Leicester College

AGENDA REFERENCE
A1

CORPORATION/COMMITTEE PAPER

Finance and General Purposes Committee

5 May 2021

TITLE	**Minutes of the previous meeting held on 3 March 2021**

PURPOSE	**To receive, agree and approve the minutes of the previous meeting held on 3 March 2021**

RECOMMENDATION	**Governors are requested to note the minutes and agree their accuracy**

No. of pages in main paper	9
Appendices/Annexes	None
Financial Implications	None
Risk Implications	Failure to follow agreed and proper practices
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MINUTES OF A MEETING OF THE BOARD OF LEICESTER COLLEGE CORPORATION:

FINANCE AND GENERAL PURPOSES COMMITTEE HELD ON 3 MARCH 2021

(Meeting held online via MS Teams)

Present:	Danielle Gillett (Chair)	Chan Kataria
	Tim Gray (items 9-15)	Jonathan Kerry
	Verity Hancock	Ed Marsh
	Brigitte Heller	Caroline Tote
In Attendance:	Louise Hazel	Director of Governance and Policy
	Shabir Ismail	Deputy Principal/CEO
	Della Sewell	Director of HR

Ed Marsh was welcomed to hist first meeting.

1 DECLARATION OF INTERESTS

1.1 There were no declarations of interest.

2 APOLOGIES FOR ABSENCE

2.1 There were no apologies for absence. Tim Gray would join the meeting late.

3 MINUTES OF PREVIOUS MEETING AND MATTERS ARISING

3.1 **The minutes of the meeting held on 3 December 2020 were received and agreed subject to one minor typographical amendment.**

3.2 **The Confidential minute of the meeting on 3 December was received and agreed.**

3.3 As a Matter Arising from the confidential minute it was clarified that the College could use a written resolution and therefore would do so if needed.

3.4 As a Matter Arising from the October 2020 meeting, the Director of HR reported on the number of staff trained in 2019/20. This included 549 undertaking digital skills training; 513 undertaking wellbeing sessions including Mental Health First Aid training; 368 taking management and soft skills training including equality and diversity and behaviour management; and 88 participating in external events on leadership, technical/vocational training and T Levels. Twenty staff had undertaken apprenticeship programmes funded through the Levy.

4 FINANCE REPORT (PERIOD 6) AND SPRING TERM REFORECAST

4.1 The Deputy Principal presented the finance report (period 6) and spring term reforecast. The following points were highlighted.

4.1.1 The year to date result was an operating surplus after restructuring costs of £117k compared to the budgeted surplus of £231k.

4.1.2 At this stage, the latest data return suggested that the College was slightly down on its 16-18 learner number and funding targets. This had been impacted by the third national lockdown as the College normally recruited in ESOL and REEN throughout the year.

4.1.3 Predicting the AEB outturn for the year had been challenging. A combination of the first two national lockdowns, a further local lockdown and then the third recent lockdown had impacted significantly on recruitment and participation.

4.1.4 The autumn reforecast showed that the College was likely to have a shortfall of £2.2 million compared to allocation based on a 97% tolerance. The third national lockdown would have a further detrimental impact on the College's ability to earn its AEB income target, increasing the shortfall to 50% of the allocation. The ESFA had acknowledged that performance measures for the year were no longer appropriate and further guidance was expected soon. For the purposes of the spring reforecast, the College had assumed a threshold of 68% in line with the 2019/20 performance measure. Both of the College's auditors had confirmed this was a reasonable assumption.

4.1.5 Apprenticeship income was on track to meet the forecast figure of £4.3m.

4.1.6 HE income was forecast to be slightly below target, although this had been compensated for by a reduction in costs, resulting in a net negative impact of £65k.

4.1.7 A spring reforecast had been undertaken; details of the key movements were highlighted. Overall, the expected Total Comprehensive Income after restructuring costs had increased by £175k, from a deficit of £923k to a deficit of £748k. If the tolerance level were higher or lower than 68% there would be an impact on the financial position.

4.1.8 Other key variances included loss in other income from tuition fees, the National Careers Service contract and from restaurants and refectories and nurseries. Additional non-pay cost included costs associated with the pandemic, a feasibility study for the T level capital project and costs associated with the credit revolving facility.

4.1.9 The College continued to meet its bank covenants and remained in the 'requires improvement' financial health rating following the reforecast with an increase to 160 points.

