CITY OF WOLVERHAMPTON COLLEGE

Minutes of a Meeting of the Board of Governors held on Monday 24 July 2023 at 5pm via Teams

PRESENT

Mr Mark Taylor - Chair	Mr Mal Cowgill – Principal and CEO
Mr Clarence Crosdale – from 5.25pm	Ms Wendy Harris
Mr Scott Thompson – from 5.15pm	Mr Ian Gardner
Mr Trevor Dutton	Ms Dionne Barrett
Mr Sam Duru	Mrs Amanda Tomlinson
Ms Anya Luis	

IN ATTENDANCE

Mr Peter Merry	Deputy Chief Executive
Mrs Louise Fall	Deputy Principal
Mr Andrew Woodford	Director of Finance
Mr Mike Dixon	Assistant Principal
Mrs Alison Buick	Head of Governance
Mr Gabriel Gregorini	Student Governor Designate

The Chair welcomed all to the meeting and noted that this would be the last meeting for Clarence Crosdale and Anya Luis. Governors were also informed of the recent resignation of Nisha Rai. Thanks were expressed to all three Governors for their contributions to the work of the Board and its committees.

Governors were introduced to Gabriel Gregorini, newly elected Student Union President and Student Governor for 2023/24.

45/23 APOLOGIES AND DECLARATIONS OF INTEREST (ITEM 1)

Apologies were received and accepted from Mr Mike Hastings, Mr John Bradford, Mrs Hshaana Knight and Ms Lindsey Flynn, as well as Ms Lynn Parker.

There were no declarations of interest. The Chair noted his usual conflict of loyalty as an employee of City of Wolverhampton Council.

46/23 MINUTES AND MATTERS ARISING (ITEMS 2 AND 3)

It was resolved that the confidential and non-confidential minutes of the meeting held on 19 June 2023 be approved.

Previously agreed actions had been completed as the slides of the recent Campus Transformation Oversight Group had been circulated and the Deputy Principal had provided information on EDI as requested.

47/23 CORRESPONDANCE (ITEM 4)

The following items of correspondence had been received and circulated to Governors ahead of the meeting:

- Further Education Commissioner Termly Newsletter Summer 2023;
- DfE T Levels Letters;
- Apprenticeships Accountability Frameworks Letter;
- DfE Funding Letter; and

• UCUU Notification of Dispute.

The correspondence was for information. However, Governors were asked to note that a meeting was to be held with DfE to discuss apprenticeships and that AOC had provided a template letter to colleges that wished to respond to the UCU notification, as this related to a national issue and not a local one. The Principal was considering his response to UCU.

48/23 STRATEGY (ITEM 5)

It was agreed that there would be some movement in the order in which the agenda items were considered.

Debt Consolidation

The Deputy Chief Executive made some introductory remarks noting the background and the work to date to bring the current proposal to the Board for approval. There had been much ongoing engagement with a range of stakeholders.

The Director of Finance gave a summary of the current position and Governors were asked to note:

- The college had been in discussion since the re-classification of colleges back into the public sector in November 2022, and the proposal was to consolidate all debt with DfE;
- The current debts were in two parts, related to Barclays and the Re-Structuring Funds added when the Transaction Unit deal was completed in 2018;
- There was a breakage fee payable to Barclays, the valuation of which would only be confirmed on the date of the transaction. Estimated values were noted;
- The college had submitted a Business Case to DfE in October 2022 and had updated this in April 2023, following re-classification. DfE had taken their proposal, which differed to that of the college, to a Financial Cases Committee and it had been approved on 31 May 2023;
- The repayments schedule was set out in the written report and the interest rate was pegged to the Public Loan Works Board;

(Scott Thompson arrived at 5.15pm)

- A condition of the new loan was a charge over Paget Road, in addition to that already in place for Wellington Road. It was also expected that DfE would receive around £4.8m of funds from the planned sale of Paget Road in due course;
- Legal charges currently held by Barclays over Paget Road, Wellington Road and Metro One would all be released on completion of the re-structure;
- A completion date of 25 July was proposed, subject to Board approval;
- Late on 21 July, solicitors had sent through a range of documents, all of which had been forwarded to Governors for review. The EMT had gone through them in some detail before this meeting. Some areas had been clarified but EMT confirmed that they were now happy with the contents;
- There were four areas for approval at this meeting and other parties had provided specific wording for the required resolutions. The areas were:
 - 1. Approval for the Principal and Deputy Chief Executive to take a call on 25 July 2023 to agree the final Barclays breakage fee;
 - 2. The Chair to approve the minutes of this meeting in the wording provided and previously circulated, for both the repayment of the Barclays loan and the commencement of the new loan arrangement with DfE;

- 3. The Chair to sign the DfE amendment letter to include the Re-Structuring loan as part of the overall DfE loan;
- 4. The Principal and Chair to sign the new loan agreement and for the college seal to be applied.

