong case.

The Report was **NOTED.**

7. **Strategic Developments in South Essex** (Paper PRC.19.02)

This item was deemed to be a Confidential Item under the Instrument & Articles and a separate minute has been prepared, which is attached to these minutes.

8. **College Finances** (Paper PRC.19.03)

(a) Management Accounts for the five months ended 31 December 2018

Income & Expenditure Account

Total income to 31 December 2018 amounted to £16.365 million and total expenditure amounted to £17.023 million, giving rise to an operating deficit for the five months ended 31 December 2018 of £658K. After crediting the surplus on the Bursary Fund of £5K, the final deficit amounts to £653K, compared to the budgeted deficit to date of £547K, an unfavourable variance of £106K.

The Committee were reminded that the results in the Management Accounts do not include any adjustments for Pensions accounting in respect of the Essex LGPS and are subject to any final funding adjustments.

The Management Accounts include a detailed Commentary on all major lines of income and expenditure.

The Director of Finance provided a verbal commentary on the variances against the 2018/19 budget. Full details were provided in the paper to Members but the key points are summarised as follows:

- Higher than expected year to date income from Apprenticeships due to the budgeted profile
- Higher than expected subcontracting income, largely offset by additional sub contracting costs
- Staff costs over budget by £122K due to higher agency costs for staff
- Teaching costs are over budget by £154K mainly due to training costs being booked in advance of the receipt of the offsetting income – this should balance out in due course
- Other costs favourable against budget to date with further savings expected through to the end of the year
- Reduced depreciation charges following the sale of Nethermayne

The Director of Finance advised that work is underway to closely monitor staff costs and utilisation. In addition, rigorous monitoring will be required on AEB income and High Needs income from Local Authorities during the year in order to meet the budgeted amounts, which currently are being reported in the management accounts on a phased basis.

Tesco Apprenticeships income has not been met. Tesco have changed their delivery model half way through the year and have delayed their planned Apprenticeship recruitment from January to June 2019. This is one of the difficulties in planning the levy Apprenticeship income. Sarah Lane commented that Apprenticeships are down nearly 50% across the sector this year.

Sarah Lane also commented that some levy payers do not seem to mind paying the levy and treat it as just another tax. This affects the College because they do not pursue the Apprenticeship option even if it might suit them.

Richard Launder observed that the College needs to maintain a strong sales presence in this area and act in a business like fashion in trying to help employers in using their levy and to navigate the bureaucracy.

Rod Gray wanted to know what cost savings are coming out of the merger. The DPCE said that the PROCAT voluntary redundancies are reducing costs for the future and the costs of the redundancies are funded in the TU monies as part of the merger.

The Director of Finance advised that the Financial Health position at 31 December 2018 was Inadequate but is expected to improve to Satisfactory at 31 July 2019 based on the financial plan submitted to the ESFA (incorporating PROCAT) and reviewed by them and the financial support from the TU as part of the merger arrangements.

Balance Sheet

At 31 December 2018, group net assets stood at £77.2 million, including fixed assets of £114.7 million. General provisions of £19.7 million represents virtually entirely the pension liability under FRS102, as calculated at 31 July 2018.

All bank covenants continue to be met (debt service cover and gearing). The current ratio at 31 December 2018 was 1.21.

Outstanding debtors

The Committee were provided with an analysis of outstanding debtors at 31 December 2018 which amounted to £5,135K, of which £3,377K (HE student fees) are not due until February and May 2019.

The College also has Notes Receivable (from Redrow in connection with the Nethermayne Sale) of £21,321K.

The bad debt provision amounts to £358K and is deemed to be sufficient. It was fully reviewed at 31 July 2018 and remains unchanged.

Cash flow forecast 2018-19

Reports on the cash flow of the College continues to be a regular item on the Agenda of this Committee and the forecast for the remainder of this year was provided to Members, incorporating adjustments arising from the merger with PROCAT and the additional finance provided by the Transactions Unit for the merger.

The Director of Finance explained that it is not anticipated that the College will experience any short term cash flow shortfall in the current quarter.

The Committee otherwise **NOTED** the position.

(b) Full Year Financial Forecast 2018/19 and Comparison to Budget

The Director of Finance **PRESENTED** the above paper for consideration by the Committee comprising a reforecast based on the November management accounts compared to the approved Budget for the year.

The forecast shows an expected deficit for the year of £50K against an original surplus of £32K, an unfavourable variance of £82K.

The Paper explained the key elements of the forecast analysed between income reductions and expenditure savings.

The Committee noted the key assumption that the College achieves its Apprenticeship targets and the Adult Education Budget. They also noted the need to control staff costs, especially regarding agency costs, in order to meet the revised forecast.