4.1.10 The cashflow position was highlighted. In the short to medium term, the College had reasonable cash balances for operational purposes.

4.1.11 The reforecast was felt to be realistic and had been stress tested. If the deficit declined to £5 million, the College would fall into inadequate financial health.

4.2 Governors asked a number of **questions** including:

4.2.1 **When the College might know about the AEB tolerance for the year.** This was expected at the end of March.
4.2.2 **Whether the tolerance was based on numbers or funding.** It was based on funding; allocations were based on previous performance.
4.2.3 **To clarify, with a 68% tolerance, £558k could be released?** Yes, if the tolerance were any higher there would be serious implications for the College. Every 1% of allocation equated to £107k.
4.2.4 **The reforecast seemed reasonable but there was a strong case to make for unique situation in Leicester.** Agreed. Discussions had already taken place with the ESFA. A business case had been drafted and would be sent to the ESFA if necessary; further lobbying would take place including with MPs.

4.3 **Governors <u>noted</u> the finance report (Period 6) and <u>agreed to recommend</u> the spring term reforecast to the Corporation.**

5 CAPITAL UPDATE

5.1 The Deputy Principal presented an update on capital projects. The following points were highlighted.

5.1.1 The College had been successful in its application for £1.8 million of capital funding to support T level delivery. This had to be match funded at 50% and the costs had been included in the reforecast.
5.1.2 The College was working to spend the additional £1.7 million allocated for site improvements although this work had been delayed by circumstances beyond its control caused by the pandemic and Brexit.
5.1.3 Capital commitments totalling £3.6 had already been made and included in the budget.
5.1.4 An application for a further Wave 3 T level project for construction and engineering and applications to the Capital Transformation Fund were also being prepared.
5.1.5 If those applications were successful, the total potential exposure for 2021/22 would be £18.529 million with a College contribution of £9.9m. This did not include the Institute of Technology.
5.1.6 The College would be expected to make a contribution of 50% for the T level project with a further contribution to the transformation fund projects. These would be difficult to fund from reserves and so a bank loan would be needed; this would be in addition to the credit revolving facility which would help protect the cash position.

5.2 Governors asked a number of **questions** including:

5.2.1 **If the College decided to go for the Wave 3 project, without the RCF, and before any new financing arrangements, would it be in breach of covenants?** If it were decided to proceed, the financial forecast would need to be reviewed. The bank manager confirmed that the College should be able to meet covenants but it would need to generate sufficient surpluses £1m of EBITDA. For the size of the College, an additional £5 million loan on top of its existing loan was felt to be reasonable provided surpluses could be achieved. It was frustrating that colleges were being given access to capital at a time where core funding was so volatile. There were risks in taking on the additional expenditure but there were also risks in not taking up the opportunity for this funding which might not be available in the future, particularly given the size of the national debt after the pandemic.

5.2.2 **What the additional loan and the CRF would do to the College's financial health score.** Since the loan would be a long-term debt, it was unlikely that the score would be affected. However, if the covenants were breached and the loans became repayable, that would lead to inadequate financial health. If the bank were not willing to offer a loan, the College would need to look at much smaller refurbishments but this would affect its ability to deliver T levels. If the main funding allocations for next year were considerably lower than anticipated and the projects were unaffordable, the applications for funding could be withdrawn.

5.2.3 **Whether it would be possible to seek additional external support for the projects.** The LLEP had already been approached but had no funding for this. It was a very difficult time to be asking employers for any financial support; there were no obvious major companies unlike other areas of the country.

5.2.4 **What were the risk factors associated with not completing the work by the end of September?** The work was currently on track for completion by then, provided there were no further complications or delays. The ESFA had been informed of the delays which were affecting other colleges.

5.2.5 **Whether there would be any implications for the funding if the work were not completed in time.** Potentially yes but again this would be an issue for many colleges. The ESFA could claim back funding or it could recognise the issues and given an extension. However, students should be starting in September and the facilities were needed by then.

5.3 **Governors commented that although there were risks associated with the additional capital projects, there was also a risk that the College would miss out on vital investment which was strategically important to its future delivery and might not be available in the future.**

5.4 **Governors <u>agreed to recommend</u> the capital programme to Corporation for approval.**

6 <u>CREDIT REVOLVING FACILITY</u>

6.1 The Deputy Principal gave an update on the credit revolving facility. The following points were highlighted.

6.1.1 Draft heads of terms had been received for a £3 million facility over three years with an option to extend by a year.