Questions and comments were invited.

The Chair noted that it was important for the Barclays issue to be resolved to allow the college to move ahead with other plans including CLQ.

A Governor asked if there would be any covenants under the new arrangements and the Deputy CEO confirmed that there would not.

The work of managers to reach this position was noted and thanks were expressed.

(Clarence Crosdale arrived at 5.25pm)

Governors noted that the expected sale proceeds from Paget Road were to be used to repay the debt rather than be invested into the new CLQ building. The implications of this were considered. Management confirmed that this had been discussed with ESFA as a potential issue.

A Governor asked whether consolidating the debt would result in an overall saving for the college. The Deputy CEO expected that there would be savings, but exact figures would not be confirmed until the transaction date. A key benefit of the new arrangement would be the removal of the Financial Notice to Improve. It was also hoped that DfE would have a more flexible approach than Barclays and that this would have a positive impact on the CLQ plans.

The Chair re-iterated the approvals required and the wording that had been requested:

Resolved – that Governors approved the four recommendations made, including;

A £10,790,937.31 Term Loan Facility provided by Barclays Bank UK PLC (the "Bank") to the Borrower pursuant to a facility agreement dated 10 December 2007 (as amended, varied or restated from time to time) (the "Fixed Rate Loan").

On 1st April 2018, Barclays Bank PLC was substituted by Barclays Bank UK PLC ("Barclays," "we", or "us") as Bank under the Facility Agreement pursuant to or in connection with a ring fencing transfer scheme ordered pursuant to Part 7 of the Financial Services and Markets Act 2000 (as amended).

There was produced to the meeting details of the indicative fixed rate breakage costs (the "Indicative Breakage Costs") as set out in the Live Termination Indicative Breakage Cost (or Gain) Information Sheet dated 3 July 2023 (the "Live Termination Indicative Breakage Cost (or Gain) Information Sheet") relating to the termination of the fixed rate applicable to the Fixed Rate Loan (the "Fixed Rate").

It was acknowledged and understood by the Borrower, that whilst the Borrower has been provided with the Indicative Breakage Costs, these are indicative only and are subject to fluctuations in line with market conditions current from time to time and the actual amount of breakage costs or gains arising in connection with the early termination of the Fixed Rate can only be determined at the point at which the Fixed Rate is actually terminated.

Having carefully considered the Indicative Breakage Costs, all other information contained in the **Live Termination Indicative Breakage Cost (or Gain) Information Sheet** and any associated risks and costs (actual or potential),

IT WAS RESOLVED:

1. that termination of the Fixed Rate and prepayment of the Fixed Rate Loan (including any associated risks) is in the interests of and for the benefit of the Borrower and is most likely to promote the success of the Borrower for the benefit of the members as a whole and that termination of the Fixed Rate and prepayment of the Fixed Rate Loan be approved and accepted;

2. that the Borrower has considered whether it needs to obtain professional independent advice (legal, financial or otherwise), prior to resolving to terminate the Fixed Rate and prepay the Fixed Rate Loan (whether on the basis of such advice or otherwise) and it has made its own independent decision to terminate the Fixed Rate and prepay the Fixed Rate Loan and understands the risks involved including, without limitation, that the actual amount of breakage costs or gains arising in connection with the early termination of the Fixed Rate are likely to be different to the Indicative Breakage Costs set out in the Live Termination Indicative Breakage Cost (or Gain) Information Sheet;

3. that all costs, fees or other amounts payable in connection with the termination of the Fixed Rate and prepayment of the Fixed Rate Loan, including, without limitation, the fixed rate breakage costs will be payable by the Borrower and are acknowledged, approved and accepted;