The forecast will be updated for the next Meeting and will show PROCAT trading after merger as a separate column with a consolidated amount for the merged College.

(c) Learner Numbers and Financial Implications for 2018/19

The DPCE **PRESENTED** a Paper to the Committee outlining the funding for the current year and progress in respect of enrolments in meeting the 16-18 student number target.

Learner numbers are currently 4720 on the ILR against learner allocation of 5010. A further 85 learners from PROCAT need to be added to the system, which will increase our total to 4820, 205 learners short of the allocation.

The DPCE indicated that, in the light of this information, it is unlikely that the College can reach the allocation of 5010 in which case there will be a reduction to our income in 2019/20 under the lagged funding model. This is likely to be in the region of £750K-£1m.

Shortfall planning is in hand for January and April in short courses focusing on employability skills for transition into employment or progressing to further training.

HE enrolments are currently 701 against a target of 723, however there has been a significant increase in full time student enrolments which, in turn, has led to an increase in projected income, despite the reduction in head count.

19+ learner numbers cannot be judged at this stage but recruitment is planned throughout the year. Some provision has been contracted out to partners. Achievement against his budget line is subject to very close monitoring throughout the year so that there is no under achievement.

The Committee **NOTED** the position and **ENDORSED** the planned actions for 2018/19 regarding maintaining and increasing recruitment to all strands of the College's provision.

In answer to governor questions, the DPCE said that the College will produce a separate ILR for the rest of this academic year for the PROCAT part of SEC/PROCAT. The College 16-18 allocation next year will be combined as SEC plus PROCAT.

The Committee noted that there is an impact due to Adult Education Budget devolution on next year's budget re PROCAT amounting to over £250K, because the London Mayor is now responsible for the AEB budget for London residents. Many PROCAT students were London based students. This is a significant reduction.

(d) Review of Treasury Management Policy

The Committee **RECEIVED** a Paper prepared by the Director of Finance updating the above Policy and the revised Policy was **APPROVED**.

The Committee **NOTED** that the main changes were a greater emphasis on risk and the authorised signatories table being updated to reflect the delegated authority schedule which forms part of the financial Regulations of the College. The Policy reflects the current guidance in CIPFA's Treasury Management Code of Practice.

(e) Lennartz Update

The DPCE **REPORTED** at the September Meeting of the Committee that a decision in respect of the Lennartz VAT case which is being led by Colchester Institute on behalf of 17 FE Colleges was announced wherein HMRC have rejected the Application by the Colleges to the proposal that VAT should not be paid on buildings on the grounds that the premises are for educational purposes and therefore exempt from VAT. This is the situation with schools.

The consultants acting for the Colleges consider the decision and the reasoning to be flawed and the Colleges are considering an Appeal to a higher judicial authority.

A further case involving Wakefield College (the alternative decision) has been considered by the High Court (higher court than HMRC Tribunal) and has rendered a decision contradictory to the Colchester case decision. This was reported to the Committee in November.

The full background to this issue and potential impact is itemised in the minutes of the last Meeting of this Committee.

The updated position, following a Meeting between the College and VATAngles, the College's consultants in respect of this issue, which took place on 28 January, was considered by the Committee, written copies of the consultants' advice having been provided to Members.

After considerable discussion, the Committee **AGREED** to apply for judicial review of the original decision – this has to be done by Wednesday 6 February – and that Counsel be engaged with a cap on fees of £20,000 +VAT to investigate the position of the College if this should be pursued. The Committee recognised that full judicial review is a complex and potentially very expensive process.

The point of the judicial review would be to have HMRC's alternative decision (the Wakefield decision) revised so that the College could be reimbursed rather than the current position of HMRC, which is that 'even if you are correct, we should not have to pay you'. The claim amounts to £755,328.

Richard Launder asked if this action could be bundled with other Colleges and the DPCE said that our action in this matter to date has been with other Colleges. The judicial review possibility is for us alone.

Otherwise, the Committee **NOTED** the position.

9. Committee Matters

The Clerk **REPORTED** that he has received all Self-Assessment Checklists for 2017/18 from members and there were no major issues arising from the checklists.

The overall grade awarded by Members was 1.5 (midway between Good and Outstanding) in line with last year. The only comment at grade 3 was one member who felt that there was not always sufficient time in Meetings to cover the items on the Agenda in sufficient detail.

10. Forthcoming Events (Paper PRC.19.04)

The Clerk provided details to the Committee of Forthcoming Events in the College.

11. Dates of Next Meetings

- Monday 29 April 2019 – Thurrock Campus at 6.00 pm.
- Monday 24 June 2019 – Southend Campus at 6.00 pm

There being no further business, the Meeting terminated at 7.50 pm.

Signed……………………………………………………….Dated………………….