

Case Study 2: London Guildhall University and the University of North London (London Metropolitan University)

Introduction

1. This case study is of the merger of London Guildhall University (LGU) and the University of North London (UNL) to form London Metropolitan University. The merger proposal was implemented on 1 August 2002. At the outset the University of East London (UEL) was also involved in the discussions, but ultimately decided not to pursue the possibility of participation in a three-way merger. The reasons for this were not pursued in this study

History

2. Both Universities were established as Polytechnics under ILEA control in the early 1970s incorporating institutions with a long tradition of providing higher education to the working and resident populations in London as the City of London Polytechnic and the Polytechnic of North London respectively. In common with all of the ILEA polytechnics they were established as companies limited by guarantee.

3. In 1989, like other local authority controlled polytechnics and HE colleges, they gained independence from local authority control and were funded by the Polytechnics and Colleges Funding Council. In 1993 both gained university status under the Higher and Further Education Act 1992 and joined the single higher education sector in England funded by the HEFCE. UNL was located mainly in Islington and LGU was located on a number of sites in the City and in Whitechapel in Tower Hamlets.

4. By 2001 both universities were similar in size with LGU having around 11,000 fte students and the UNL having 12,500 fte. Both had a significant proportion of their total students studying part-time, although at LGU these were mainly on part-time professional courses rather than undergraduate degrees. Both also had a significant amount of further education provision as well as their higher education. UNL's total income was around £70m and LGU's was around £55m. Their academic profiles were also similar although UNL had more science and more research income than LGU.

Genesis of the Merger Proposal

5. Both LGU and UNL had been involved in merger proposals previously that had come to nothing. LGU had twice pursued the possibility of merger with City University first under ILEA in the mid-1980s and subsequently under PCFC in 1991. LGU had also briefly pursued the possibility of merger with the newly formed Anglia Polytechnic in 1989. To a significant extent these merger possibilities were seen as ways out of the very difficult estates problems faced by the then City of London Polytechnic with large parts of its estate subject to short term leases. To a very significant extent these problems had been overcome by the beginning of the 21st century.

6. UNL informally explored the possibility of merger with a number of potential merger partners, but these discussions did not come to fruition. In UNL's case the motive for pursuing merger discussions was the recognition by the senior management and Board of Governors that the University was vulnerable in the medium to long-term in the very competitive London higher education market. They saw that at its current size it was stymied from developing to respond to that challenge in imaginative ways to capture new markets because it could not generate the necessary surpluses to invest in new developments. Merger with another London institution that shared its vision was thus identified as a means of delivering this development potential.

7. The actual trigger for exploring the possibility of merger between LGU and UNL was a discussion between the two Vice Chancellors in the margins of a European Rectors' Conference in Krakow in the autumn of 2000. This discussion revealed sufficient common ground in the two Vice Chancellors' vision for them to agree to pursue the idea.

Process

8. The merger proposal was considered, developed and approved in a three stage process:

- Stage 1 up to March 2001, which was confidential to Chairs and Vice Chairs of the two governing bodies, the Vice Chancellors and Deputy Vice Chancellors, involved very high level joint consideration of the issues as to whether merger of the two universities was feasible and could deliver the benefits identified by the two Vice Chancellors. At the end of this stage the two institutions announced publicly that they were exploring the possibility of merger
- Stage 2 from March to December 2001 involved further exploration of whether merger was the appropriate way to proceed and development of the academic rationale and the Business Plan. During this stage discussions with HEFCE were initiated on the basis of the Business Plan and the request for financial support from HEFCE's restructuring fund. Both Boards of Governors at their meetings in December 2001 agreed in principle to proceed towards merger on 1 August 2002 subject to confirmation from HEFCE of the availability of financial support and the outcome of due diligence.
- Stage 3 from January 2002 to August 2002 was aimed first at resolving the remaining issues through due diligence and continuing discussion with HEFCE (with an effective final decision date of Easter 2002), and second at preparing for implementation and assimilation. However, both Boards of Governors retained the right to withdraw from the merger until the legal implementation date of 1 August 2002.

9. Since 1 August 2002 the merger process has continued and is continuing through the assimilation of staff and departments. It will take five or more years for the merger process to fully work through.