4. that a prepayment notice be sent to the Bank confirming the Borrower's intention to prepay the Fixed Rate Loan (the "**Prepayment Notice**") with effect from the termination of the Fixed Rate;

5. that both Malcolm Cowgill, Principal and Chief Executive, and Peter Merry, Deputy Chief Executive, are irrevocably authorised (but either of them may act alone) to verbally confirm on behalf of the Borrower:

- a. that the Borrower agrees the sum of the fixed rate breakage costs (or gains) associated with the termination of the Fixed Rate;
- b. that the Borrower instructs the Bank to terminate the Fixed Rate; and
- c. that the Borrower instructs the Bank to prepay the Fixed Rate Loan comprising the fixed rate breakage costs (or gains) and the loan repayment amount

on a telephone call with the Bank and the Borrower acknowledges and agrees that such verbal confirmations shall be legally binding on the Borrower and shall be effective from the point at which such verbal confirmations are given;

6. that either of the persons named in paragraph 5 above is permitted to acknowledge the terms of the call referred to in paragraph 5. above, by replying to an email and any associated documentation received from the Bank setting out the details of the call, including but not limited to the breakage costs or gains (as applicable);

7. that termination of the Fixed Rate and prepayment of the Fixed Rate Loan as set out in paragraph 5 above, is in accordance with any requirements applicable to the Borrower pursuant to its constitutional documents and/or rules; and

8. that the Bank is authorised to act in all matters concerning the termination of the Fixed Rate and prepayment of the Fixed Rate Loan upon instruction from either of the persons named in paragraph 5 above, or the Borrower, in its capacity as borrower under the Facility Agreement, signed in accordance with the Bank's mandate for any of the accounts of the Borrower held and current from time to time.

- B The Governors noted that one of the items for which the meeting had been called was to consider and if thought fit approve a circa £6,169,137.04 committed secured term facility agreement between the College (as borrower) and the Secretary of State for Education (as lender) (Lender) (Facility Agreement) for the purpose of the refinance of all present and future obligations due, owing or incurred by the College to Barclays Bank plc (Bank) under the term facility agreement made between the College and the Bank dated 29 March 2018 (as amended, varied, restated or otherwise modified from time to time).
 - 1. The following documents were tabled at the meeting:
 - 1.1 The commercial terms and conditions of the proposed Facility Agreement as set out in a term sheet dated 4 July 2023 (**Term Sheet**);
 - 1.2 The Facility Agreement; and
 - 1.3 The Finance Documents (as defined in the Facility Agreement) (together **Documents**)
 - 2. Each of the Governors present confirmed that they had had the opportunity to review the Documents.
 - 3. It was noted, in particular, with regards to the Facility Agreement that:
 - (i) the exact value of the Commitment (as defined in the Facility Agreement) is not at this moment known. This is due to the fact that the indicative breakage cost (or gain) payable to (or from) Barclays is at this stage indicative only and will fluctuate due to market movements.
 - (ii) all indebtedness under the Facility Agreement would be secured by the grant of a first fixed legal charge granted by the College in favour of the Lender in respect of the premises known as Paget Road Campus, Paget Road, Wolverhampton, WV6 0PU and registered at Land Registry with title numbers WM685744 and WM690816.
 - 4. The Governors then discussed in detail the reasons for and the transactions contemplated by the Facility Agreement.
 - 5. Those present at the meeting carefully considered the Documents and, in particular noted the terms and conditions upon which the Facility would be available and the security referred to therein. After due and careful consideration,

IT WAS UNANIMOUSLY RESOLVED that:

5.1 the College should accept the offer of the bank facility made by the Lender and that the terms of, and the transactions contemplated by, the Documents be and are hereby approved;

- 5.2 that any of the Chair of the Board of Governors and the Principal be and is hereby authorised to agree (including without limitation any amendments, modifications, variations and alterations whatsoever) the form of and sign (or execute and deliver in the case of a deed by affixing the common seal of the College in the presence of two witnesses or otherwise in the matter required by the College's constitutional documents from time to time) the Documents and any other documents ancillary to, or to be entered into by the College in connection with, the Documents (**Ancillary Documents**) on behalf of the College (subject to such as those signing the same on behalf of the College think fit); and
- 5.3 to approve the College entering into the final form of the Documents and any Ancillary Documents.

