C-2013-03-M

THE COUNCIL

Minutes

This paper presents the unconfirmed Minutes of the last meeting of the Council held on Tuesday 16 July 2013 at 10.00am in the Hub Theatre, The Open University, Walton Hall, Milton Keynes, MK7 6AA.

The Council is asked to **approve** these unconfirmed Minutes as a correct record of the meeting.

Fraser Woodburn
Secretary to the Committee

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THE COUNCIL

Minutes of the meeting of the Council held on Tuesday 16 July 2013 at 10.00am in the Hub Theatre, The Open University, Walton Hall, Milton Keynes, MK7 6AA.

Present:	Lord Haskins (Chair), the Vice-Chancellor, Mr E Briffa, Mr H Brown, Mrs M Cantieri, Mrs S Dutton, Dr I Falconer, Mr A Freeling, Mr B Heil, Prof K Hetherington, Mr R Humphreys, Mrs C Ighodaro, Mr B Larkman, Dr C Lloyd, Mrs S Macpherson, Ms R McCool, Mr P Mantle, Dr T O'Neil, Mr C Shaw, Mrs R Spellman, Mr M Steen, Prof W Stevely, Professor J Taylor, Dr G Walker
In Attendance:	University Secretary; Pro-Vice-Chancellor (Academic); Pro-Vice-Chancellor (Learning and Teaching); Pro-Vice-Chancellor (Research, Scholarship and Quality); Commercial Director; interim Director Students; Finance Director; Head of Governance; Senior Manager (Governance); Director, Strategy
Observing:	Mr L Hudson, (Director Communications); Dr S King, (Head of the Vice-Chancellor's Office),
Apologies:	Mr B Larkman

1 WELCOME

The Chair welcomed Professor Kevin Hetherington, Dean and Director of Studies, Faculty of Social Sciences.

2 DECLARATION OF INTERESTS

There were no declarations of interest.

3 MINUTES

The Council **approved** as a correct record the minutes of the business meeting held on 17 May 2013.

4 MATTERS ARISING — C-2013-03-01

The Council **noted** the responses to the matters arising from the last meeting, which were not dealt with elsewhere on the agenda.

5 VICE-CHANCELLOR'S REGULAR REPORT

5.1 The Vice-Chancellor, Martin Bean reported to the Council on:

a) the successful 'Three Words' marketing and communications campaign, which had provided current and former students with an opportunity to sum up, on Facebook, what their OU experience meant to them;

b) the Wolfson OpenScience Laboratory, which was to be formally launched at the Royal Society on 24 July;

c) iSpot, the website that allowed people to learn more about the world around them by sharing information and sightings, which had just captured its 250,000th observation;

d) the English in Action programme, which was helping 76,000 teachers in Bangladesh to pass on the gift of the English language to their students and had scooped a prestigious ELTon award from the British Council. The OU was a key partner in this project;

e) the award of the Credo Reference Digital Award for Information Literacy to the OU Library Services' Being Digital project. The award recognised the year's most innovative resource for promoting digital literacy;

f) the pledge of £1 million from the Exilarch Foundation to help the OU to develop Massive Open Online Courses (MOOCs);

g) the £500,000 legacy from the estate of Alma Seaton, an OU graduate who had achieved her BA with the University in 1978;

h) the appointment of Huw Lewis as the Welsh Government's Minister for Education and Skills. Mr Lewis had completed an OU Open Degree in 2002.

5.2 The University Secretary, Fraser Woodburn, reported that student recruitment had been good across the UK. In England, in July 2013, the University had achieved 50% of its planning assumptions for new regime students, compared to 4% of its registered numbers in July 2012 and 30% in July 2011. The University had been consistently tracking at 20% ahead of its planned numbers for new regime students, and 10% ahead for transitional students. Student numbers in Scotland had initially been a little uncertain because of the new loan arrangements introduced earlier in July, but these had now recovered, and the numbers in Wales and Northern Ireland were also good.

