Reading College

Engaging multiple models to meet local need

Faced with an uncertain environment in 2009, like all colleges, the Corporation of Oxford & Cherwell Valley College (OCVC) agreed to adopt a growth strategy to take advantage of its strong central services model and to secure economies of scale. Partnership and joint venture arrangements, rather than direct competition, were seen as essential to acquire new ways of working and financial security.

In May 2009, the Corporation Away Day focused on lessons learnt by a number of organisations during the recession. It was established that the scale of the difficulties the sector was set to experience would not be met solely through revisiting the successes of the past, but by adopting new ideas and thinking.

The Corporation began to conduct scenario planning to assess the College's financial sustainability on the eve of stringent funding cuts and consider how the College could secure competitive advantage. Open to all members of the Corporation, but with a requirement for four members to be present in order to be quorate, the group identified strategies for the successful operation of the College.

The outcomes were incorporated into financial and strategic planning documents reported to the Corporation and became the precursor to a new mission, vision and value set developed in consultation with staff, stakeholders and policy makers.

What was the catalyst / driver for reviewing the governance structure?

The Corporation is focused on achieving an outstanding reputation for high quality teaching and learning and creating a highly entrepreneurial culture which involves close working with employers of all sizes. The governance structure adopted to achieve this ambition reflected the strengths and needs of the two organisations involved in the joint venture - Oxford and Cherwell Valley College (OCVC) and the Learning and Skills Network.

The means to secure the Corporation's mission was growth and partnership arrangements. This was necessary to:

- achieve economies of scale;
- secure buying power;
- gain market share;
- develop curriculum synergies;
- increase revenue from alternative income streams;

- provide staff with enhanced career opportunities; and
- become more entrepreneurial and employer-focused.

The Learning and Skills Network (LSN), a preferred partner, was invited to present a potential business model to the Corporation which could be used to diversify its provision.

At the same time, the Board of Thames Valley University (TVU) confirmed its desire to divest its further education. The Learning and Skills Council (LSC) sought expressions of interest to take over the management of further education from the University.

This was an ideal fit with the College's strategy. The acquisition of Reading College would:

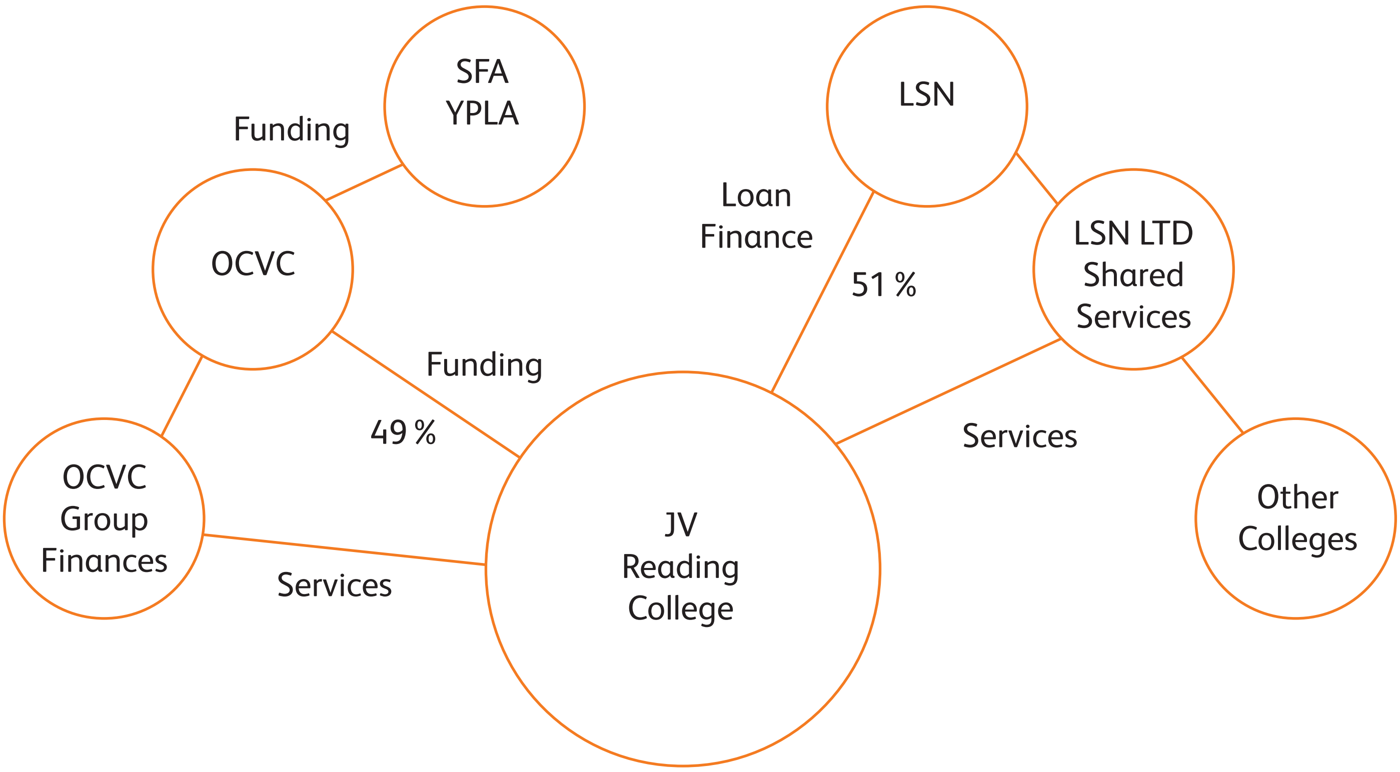
- generate economies of scale;
- support the STEM agenda;
- utilise the knowledge and the quality of the teaching and learning available at OCVC;
- meet the social objective of maintaining the country's competitive advantage through skills development;
- provide access to a larger employer base; and
- increase OCVC geographical reach.