Pay Award

The Principal commented on the proposal in the written paper that had previously been circulated and on which Governor views had previously been sought. Positive responses had been received.

The proposal was for 3.5% backdated to 1 February 2023 for all currently employed staff including senior postholders. This was included within the budget for 2023/24 and was deemed affordable.

The Chair added that he wished Governors to consider making the same pay award to the Principal.

Resolved – that Governors approved a 3.5% pay award for all staff including the Principal and Senior Postholders, and that this should be backdated to 1 February 2023

Property Update

The Deputy Principal gave an update on property matters, noting that they had previously been discussed with the Campus Transformation Oversight Group (CTOG). Slides from this meeting had been circulated to all Governors. Of particular note were the following:

St Peter's School

DfE were funding a re-furbishment of the school and had requested the lease of a part of the land at Paget Road to facilitate the works. This was for two years from 1 August 2023 at a peppercorn rent and with an option to extend for a further 12 months on a one month rolling basis.

The management team had considered a number of factors as the proposal had both advantages and disadvantages from the college perspective. It was proposed that the lease be granted subject to the resolution of issues as stated in the written paper. Governors were asked to approve in principle the Heads of Terms for the lease and for agreement for a Chair's Action to agree the lease once details had been confirmed.

Governors noted that as the college was an exempt charity, best value was a consideration.

A Governor noted that DfE had requested an increased parcel of land from that originally stated, and asked whether there was risk of a further increase being

requested. The Deputy Chief Executive responded that this was unlikely. The land was to facilitate the works compound temporarily.

Resolved – that Governors approved the Heads of Terms for a lease of land at Paget Road to DfE and approved Chair's Action to agree the lease during the summer period.

CLQ

There remained a funding gap for the CLQ project and management continued to look at solutions for this, including with DfE and DLUHC. It had been hoped that the City Council Cabinet would grant approval for the project, but this was not possible until the funding was agreed. Possible future dates for Cabinet approval were 6 September or 18 October 2023.

If approval was given in September, a contract could be signed by the end of the month with CLQ completion by July 2025. This was a tight timescale for opening in September 2025, but potentially possible. Approval being delayed to October made this timescale more challenging.

The college's preference was to request approval at September's Cabinet but it was recognised that there was significant work to complete all the required information by the Council deadlines ahead of this.

The Chair asked whether the CLQ building would be handed over fully fitted out and ready for use. The Deputy Chief Executive stated that this would depend on the agreement with the contractor. The college may choose to do some of the fitting out itself.

It was noted that the timescales were extremely tight but that the Cabinet could agree to hold a special meeting to consider the project if necessary. This could be an option if meeting early September deadlines was difficult

Governors discussed the significant amount of work needed and the risks to not having all information in line, particularly around funding. Cost certainty was currently a concern. The City Council would be managing the project, so the college was not fully controlling this. Value engineering and funding opportunities were being explored and these were explained. Bridging the funding gap was critical. There were regular meetings with the Council and attended by the Principal and Deputy Chief Executive.

NCATI

There had been a meeting of the Rail Task and Finish Group the previous week, and the slides from this were shared on screen. The college's general strategy for Rail provision was noted.

WMCA were keen to expand the successful provision in Wolverhampton across the region. However, DfE had not made a decision on the future use of the NCATI building in Birmingham.

The discussions at the Task and Finish Group had covered:

- the Rail strategy across Wolverhampton, Coventry, Birmingham and Dudley;
- Investigation of a suitable site in Coventry;
- Acquiring existing purpose built space at BCIMO in Dudley;
- Taking over the NCATI building at a peppercorn rent, if offered it;
- The potential returns on investment;

The need to look for alternative premises in Birmingham if NCATI was not offered.

Governors noted that the Task and Finish Group had asked detailed questions about NCATI, and these, together with management responses, were shared with the Board. It had been agreed to model different scenarios so that the financial impact was better understood. The Director of Finance confirmed that the scenario planning for three options and a base case had been completed as requested. Details were shared on screen and explained.

A prudent view had been taken for income, costs, margins and contribution levels.

Governors discussed the risks associated with each scenario.

It was noted that other local colleges did not have or intend to have rail provision, so there was limited competition for this. There were benefits for the college in terms of increased income and enhanced reputation.