5.3 The Vice-Chancellor said that 2012/13 had been an incredible year for the OU: student numbers from the first intake under England's new fee regime had held up beyond expectations; FutureLearn Limited had been launched and the OU was leading the UK into the MOOC revolution; and OU AnyWhere had made the OU the first university in the world to offer all undergraduate course materials in a mobile-friendly downloadable format. The forthcoming year promised to be just as interesting, but the University would aim to ensure that it continued to deliver the best possible experience for all of its students. The Vice-Chancellor thanked the Council for their support.

5.4 The Chair, Lord Haskins, observed that the marketing and communications campaign, following on from the UK Market Strategy analysis, had been extremely effective. The University's market share had risen dramatically at a time when UK part-time market had been disintegrating. Many higher education institutions (HEI's) might move out of this market, although this would then leave a space for private companies to move into.

6 QUALIFICATIONS COMPLETION C-2013-03-02

6.1 The Pro-Vice-Chancellor (Academic), Professor Musa Mihsein, presented the paper, which outlined the targets for the qualification completion rates that had been discussed by the Council at the Strategy Workshop in May 2013. It had been agreed that the University would focus on two key measures: first, the rate of student retention from Year 1 to Year 2; and second, the rate of degree completion within seven years amongst those students who progressed to Year 2. The Council were being asked to set values to these targets and timescales within which they might be achieved.

6.2 Members raised the following queries:

a) whether or not the completion of intermediate qualifications, such as diplomas and certificates, should also be measured, as well as degrees;

b) why the target completion period had been set at 7 years;

c) whether the current part-time sector average completion was higher than that recorded in the Higher Education Funding Council for England (HEFCE) 2009 report and therefore less of a stretch target

6.3 The Pro-Vice-Chancellor (Academic) responded:

a) it was anticipated that most students would declare an intention to complete a degree. Those who declared any other intention would be excluded from this measure, but their module completion would be monitored;

b) HEFCE and other HEIs throughout the part-time sector used the figure of 7 years as a benchmark for the completion of degrees, although it was not an exact science. The University Secretary added that historically students either completed within 7 years or did not complete at all;

c) no other data point was available at present with regard to the part-time sector average completion rate, although it was unlikely to have changed significantly. It was difficult to make comparisons, as the OU was open entry and consisted of supported distance learning, whereas other, generally smaller, institutions had selective entry often with face-to-face support. If the University was to stay true to its mission, then it was still a stretch target. Moreover, it was necessary for the OU to achieve a module completion rate of approximately 90% in order to achieve the 50% qualification completion rate: this was a stretch target.

6.4 A member said that the Workers Educational Association (WEA) had recently done some analysis on what prevented students achieving their objectives and had discovered that the initial conversation between tutors and students about their aspirations and what would be best for their personal journey was key. The learning objectives were broader than the qualification, and there was overwhelming evidence to show that it was the quality of the feedback and support on the student journey was the most important.

6.5 The Chair observed that more information was required about student behaviour in order to make judgements about why students dropped out. The Director, IET, Professor Josie Taylor, said that the work on analytics through the Pro-Vice-Chancellor (Learning and Teaching) would be crucial in providing this deeper understanding. The National Student Survey (NSS) data sets came from a different population to that of the OU, so appropriate comparisons were not possible. Once the analytics project had made some progress, it would be possible to produce data sets that could be manipulated to enable a better comparison with other organisations, for example by excluding students without ‘A’ levels.

6.6 Another member commented that having a separate measure for those students moving from Year 1 to Year 2 was a helpful way of isolating those who would not normally be admitted into a university without open entry. Once those students had progressed to Year 2, they would have proved that they were at the same level as anyone moving through a traditional HEI. The second target then measured the progression of those who had demonstrated that they had the ability to succeed. This distinction would allow the University to focus on progression at different levels, and ensure that targets were not improved by simply restricting entry. The University Secretary confirmed that empirical evidence had shown that the progression from Year 1 to Year 2 was the critical point; once a student moved into Year 2, their previous background became unimportant and they were likely to do as well as anyone else.