10. Up to 1 August 2002 the process was overseen by a **Joint Committee of both Boards of Governors with equal membership, but chaired by the Chairman of**

the LGU Board and jointly serviced. Most importantly there was an academic staff representative from each institution on the Joint Committee. The terms of reference of the Joint Committee were clearly set out to distinguish what it could decide and what decisions were for the two separate Boards. Once the decision to proceed towards merger had been taken by the individual Boards in December 2001, the Joint Committee took on some aspects of the role of a Shadow Board for the merged institution and its terms of reference were widened accordingly. However, key decisions continued to be taken by the two existing boards. The Joint Committee was seen as very important in managing the process. It met monthly and was particularly valuable as a forum for dealing with difficult issues.

11. The Joint Committee was supported by **a Chairs' group with the two Chairmen of the Boards of the two universities, the two Chief Executives and two clerks.** This group was the main forum for considering issues before they went to the Joint Committee and was fed by 9 joint groups that were established to consider particular issues. These groups involved both senior and junior staff from across both institutions.

12. There was no formal role for HEFCE in the **legal** process of achieving merger, but HEFCE was involved because the merger partners wished to make a claim against the Council's Strategic Restructuring fund and because the merger would involve the transfer of Exchequer funded assets. This meant that HEFCE was able to set down a number of conditions arising from its role. In particular this included detailed consideration of the business plan and detailed requirements on monitoring progress against agreed milestones once the merger went ahead.

Issues

13. The main issues that had to be addressed were

- A common mission
- Development of the Business Plan
- Financial stability
- The relationship with HEFCE
- Due diligence
- Project Management
- The position of the two Vice Chancellors
- Senior Staffing Structure: long-term aims and short term deliverables
- The assimilation of staff
- Keeping staff and students informed

14. Because of the good academic fit of the two universities and their similar ethos in relation to the balance between teaching, research and widening participation it was possible to agree a mission for the merged institution at an early stage. In practice this helped to advance the whole merger process and reduce opposition from staff.

15. A central requirement to satisfy the two existing Boards of Governors and to provide a basis for the bid to HEFCE for an allocation from the Council's

restructuring fund was the development of **the business plan** for the merged institution. The starting point was the academic vision for the merged university and its aspirations – what it would want to achieve pragmatically in five years. This document presented a full picture of what success would really mean and how the academic centre of gravity of the merged university could be raised through developments made possible by the complementarity of the two universities. This document served the purpose of giving the Joint Committee reassurance and of giving HEFCE and its Board the first opportunity to consider the principles of the merger.

16. The academic vision was then transformed into a practical plan based on available funding and available staffing. The financial forecasts of the two universities were trended forward for a further two years beyond the existing forecasts prepared for HEFCE each year before bringing them together. This had the important outcome of demonstrating that both universities were, in common with many HE institutions, financially vulnerable looked at five years ahead. In the immediate past both institutions had been viable, with a series of surpluses (with the exception of one year when UNL had had to write-off substantial student debt). The work on trending forward the financial forecasts provided useful evidence to counter the view that one or other of the universities was in effect being asked to shore up the other. The work also provided added grounds for considering merger, provided it could be demonstrated that the financial position of the merged university was likely to be better than the two separately.

17. There was need for separate consideration of student number forecasts, including the importance of the development fund which was a principal aim of the merger, HR considerations where the no compulsory redundancy was a major factor and the estates strategy for a merged institution. The work on these matters had to cope with the cultural differences between the two universities in how they had traditionally approached these matters.

18. The approval of the final version of the Business Plan by the Joint Committee was a vital stage in the whole process

19. As noted above the development of the business plan demonstrated the potential financial vulnerability of the two universities. It was essential to demonstrate therefore to the Joint Committee, the two individual Boards and HEFCE that the merged institution would be financially viable. Inevitably in the short-term, with the commitment to no compulsory redundancies by virtue of the merger and the costs involved in assimilation and operating on two major sites in North London and The City/Whitechapel, costs would increase before any of the benefits of academic complementarity could be delivered. This was clearly a make or break issue if the merger of these two institutions was to go ahead.