The principle of bidding to run Reading College with LSN was agreed by the Corporation in October 2009, subject to due diligence, following an exploration of the roles and responsibilities of each organisation within the joint venture (JV).

The role of LSN was to provide cash flow support to the JV by way of a loan and research and development expertise.

OCVC Corporation would retain accountability and responsibility for:

(a) all the capital assets of Reading College;
(b) the public funding which would be redirected to the JV; and
(c) the quality of the curriculum.



Other reasons for the JV structure included:

- risk reduction for each organisation;
- the sharing of complementary skills and expertise in shared services which could be rolled out as a separate income generating unit (OCVC would provide a Management Information Service and finance shared services whilst LSN would provide Human Resources, Information Technology, Estates and Marketing shared services);
- a vehicle which would allow LSN to offer VAT free services to other Colleges. Whilst this final aspect could not be guaranteed, it was presented to Her Majesty's Revenue and Customs (HMRC) as a prototype for consideration, which was later rejected.

Time became a critical factor once the outcome of the expression of interest was known in January 2010 due to the changing political landscape. In order to secure ongoing funding support from the outgoing Learning and Skills Council (now Skills Funding Agency (SFA)) Heads of Terms had to be signed before the end of March 2010.

What process is being used to carry out the review?

Responsiveness was crucial because Reading College had to be fully operational by 1st August 2010. There were issues of visibility, speed of decision-making and manageability.

The Corporation established a partnership working group which included 11 members of the Corporation with the over-arching responsibility of:

- monitoring and receiving information on the progress of strategic partnerships established by the College in order to deliver its Strategic Plan 2010-2015 priorities;
- ensuring a consistent and rigorous approach to partnership working was adopted;
- making sure the College realised the benefits and targets associated with its strategic relationships; and
- supporting the Executive in exploring creative solutions to barriers that may arise during partnership working.

The findings of the group were recommended to the Corporation and delegated to the relevant committees to implement. For example, Audit Committee was notified of any risks associated with the projects and FE&GP received reports on due diligence.

An intranet site was established for the review of legal papers associated with the acquisition so that governors could familiarise themselves with the detail before any decisions were made at Corporation. This also meant they could track changes made to documents throughout the process and keep abreast of activity whilst abroad. The level of interaction with this tool varied but those with limited knowledge of technology engaged with the system, commenting on the intuitive way it was designed and the ease of navigation.

A number of special meetings were also held to comply with the implementation timetable and an audit trail was maintained by the Clerk which detailed key decisions, areas of concern and recommendations for ease of reference.

Professional advice was sought from a firm of solicitors, merger and acquisition specialists and due diligence advisors throughout the process which were already on the College's preferred supplier list.

Further analysis of the management of the risks post transition, and in light of the JV partner LSN going into administration, will be undertaken by the Audit Committee.

How have stakeholders been involved in this process?

The Corporation and staff across the College were actively involved in defining the vision and mission which established the College's growth strategy using focus and working groups.

The context for the acquisition of Reading College meant that regular meetings were held to discuss corporate governance and structural arrangements with representatives from The Department for Business, Innovation and Skills, LSC/SFA, LSN, HMRC, the local authority, local MP's and the College's professional advisors as well as the Corporation to satisfy compliance with tax legislation, the funding regime and teaching and learning quality assurance requirements.