6.7 A member commented on the length of time it took to mark an externally assessed assignment, which, combined with the lack of communication during this period, increased the risk of students dropping out at this point. The acting Director, Students, Dr Christina Lloyd, said that the Student Support Teams aimed to improve the continuity of support. There had been some progress in improving the speed of assessment within smaller exam periods: Rapid Resits had been introduced in 2012/13 and the results had been issued 7 days after the examination. Working with volume was more difficult, but the process was under constant review in order to find means of improvement.

6.8 A student member warned that the University should avoid the danger of introducing a tick box culture in its use of targets.

6.9 The Council **approved** the recommendation of:

a) the target for rate of student retention from Year 1 to Year 2 to be set at **75%**

b) the target for rates of degree completion within seven years amongst those progressing to Year 2 to be set at **50%**

c) for these targets to be achieved over **5 years**

7 PROPOSED MEASURES FOR THE ANNUAL SUSTAINABILITY REPORT TO HEFCE — C-2013-03-03

7.1 The Director of Strategy, Guy Mallison, introduced the paper. In the context of the changes to the fees and funding environment in England and the increasing risks for HEIs, HEFCE was recommending that institutions report on measures of institutional sustainability. This was not yet a formal requirement, but the OU would submit it alongside the University's annual accountability statement at the end of the year. The Council was currently being asked to approve the proposed measures; and would be asked to approve the report showing performance against those measures in November 2013, before its submission to HEFCE.

7.2 An associate lecturer (AL) member commented that the focus on buildings was strange for a distance learning organisation and with a large number of academic staff working from home, and suggested that a measure indicating the enthusiasm and dedication of the staff might be added in 2014. The University Secretary said that the status of buildings was important to HEFCE, in the light of the finances required by HEIs to improve their buildings, and it was a measure where the OU performed well. Measures concerning OU staff were important to the University and would be included in the Institutional Dashboard.

7.3 Another member agreed that the University had to be cautious about the measures that it put forward in this process, and to ensure that they were used for the purpose for which they were intended, to assure HEFCE that the OU was a going concern. It was important that the Council did not focus on this subset of measures, but maintained its attention on the Institutional Dashboard that covered the overall strategic direction of the University.

7.4 The Council:

a) **approved** the proposed suite of key performance indicators (KPIs) for inclusion in the ASSUR

b) **noted** that the final report will be produced for Council approval in November 2013

8 2012/13 FORECAST OUTTURN C-2013-03-04

8.1 The Finance Director introduced the paper, which forecast an outturn surplus of £21.1m in 2012/13, based on the third quarter's results, and outlined significant favourable variances in income and minor movements in expenditure.

8.2 The Treasurer commented that the favourable movement in income was an excellent result, further strengthening the University's financial position, and thanked staff across the University who had worked extremely hard to deliver the operational changes necessary for the new environment. The Vice-Chancellor also thanked his executive for their work in achieving this outcome.

8.3 Members raised the following issues:

a) whether the estimated increase in grants for transitional students, referred to paragraph 3a), might be reduced by HEFCE on the basis of the University's surpluses;

b) whether the University should consider ways in which the money might be used more effectively, given that the size of the surplus was growing at a significant rate.

8.4 The Finance Director responded:

a) HEFCE was barred from taking an HEI's finances into consideration when determining its grant allocations. The OU had benefited because HEFCE had applied its unit of resource to student recruitment in 2012/13. It was unlikely that there would be any adjustments to the policy, as this source of funding would disappear over the next 5 years. The government had made a commitment to transitional arrangements through to 2016.

b) the proposed budget (C-2013-03-05) would result in a deficit due to strategic expenditure, which was possible because of the surpluses made in previous years. Two years ago, the University had set its budget plans before it knew what its student recruitment would be under the new regime. The OU had been cautious and prudent in a period of uncertainty, but now its experience of student recruitment would allow it to plan with greater confidence. The University was not in business to make money, so it could now use any funds in excess of its financial strategy target to support its strategic endeavours. The Treasurer added that the Finance Strategy would be reviewed by Finance Committee in January 2014.

