



Council (Special meeting)

Date and time Thursday 8 November 2007 at 3.00 pm

Place The Council Room, George Thomas Building

Present Dame Valerie Strachan (*in the Chair*), Dr S J Deuchar, Dr M O Gobbi, Mr A J Jukes, Ms V Lawrence, Mr M S Killingley, Ms S Moore*, Professor P A Nelson, Mr M J Snell, Mr R H M Symons, Professor C A Thomas, Professor W A Wakeham, Mr A J Walker and Professor A A Wheeler

With The Registrar and Chief Operating Officer, Director of Estates and Facilities, Director of Finance, Dr H Harley (minute 24), Professor J D Kilburn, Professor D M Williams and Dr K A Piggott.

(* Members not present for the restricted section of the agenda.)

Unrestricted

Welcome and background

The Chair welcomed Professor William Powrie, Head of the School of Civil Engineering and the Environment to his first meeting as a representative of Senate.

The Registrar and Chief Operating Officer reminded members that this was the first meeting of Council operating under the revised composition now approved by the Privy Council (see minute 20). The implications for the working membership were that (i) the Senior Deputy Vice-Chancellor was a member of Council *ex officio*, but the Deputy Vice-Chancellors (and in future, the Pro Vice-Chancellors,) were not; and (ii) there were now six Senate representatives on Council (rather than eight as previously), of whom no more than three could be drawn from the group of Deputy Vice-Chancellors (excluding the Senior DVC), Pro Vice-Chancellors and Deans of Faculties. He explained that those three members who had had their periods of office extended to cover the transitional period had now stood down, leaving DVCs Nelson and Thomas, Professor Foskett, Dr Gobbi, Professor Powrie and Professor Ratcliffe, as the current representatives of Senate. The longer-term arrangements for the nomination of Senate members under the new constitution would be discussed at Senate at the end of November. Members were advised that it has been agreed that those Deans and DVCs who were not formally members could be in attendance *ex officio*, to facilitate the business. As non-members, they would not have voting rights. For this meeting, Professors Kilburn and Williams were present in this capacity.

Members were invited to declare any conflicts of interests. (The following members declared an interest in the subject of Innos Limited: DVC Nelson, Director of USH and Innos Limited, Mr Symons, Chair and Director of University of Southampton Holdings Limited (USH), Mr Ace, Director of USH, Mr Higman, Director of USH, Mr Walker, Director of USH)

20 Privy Council approval of amendments to the Charter and Statutes

The Registrar and Chief Operating Officer was pleased to report that the Orders had been received to confirm Privy Council approval of the amendments to the Charter and Statutes. As agreed, the revised Statute 31 would take effect from 1 January 2008, to allow time for notification of staff of contractual changes, and for associated

staff training. The other changes came in with immediate effect – hence the changes to the composition of Council as indicated at the beginning of the meeting.

21 **Innos Limited update**

Members were reminded that a potential investment plan for Innos Limited had been explored, but unfortunately this had not come to fruition. Regrettably Innos could not fulfil the terms of its contract with Polymer Vision (PV), as it could not meet the technical demands, and there was therefore a danger of a potential breach of contract and a claim against Innos by PV, its only customer. One solution would have been an option to sell a majority holding in the company to PV; however, the terms of such a sale would have required that the University give substantial parent company guarantees, and would have greatly increased the potential liabilities on the University. It had therefore been agreed that the most appropriate way forward would be to sell the business assets of Innos to Polymer Vision, rather than selling the company itself. The business asset sale was concluded on 26 October. An important aspect of the arrangements was the contractual termination of manufacturing agreement, and all the parties undertook not to take any action against each other. The agreement closed down all the obligations under the PV contract, except for the IPR confidentiality agreement, which remained in force.

It was noted that the governance elements of the arrangements had been very difficult. It had been necessary to make quick decisions outside the usual structures; however, mechanisms had been found to do this within the Standing Orders. The Chair and Senior Deputy Vice-Chancellor had convened a virtual meeting and took a decision to authorise others to finalise the arrangements. The negotiations had required painstaking work by the Director of Finance and the Head of Legal Services and thanks were due for their efforts to bring this matter to the best conclusion in the circumstances.

With the agreement of the Treasurer the net impairment on the value of the Innos assets (c. £3.5million) would be shown in the accounts for the past financial year, so that the matter could be closed down rather than being carried forward for a further year.

It was emphasised that this was the University's first commercial failure on this scale. While the situation was disappointing, it should be recognised that there were always risks involved in commercial activities, and occasional failures were likely as the University engaged more heavily in the enterprise agenda. Members were reminded that Innos had not been set up in the same way as other University spin-out companies, but had been formed at the request of the EPSRC. It was not a research company but was involved in pre-production work. The background to the current situation lay in the position post Mountbatten fire and the wish to support a company which was facing a difficult situation, and had to re-orient its business very quickly to respond to the changed environment. The University therefore chose to take the risk and support Innos's alternative business plan which perhaps, with hindsight, may not have been the best decision. The exact reason for the failure was the inability of Innos to deliver to the agreement and to attract friendly venture capital funding.

The Director of Finance advised members that all the employees of Innos, including the two directors employed had transferred employment to Polymer Vision. He reminded members that, following Council's decision at the July meeting, the University had given a guarantee to PNAS and USS against the calling in of Innos's debts. The sums involved were £100k to PNAS and £430k to USS. The University remained the ultimate parent body of the residual company Innos (which would have to change its name as part of the agreement) and Mr Spalinger and DVC Nelson would continue as Directors of the residual company as it collected debts owed to it and ensured that its creditors are paid.

It was agreed that it was important to consider what lessons could be learned from these events, while recognising the specific nature of Innos, the circumstances which led to the failure, and the potential risks associated with any commercial enterprise. It would be most appropriate for such a review to be conducted through USH.

- Resolved**
- (i) That the position with regard to Innos Limited, including the guarantees to the PASNAS and USS pension schemes, be noted
 - (ii) That a review of the lessons to be learned from the failure of Innos and the events leading up to this be conducted through USH Limited.
 - (iii) That thanks be recorded to the Director of Finance and the Head of Legal Services for their painstaking work in connection with the final legal agreements to resolve this matter.

22 **Creating a future Source of Early Stage Investment Funding for University Spin-out Companies: update**

The Director of Finance reported that although he had hoped to have positive news to report, the current position was still somewhat mixed. The relationships between the universities involved were now quite fractured. The University of Bath was not willing to accept majority voting, and so it was likely that the existing fund would go into liquidation, and its assets would be returned to the three participating Universities. Southampton and Bristol would then put these funds into the new investment vehicle. It was emphasised that Bath's non-involvement would not alter the concept of the project, which would be taken forward between Southampton, Bristol and Surrey.

Regrettably the European Investment Fund had indicated that it would not wish to be an early stage investor, and this could make the position more difficult. However, it was still hoped to bring the final terms to Council for approval.

23 **Student numbers**

DVC Thomas reported on the current position. Recruitment of home undergraduate students was satisfactory, but home postgraduate taught (PGT) and home postgraduate research (PGR) student numbers were below target. This was perhaps not surprising as the funding available for such programmes was limited and students were perhaps becoming increasingly reluctant to fund themselves. The challenge was that the University's strategy was predicated on increasing PGT and PGR student numbers, but it was easier to attract additional undergraduates.

24 **Capital Programme Strategic Options** (agendum 5)
(This item was designated as Commercial, Strictly in Confidence)

(A summary of the discussions on this item is recorded in a confidential annex to the minutes.)

25 **Financial Monitoring Report – October 2007** (agendum 6)
This was covered under minute 24 above.