What questions have arisen for you throughout this process?

The risks associated with the JV, including the time required by senior staff to integrate the Colleges, the financial implications of taking on the debt, assets and liabilities of Reading College and the lack of available funds from the LSC for the merger were considered. A worst case scenario was reviewed in detail.

The Corporation received assurance that the deficit and time required of the executive management team could be managed and not detract from OCVC achieving its aim to be outstanding.

To mitigate this risk, in advance of the merger, the executive management team temporarily restructured the senior management team and the alternative of an interest free loan was investigated in the event that the College continued the acquisition alone. Such action was seen to reduce the potential for over exposure and reputational damage.

Concern was expressed at the shareholding split between OCVC and LSN and procedures were put in place to ensure sufficient levels of control and accountability and to minimise conflicts of interest. The Corporation requested that specific reference was included within the Heads of Terms to the method by which each party could exit the arrangement. In the event, the College retained a strong negotiating position when LSN breached its contract prior to administration and the College was able to take full ownership of the Company and amend the Articles of Association.

What conclusions or decisions have you come to so far?

A company limited by guarantee in the name of Reading College was incorporated and registered with Companies House and registered as an educational charity with the Charity Commission. This limited the liability of members of the JVC to a nominal amount of £1. Other forms of incorporation were dismissed because of the tax and charitable status implications. Community Interest Companies cannot have charitable status, but a charity can set up a CIC subsidiary company, for instance.

The two main purposes of the JV were to operate the further education activities of Reading College with certain assets and liabilities being acquired from Thames Valley University and the provision of shared services to further education colleges including Reading College, OCVC and third party colleges.

The Board of the JV was constituted with an equal number of directors from each of OCVC and LSN. Each could appoint up to 5 directors, with OCVC appointing the Chair of the Board as detailed in the Memorandum of Association of Reading College. OCVC directors are the Principal of OCVC, the Deputy Principal of OCVC and three non-executive members of the OCVC Corporation.

The Heads of Terms provided that OCVC's directors had control over further education activities by weighted voting in favour of the OCVC directors. However, LSN's directors retained weighted voting over shared services matters. OCVC retained control over the appointment of the Principal and senior post holders of the JV and such post holders report to the Principal of OCVC. When LSN subsequently withdrew from the arrangement, OCVC directors gained full control of the Company.

OCVC's liability extends beyond the usual nominal share capital to include government funding passed to the JV, support contracts from OCVC to the JV and responsibility for academic matters. All other income of the Company is received directly by Reading College.

The freehold assets of Reading College held by Thames Valley University transferred to OCVC, whilst the leasehold assets, together with furniture and equipment, transferred to the Company.

Local branding was maintained and an extensive stakeholder group created with specific delegated responsibilities for the curriculum plan and for quality assurance entitled the Reading College Advisory Board (RCAB). Membership is comprised as follows:

- up to eight representatives of the local community including employers and employer representative groups based in and around Reading;
- one staff member;
- one student member;
- one governor from the Corporation of OCVC, (currently Chair);
- the Principal of Reading College, (Ex officio); and
- the Chief Executive of the OCVC Group (Ex officio).

The Chair of the Corporation of OCVC invited one of the RCAB members to be the Chair of the group.

On-going administrative requirements placed on the JV, such as maintaining accounting records, minutes of meetings, other statutory records and formal statutory returns to the appropriate authorities in respect of accounts, taxation and other corporate returns are managed by a separate Clerk to Reading College.