A Governor asked about potential student numbers and the assumptions for these within the scenario planning were explained.

The Task and Finish Group had considered the risks that WMCA may not fund the provision beyond 12 months. However, it was felt that the commitment to investing in jobs for rail and HS2 did mitigate this to at least some extent.

A Governor asked if there was potential for further expansion if the strategy was successful. The Principal stated that EMT had not considered this but that any such plans would be brought to Board for approval if felt appropriate.

Governors asked for more details about BCIMO, including who the college may share the site with. The facilities were outlined. It was expected that the college would use half of a floor.

The recommendations of the Task and Finish Group were considered.

Resolved – that Governors approved the regional expansion of rail provision and to work with the WMCA to successfully deliver the original vision for NCATI through the proposed distributed delivery model.

SDIP Refresh

Governors were asked to note that the strategy had been in place for some time and had been updated. It would be brought back to a future Board meeting with the updated KPIs.

Budget 2023/24

The Director of Finance referred to the report that had been provided and highlighted the following key elements of the proposed budget:

- £6.3m of increased income was planned, of which £4.5m related to rail provision;
- There had been an ESFA uplift for 16-19 provision, amounting to around £900k;
- DfE had recently announced an additional allocation of funds for recruitment and retention of staff. Exact figures were to be confirmed. EMT would consider how it could be used to fund future pay awards;
- Budgets for Advanced Learner Loans and HE fees had been reduced down to reflect levels in 2021/22;

- The HR team was looking at ways to recruit and retain staff. Future pay awards would be considered when the budget re-forecast was done in mid-year;
- There was a £5.2m increase in budgeted non-pay costs, of which £3m related to new rail provision;
- The budgeted operating surplus of £0.3m was similar to the current year;
- There was sustainable growth in predicted cash;
- There was £1.3m of DfE capital funds plus a further £600k of committed college funds. Capital expenditure would only be agreed where cashflow permitted. Spend on IT was expected;
- It was expected that the financial health score would be at the top end of Requires Improvement after re-calculation when the debt re-financing was complete.

Resolved – that Governors approved the 2023/24 Budget.

Partnership Plan

The Deputy Chief Executive referred to his written paper. Tables showed the position for the current academic year. Partner performance was generally very high. There had been growth in rail.

Increases in contract values were noted and required approval. There had also been some minor variations in community learning delivery, but these did not need approval.

The partnership proposals for 2023/24 were outlined but noted as being subject to completion of business cases.

The Subcontracting and Partnerships Policy was presented for approval. There were minor changes from the previous version. It was noted that the outcome report from the mandatory audit had been considered at the recent Audit Committee.

A Governor commented that a significant proportion of partnership activity was with one partner and asked about the risks in this. The Deputy Chief Executive confirmed that this had been discussed with the Audit Committee and was included in the Risk Register. Growth in rail was at the request of WMCA due to previous success. EMT was conscious of the associated risks.

Resolved – that Governors approved the increases in contract values as requested and the proposed contracts for 2023/24 subject to business cases being completed. Governors also approved the Subcontracting and Partnerships Policy, subject to some changes to wording in the section on Contingency Planning. <u>Action</u>: Deputy Chief Executive.

49/23 COLLEGE UPDATE REPORT (ITEM 6)

1. Student Engagement

Applications Update

The Deputy Principal commented on her report and noted the following:

- There had been a 31% increase in 16-19 applications compared to the previous year. There had been good attendance at the recent Discovery Day, so it was hoped that actual enrolments would be high;
- There had been a change to the block enrolments process this year, with all students now attending for a full day;
- Applications for all curriculum areas were strong although some were being monitored;

- 230 High Needs places had been allocated by the Local Authority and the college was on track to fill all of these;
- Adult applications were also high, with Early Years, Computing and Beauty being particularly popular;
- HE numbers had dropped since the pandemic and the offer was being reviewed for 2024/25.

Safeguarding Policy and Procedures 23/24

The Deputy Principal noted that there were very minor changes to the policy but that it was required to be approved annually.

The Chair thanked Clarence Crosdale for his work as Safeguarding Link Governor and noted that Dionne Barrett had agreed to take over this key role. This change was reflected in the updated policy.