6.1.2 A conversation with the bank earlier in the day confirmed that the formal offer would be received shortly.

6.2 **Governors <u>noted</u> the update.**

7 <u>INDICATIVE FUNDING ALLOCATIONS 2021/22</u>

7.1 The Deputy Principal gave an update on the funding allocations for 2020/21. The following points were highlighted.

7.1.1 Only the 16-18 allocation had been received so far. This looked to be similar to the current year.

7.1.2 The AEB and apprenticeships allocations were expected towards the end of the month.

8 **Governors <u>noted</u> the update.**

9 <u>KEY EMPLOYMENT CHANGES AND IMPLICATIONS</u>

9.1 The Director of HR presented a paper setting out key employment changes and implications for the College. The following points were highlighted.

9.1.1 There had been several new regulations and guidance as a result of the pandemic, notably the job retention scheme.

9.1.2 The Government had withdrawn the job retention bonus scheme but another scheme might be brought in.

9.1.3 There were changes to immigration rules as result of Brexit and anyone, other than Irish citizens, who wanted to work in the UK would have to comply with the new immigration points-based system. The College could continue to employ EU citizens until 30 June, provided they were already living or working in the UK by 31 December 2020 but they would need to obtain settled or pre-settled status from 1 July 2021. The College would need to apply for a Tier 2 sponsor licence.

9.1.4 All EU citizens working for the College had been contacted about the changes and their status would need to be checked before June.

9.1.5 Other changes included increases in the statutory national living wage, to rates for maternity, paternity, adopt and sick pay and statutory redundancy pay.

9.1.6 Future developments including an Employment Bill, flexible working right and changes to the Working Time Regulations were also highlighted.

Tim Gray Joined the meeting

9.2 Governors **asked** the following questions:

9.2.1 **How many EU workers were currently employed by the College?** This would be provided.

9.2.2 **If they did not achieve settled status would they be dismissed?** Yes, they would have to be dismissed, with notice.

9.2.3 **If the College wanted to recruit EU citizens in the future, what would the process be?** They would have to go through the immigration points-based system.

9.2.4 **What would be the implications of the increase to the national living wage and had this been included in the budget.** This would be provided; it had not yet been included in the budget.

9.2.5 **Would any changes to the Working Time Regulations have an impact?** It was unlikely this would have a significant impact but there were some staff who worked overtime.

9.3 **Governors <u>noted</u> the report.**

10 <u>PROCUREMENT STRATEGY 2020/21-2024/25</u>

10.1 The Deputy Principal presented the College's Procurement Strategy. The following points were highlighted.

10.1.1 The strategy followed the same format as previous strategies but had been updated to include greater emphasis on the approaches taken in respect of increased remote working and controls to avoid fraud; preventing modern slavery particularly through supply chains; and changes to procurement following Brexit.

10.1.2 Greater emphasis had also been included on supporting the sustainability agenda.

10.1.3 Wherever possible, the College made use of existing consortia, purchasing fora and joint frameworks.

10.2 Governors **asked** a number of questions including:

10.2.1 **How the College could ensure that the essence of the strategy was followed particularly in terms of SMEs in the supply chain.** There was procurement person in the finance team and all orders went centrally through the finance team. They checked to make sure that the College got good value for money. There was a checklist for tendering to make sure that all key information was covered.

10.2.2 **Whether the Policy was published.** It was not.

10.2.3 **Whether there were any targets for achieving efficiencies through procurement and how it was ensured that staff complied.** There were no current targets although there had been some previously and it might now be appropriate to develop new targets. The College had previously undertaken joint procurement exercise with other colleges but this had proven hard to manage and had not always generated savings for the College. The Financial Regulations provided a framework for staff to follow.

10.2.4 **Whether monitoring by the SLT was new?** No but this would be given extra emphasis given the sustainability agenda.

10.2.5 **How the College ensured that suppliers were not engaged in activities involving modern slavery and trafficking**. Checks were made including their accounts, website statements and any reputational issues that were known. Contracts also included references to modern slavery.

10.2.6 **Whether this was part of the contribution rate calculation.** Indirectly but because there was very little discretionary non-pay spend, this was not a major factor. There were targets for all curriculum areas for contribution rates and this had helped drive down some costs such as agency spending.