20. Developing the Business Plan and securing assurance on the issue of financial viability involved long discussions with HEFCE officers. While those involved recognised that HEFCE clearly had to satisfy themselves that the case for the investment of £6.5m of public money from the restructuring fund was soundly based; that it stood up against competing bids against the fund and that publicly funded assets would not be put at risk, it was difficult to get HEFCE to appreciate that the benefits of merger tend to be longer term while the costs tend to be up front. HEFCE was looking for quick gains from the sale of buildings in excess of need and other savings from bringing the two universities together.

21. HEFCE's concerns also required the merged institution to provide detailed monitoring reports based on identified milestones every six months with very detailed questioning where this monitoring revealed departure from the delivery of the plan against the milestones. This clearly imposes a heavy burden on senior staff of the merged university although there have been benefits from using the milestones to demonstrate progress internally.

22. **Due diligence** is a key element of merger: as far as possible identifying in advance any unpleasant surprises, particularly in relation to legal and contractual issues, including staff contracts. There was some difference of view between the two Boards about the importance of due diligence. However, it was agreed that since they would be handing on their trusteeship of the assets to another party it was essential. In this case a single firm was appointed to conduct the due diligence on behalf of both Boards on most of the issues apart from property where the work was done separately by different firms of solicitors for each Board. In the commercial world it is more usual for each party to appoint its own consultants to undertake due diligence on its behalf, but the costs involved are high. In practice due diligence did reveal certain issues in respect of property matters and matters relating to subsidiary companies that needed to be addressed. This is considered further below in relation to potential deal breakers.

24. One issue that arose was the need for a **project manager**. During the early phase of the proposal it appears that responsibility for driving forward the process was shared by a number of key individuals. It was agreed, however, that one of the senior posts in the structure for the merged institution should be responsible for project management of the implementation. The person appointed to this post left shortly after the merger took place and project management therefore continues to be shared by senior managers in the merged university. In theory merger consideration and implementation are prime candidates for the employment of a project manager, but the absence of such a post does not in this case appear to have given rise to additional difficulties.

25. One of the commonest cited difficulties with mergers of all kinds is who gets the Chief Executive job if one or both of the existing Chief Executives is not prepared to fall on their sword. This was the case with this merger and in the spirit of the no compulsory redundancy agreement a structure that gave jobs to both was proposed with one taking the role of Vice Chancellor and the other the role of Chief Executive (and Accounting Officer). This approach was questioned closely by HEFCE, but ultimately accepted as a viable solution but only for three years from the merger date.

26. A somewhat similar approach was adopted to the proposed senior staffing structure for the merged university. There were 37 senior people to be accommodated and 37 posts were created. In the short term after merger all these posts were required to implement the merger agenda, although several have now been merged. This approach also helped to get the message across to all staff that the commitment to no compulsory redundancies by virtue of the merger was serious. It was also accepted by HEFCE as a short term solution.

27. The biggest single issue was, however, the assimilation of the academic and non-academic staff of the two universities into a single organisational structure. There were several matters to be addressed, including the different organisational and grading structures in the two universities, differing conditions of service and the sequential nature of the appointments procedure starting with the Deputy Vice

Chancellors, and then the senior structure posts and heads of academic and support departments. It was only after the appointment of the Deputy Vice Chancellors that it became possible to discuss the proposals that had been prepared for the academic structure for the merged university. The two universities also had different personnel record systems that made bringing together personnel data very difficult.

28. Given the complexity of the task of assimilation, the essentially sequential nature of the appointment process, the need for fairness and the requirements of employment law, the process was always going to be challenging in the time available up to the date of legal merger. The process is expected to be complete in Autumn 2003. It is noteworthy that staff have continued to work, often on merger issues, without the assurance of their ultimate position.

29. The nature of the process meant that much of the discussion of key issues took place at a very high level and there were issues that it was important to keep confidential until they could be resolved. Keeping staff informed in such a context is difficult. Neither university had a formal communications policy and each had had a somewhat different approach to communicating with staff. The absence of hard information did, however, often feed the rumour mill. On the other hand there were many occasions when the answer to the questions being posed was that the issue remained to be determined.

Potential Deal Breakers

30. There were a number of potential deal breakers that arose or were identified during the run-up to legal merger. These included:

- The name of the merged university
- The legal form of the merger and the need to avoid the appearance of takeover
- Existing contracts and relationships with third parties
- Risks from subsidiary companies
- The costs of assimilating staff into a single structure
- The differing cultures of the two universities
- The paucity of information
- Staff opposition

31. The name for the proposed merged university was recognised as a potential difficulty, given the need to avoid any semblance of takeover and yet avoid losing some of the existing brand knowledge. The difficulty over the name was resolved by obtaining outside marketing advice on a range of possible names which showed London Metropolitan University to offer the most potential brand recognition.