Resolved – that Governors approved the Safeguarding Policy and Procedure 23/24

2. Student Success

Curriculum Update

The Assistant Principal referred to his written report and highlighted the following for Governors:

- Overall retention was 94%, similar to last year;
- Results were awaited but 84% achievement was predicted. There were some concerns about Level 3 results post Covid;
- Attendance at GCSE exams was high, at 90% for Maths and English;
- Outturn for Apprentices was currently 39%, but there were quite a few at EPA and Gateway, and the final outturn was predicted to be 55%. This was higher than last year;
- Overall attendance for the year was 85%, which was higher than last year;
- Over 3000 destinations had been recorded. Data was still being processed, but results overall were positive. Some students were recorded with negative destinations if they were on gap years prior to HE

(Mike Dixon left at 7.20pm)

Business Success

Management Accounts - May 2023

The Director of Finance presented the report and highlighted key points including variances in relation to income and pay and non-pay budgets. There had been several updates since the May position, including the pay award.

Governors noted the following:

- Cash balances remained positive, although around £1.3m related to advance capital funding to be spent in 2023/24;
- A re-forecast to year end had been completed and showed an operating surplus of £244k.

The Board of Governors received the Management Accounts to May 2023.

Tuition Fees Policy

The Director of Finance stated that the policy required annual approval. There had been a small number of changes. Section 4.5 confirmed that fees would remain the

same for 2023/24. Section 5.3 reflected the low wage fee remission threshold change made by WMCA.

A Governor asked about the impact of fee remission and it was confirmed that this was minimal due to the low number of students that paid directly. The policy was a requirement but it had no material impact on the college.

Resolved – that Governors approved the Tuition Fees Policy

Health and Safety Update

The report had been provided for information. There had been no increase in incidents reported, although the number of near misses had risen. The biggest risk was the number of action points from audits and inspections that had not been recorded as completed.

Martyn's Law had brought in some new compliance requirements and obligations for maintaining public safety. The college was reviewing these.

Procurement of Occupational Health Services

It was reported that a new contractor had been appointed from September 2023.

50/23 COMMITTEE REPORTS (ITEM 7)

The minutes of the following recent meetings had been circulated:

- Campus Transformation Oversight Group (CTOG) 12 June 2023;
- Apprenticeships Task and Finish Group 29 June 2023;
- Search and Governance Committee 3 July 2023.

It was also noted that the Remuneration Committee had met on 3 July 2023 and that the Audit Committee had met on 12 July 2023. The recommendations of the Audit Committee to approve the Internal and External Audit Plans were outlined.

Resolved: that the Internal and External Audit Plans were approved.

51/23 ANY OTHER BUSINESS (ITEM 8)

UCU Letter

A Governor asked whether there were any risks in relation to the UCU letter received. The Principal stated that it raised national and not local issues so he would consider a response.

Appointment of new Governors

The Head of Governance noted the vacancy for a member and Chair of the Apprenticeships Task and Finish Group following the resignation of Nisha Rai. Interested Governors were asked to contact the Chair.

There had been a recent recruitment exercise carried out with support from Peridot Partners. Following this, the Search Committee wished to recommend the appointment of three candidates for the current vacancies, including that recently created through Nisha Rai's resignation.

Resolved – that Governors approved the appointment of Simon Evans, Jane Carter and Darren Shaw as Co-Opted Governors, each with a four-year term of office commencing on 24 July 2023.

The Chair noted that with the ending of Clarence Crosdale's term of office, there was a vacancy for a Vice Chair. Amanda Tomlinson had expressed interest in this position. There had been no other nominations.

Resolved – that Governors approved the appointment of Amanda Tomlinson as Vice Chair.

As Governors were aware, this had been the final meeting for both Anya Luis and Clarence Crosdale. Anya was leaving college and handing over to Gabriel Gregorini. Clarence was retiring after more than 12 years as a Governor, in a range of valued roles. Governors expressed thanks to both for their work as Governors and wished them well for the future.

52/23 CONFIDENTIALITY (ITEM 9)

It was resolved that the following reports would remain confidential:

- Debt Consolidation
- Partnership Update
- CTOG Minutes 12 June 2023
- Apprenticeships Task and Finish Group minutes 29 June 2023

53/23 DATE AND TIME OF NEXT MEETING (ITEM 10)

Board of Governors – Monday 18 September 2023 at 5pm on Teams

The meeting ended at 7.55pm.