10.2.7 **Whether there was any QA post procurement particularly in terms of supplies for students**. All procurement took place through the College so goods could be checked.

10.2.8 **It would be important to ensure that efforts to secure good value for money did not become too cumbersome or cut across the College's wider objectives**. Agreed. The Financial Regulations provided some flexibility on this.

10.3 **Governors <u>approved</u> the Procurement Strategy.**

11 <u>VAT AND LENNARTZ UPDATE</u>

11.1 The Deputy Principal gave an update on the position with the College's Lennartz claim. The following points were highlighted.

11.1.1 The College's claim and action to date was outlined.

11.1.2 The Upper Tax Tribunal's decision on 22 December 2020 was that it agreed with the case put forward by VAT Angles but also allowed HMRC to implement an 'alternative decision,' which was that VAT, which had been wrongly paid to Leicester College could be set off against the claim. As the input tax repaid by HMRC exceeded that output tax wrongly paid to HMRC, the claim was therefore extinguished, and no VAT would be repayable to the College.

11.1.3 The College would receive the supplementary claim of £0.3m, plus the repayment of the assessments of £0.5m. It would have to pay VATangles invoices totalling £0.3m giving a net cash inflow of £0.5m. As the College had included a potential Lennartz payment of £750k in its cashflow forecasts, the impact on the cash forecast would be an increase in cash of £1.25m. After allowing for payments to VATangles, there would be an increase in income of £1.4m which would be treated as an exceptional item in the College's accounts.

11.1.4 The further implications for the College including the potential for the HMRC to levy a higher VAT on fuel were described. If the 5% fuel rating allowance were withdrawn, the HMRC would be able to claim back underpaid VAT for the previous four years in the region of £0.7m. This would reduce the net cash inflow impact to £0.6m. The positive effect on the College's income would reduce to £0.8m. The effect of the change to the fuel rating would be an increase in fuel and energy costs of approximately £165k a year.

11.2 Governors **asked** a number of questions including:

11.2.1 **How many other colleges were affected?** Twenty-five other colleges had made claims although the potential decision on VAT increases on fuel could affect all colleges. In that respect, the College's successful claim would help to mitigate some of the potential additional costs.

11.2.2 **When might it be concluded?** This was not yet clear.

11.2.3 **Should any contingent liabilities or accruals be made?** This might be needed for the fuel VAT increased.

11.2.4 **Was there any chance that the HMRC could both appeal the decision and increase fuel VAT.** It was unlikely.

11.2.5 **Was there any risk that the College could be criticised for governance failures in taking on a speculative claim?** This was very unlikely; it had been a legitimate claim taken on advice. The potential liability had been identified and accounted for with regular reports to the Committee. The College was one of 25 colleges that had pursued a claim.

11.3 **Governors <u>noted</u> the update and the implications for the College and <u>agreed</u> to the payment of invoices to VATangles for 20% of the amounts no longer payable to HMRC and to the payment due to VATangles based on repayments receivable from HMRC only when the refunds had been received.**

12 FE COMMISSIONER LETTER AND REVISED BENCHMARKS

12.1 The Deputy Principal presented a recent letter from the FE Commissioner setting out new benchmarks for colleges. The following points were highlighted.

12.1.1 The FE Commissioner's letter included clarification of the method for calculating benchmarks and of the fact that colleges would not necessarily be expected to achieve all of them and so they would not automatically act as triggers for intervention.

12.1.2 The College's position against each benchmark was outlined. The benchmarks that would present more challenges were those for the adjusted operating surplus as a % of income, the adjusted current ratio and pay costs as a % of income because the College employed all staff and did not outsource.

12.1.3 It was intended to include the table with the benchmarks in the management accounts to show any impact of the budget position on the indicators.

12.2 Governors **asked** the following questions:

12.2.1 **Although the benchmarks and clarification were helpful, it would still be necessary to explain the College's position particularly in terms of staff costs.** Agreed.

12.2.2 **Whether it was possible to see how the College compared to other colleges.** This was not yet available but the ESFA had been asked to make data available to the sector to make those comparisons.

12.3 **Governors noted the report.**

13 WAIVERS OF FINANCIAL REGULATIONS

13.1 **Governors received and noted the report on waivers of financial regulations.**

14 DATES OF NEXT MEETINGS

- 5 May 2021
- 23 June 2021

15 ANY OTHER BUSINESS

15.1 There was no other business.