32. Because both existing universities wished to avoid a legal form for the merger which could be interpreted as one university taking over the other the simplest legal solution of amending the existing articles of association of one of the Universities (which were both companies limited by guarantee) looked unpromising. The alternative double dissolution model in which both existing universities transferred to a newly formed company was much more complex, might have given rise to its own unforeseen problems and would have doubled some of the costs. However, the

clinching argument proved to be the high risk that the double dissolution strategy could have affected the tenure of one building.

33. The danger of breakdown from this issue was avoided by leaving the decision by the Joint Committee to use London Guildhall's articles of association until late in the day and taking the legal process forward in such a way that staff of UNL were never employees of LGU since the name was changed to London metropolitan at the moment of the merger.

34. Due diligence showed up at least one unresolved contractual issue in respect of a construction programme which had an unknown financial risk attached. This was ultimately accepted as an insufficient reason for withdrawal from the merger discussions by the other partner.

35. Due diligence also showed up a potential financial risk from a subsidiary company of one of the universities. The risk arose in this case because of the conditions attached to the principal source of funding for the operation undertaken by the company. This was accepted on the basis that there were ways of minimising the risks involved.

36. Because the grade structures in the two universities were different it became clear that the cost of levelling up to the best in each case would be prohibitive. This could have led to the collapse of the merger discussions since the cost would have undermined the whole business case. This was avoided by not giving any commitment to levelling up.

37. The differing cultures of the two universities gave rise to differing expectations as to what merger meant and how it would be taken forward. This difference in culture showed itself in the differing behaviour of the Governing bodies and staff in the two universities and made working relationships below the most senior staff often difficult. Three factors seem to have prevented this culture difference presenting an insurmountable obstacle:

- The top down nature of the process and in particular the good personal chemistry amongst members of the joint committee
- The joint vision of the two Vice Chancellors.
- The short timescale from the decision to proceed to the date of legal merger with senior staff willing to accept the consequences and take on a very heavy workload for the duration helped by harmonious working relationships among the Executive groups and Senior Management Teams of both universities.

38. A downside of this approach was the paucity of hard information for staff which inevitably gave rise to rumours. This was unhelpful in that it could have deflected key individuals from their main task. The differing approaches of the two universities to communication with staff also on occasion led to mixed messages. However, the merger website established by both universities and the 'Q&A' that appeared on the website was seen to be helpful in addressing questions that staff wanted to ask.

39. Staff opposition, particularly at LGU, was also a potential deal breaker. This opposition was focused in two main ways: concern about the timescale of the process and concern that UNL's culture and approach would be imposed on LGU. Initially there had also been concerns that LGU was being asked to bail out UNL financially. This in part probably stemmed from memories of the Recovery Plan at LGU, but to a significant extent this issue was scotched by the demonstration in the business plan

that greater size would ring added security and that both universities were financially vulnerable on their own in the medium term. In the event staff opposition never became sufficiently organised to provide a serious challenge to the merger or prevent it going ahead. In large measure the challenge was avoided because of the short timetable.

Some Conclusions

40. This case study suggests the following conclusions:

- It is a mistake to see merger as a big bang on the date of merger. It is a long term process with only the essentials decided at the time of merger. .
- Merger is a top down strategic process.
- Joint high level structures, starting with a joint structure for the two Boards of Governors (including staff representation) are essential for dealing with the difficult issues.
- Merger discussions inevitably impose a very heavy workload on the most senior staff in both partners.
- Legal form for the merger needs careful handling if issues about takeover are to be resolved.
- HEFCE's involvement and particularly its level of scrutiny are issues.
- Due diligence is vital and it can throw up real difficulties
- A short timescale between the decision to merge and the legal date of merger is overall an advantage. It limits what can be achieved in advance of the merger, but it minimises the potential for staff opposition to derail the merger. However, it is clearly very important to have a shared vision for the merged institution which is widely supported.
- An early agreement on how senior staff in both institutions will handle informing more junior staff is important