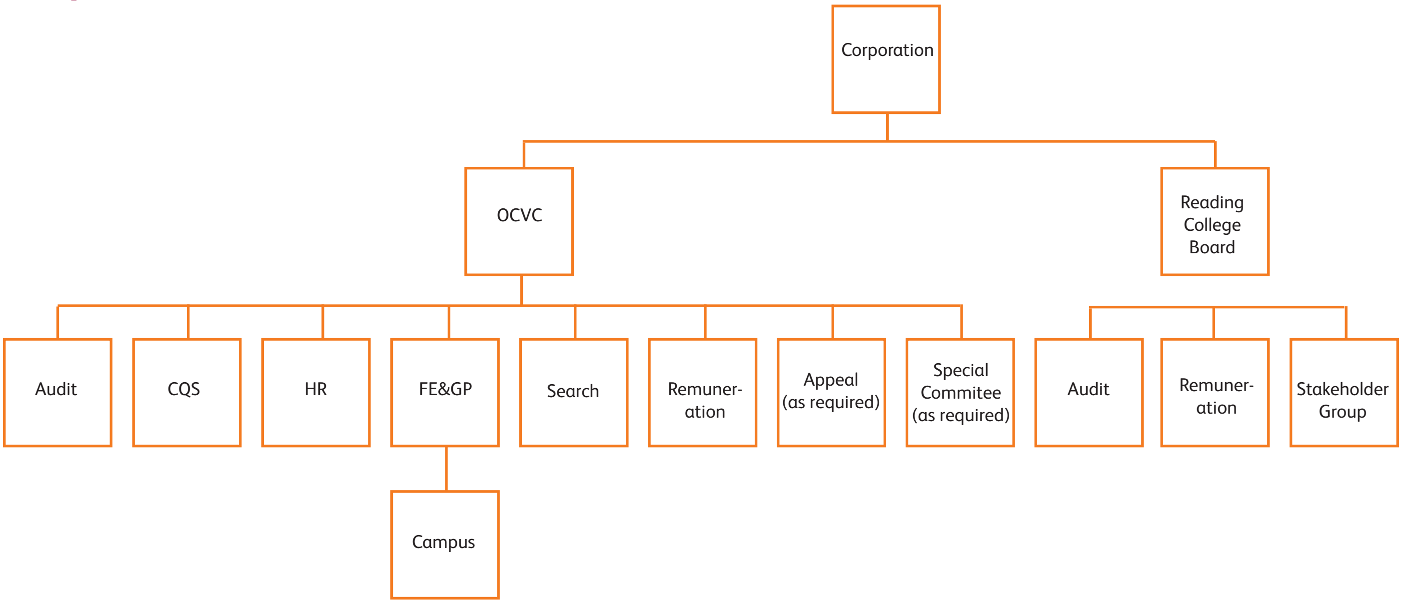
How has the changing external environment for FE and Skills influenced this review?

The new policy framework established by 'New Challenges, New Chances' has resulted in the College successfully tendering to establish and operate a University Technical College in Reading in addition to Reading College. This too has been established as a company limited by guarantee. Discussions with employer supporters in Reading were established from the outset to deliver the choice and experience demanded locally and to harness links between commerce, industry and FE.

Next steps

As a result of reducing the prescriptive nature of the Instrument and Articles in the Education Bill, the Corporation is now in a position to revisit the way it operates as a business and define a completely new holding structure to accommodate Reading College and its stakeholder group, a university technical college and OCVC to streamline governance arrangements from the current situation:

Corporate structure



What three lessons learned would you share with other governing bodies considering a similar change process?

- Expect the unexpected and consider the worst case scenario to make sure that as an organisation you can manage an exit if it arises.

  For instance, financial due diligence indicated that the partner in the joint venture, LSN, had sufficient liquidity but the combination of over-ambitious expansion plans and the lack of take-up of its shared services model by FE Colleges meant the company had to unexpectedly dip into its cash reserves which ultimately led to the company going into administration.

  For another acquisition, the Corporation would think very carefully about doing it with a partner which can be a distraction because everything has to be negotiated and compromised. Valuable time spent on developing a working relationship, whilst important, should not be to the detriment of monitoring processes and systems.

  As with any joint working, it is important to establish clear roles and responsibilities, a common agenda and agreed service levels at the outset to create shared ways of working and a common cultural outlook. In this case balancing collaborative and commercially competitive perspectives was an imperative.

- Ensure you have a good communications framework to inform governors who are engaged in the process on an intermittent basis and to ensure decisions can be made speedily.

  The College used a mixture of the intranet, working groups and bulletins to keep governors informed of progress and to allow governors to choose the level of detail they wished to review. The speed with which documents changed and the degree to which governors could be available to attend meetings meant that information gaps had to be regularly filled to avoid repetition in meetings. This is where the decision-making audit trail proved useful.

- Mixing different legal entities can lead to confusion and frustration for members, particularly when they are not fully conversant with the different governance rules which apply. For instance, having experienced teleconferencing for Reading College, governors had to be reminded that video conferencing was the only option available under the prevailing Instrument and Articles for the Corporation. The future modifications to the Instrument and Articles should ease the situation.

Multiple arrangements can also cause confusion for external bodies. In order to protect the pension rights of those staff contributing to the Teachers' Pension Scheme, academic staff had to be employed by OCVC and not Reading College.

It remained uncertain during the establishment of the joint venture whether OCVC and Reading College would be subject to one or two Ofsted inspections. It has subsequently been confirmed that the two organisations will be treated as one for the purposes of inspection. Corporations should consider how long it could take to harmonise and integrate policies, processes, systems and performance measurement when adopting a similar model.