8.5 Members asked the following questions:

a) whether the marketing campaign would try to increase the number of students on the National Scholarship Programme (NSP) referred to in paragraph 3b), so that the money allocated for fee waivers was used;

b) whether the planned abolishment of the NSP would affect future financial forecasts;

c) what the impact of the University's relatively poor performance with regard to postgraduates would be.

8.6 The University Secretary responded:

a) when the NSP had been introduced in 2012/13, the OU had not had a fully-fledged access programme in place; the interim scheme had been introduced late and had not been marketed. There was an issue about how attractive an access programme would be; not necessarily with respect to less well-off students, who would be subsidised, but for less confident students, who might not be persuaded to study for an extra year even if the access programme was free or low cost. Nevertheless, a fully developed access programme was now in place and would be marketed in 2013/14;

b) the NSP would cease as an undergraduate programme from 2015/16 and would be realigned to support postgraduate students. On the whole, this was a positive move for the OU, which would no longer be required to design a programme around the NSP, but could create one that would best meet the needs of its students. The University would continue to have an access programme that it would subsidise;

c) Recent history had indicated that the overall postgraduate market had only held up because of the number of full-time overseas students. In this context, the postgraduate numbers in the rest of the sector, particularly part-time, had declined more than in the OU. As a result of the UK Market Strategy, both the University Secretary and the Pro-Vice-Chancellor (Academic) were sponsoring programmes that aimed to improve the University's postgraduate recruitment through a combination of better marketing and an improved portfolio. The marketing was now in place, but work on the product was still in progress.

8.7 The Council **noted** the 2012/13 forecast consolidated outturn of £21.1 million surplus.

9 2013/14 REVENUE BUDGET C-2013-03-05

9.1 The Finance Director introduced the paper, which was the second budget to be prepared in the context of the new funding environment in England. For the first time in the University's history, income from tuition fees would form the majority of its total income, with funding body grants reducing as transitional students in England gradually disappeared over a 5-year period. The delivery of this budget would mean that £55 million of the £75 million target for aggregate cost reductions and new net income would have been achieved, and the University would be on target to deliver the remainder by 2015/16. The scale of the surpluses generated over the last few years meant that the University could contemplate setting a small deficit budget with equanimity, particularly given the strong operating surplus from normal income and expenditure shown in Table 1 of the paper.

9.2 The Treasurer said that it was encouraging that the Finance Committee could recommend to the Council a budget that showed only a small deficit after a very high level of strategic expenditure. Whilst the OU would not wish to make a habit of setting deficit budgets, even with the University's strong reserves position, it should be remembered that in 2011 much higher deficits had been anticipated in 2012/13 and 2013/14, and this budget was a testament to the way in which the University had met the challenge of the new funding environment in England. The Chair commented that the cost of one-off strategic developments totalling £31.5 million was significant investment of confidence in the future.

9.3 Members asked the following questions:

a) whether further detail of the strategic expenditure was available;

b) whether expenditure on strategic developments would be carried over into the following year.

9.4 The Finance Director responded:

a) details of the strategic expenditure had been provided to the Finance Committee and the Strategic Planning and Resources Committee (SPRC);

b) some expenditure on strategic developments would be carried over. In terms of the strategic spend programme, the bulk of the expenditure had been over 3 separate financial years: the current year, 2012/13, where the budget was £23.3; the budget year, 2013/14; and to a lesser extent (currently less than £10 million) the following financial year, 2014/15.

9.5 Members raised the following issues with regard to the expenditure on Systems Futures:

a) whether further details of the programme were available;

b) whether there were clear targets around the anticipated benefits of the expenditure;

c) whether, as investments in systems were inclined to grow, an update on the University's intentions would be timely.

9.6 The following responses were made:

a) the Finance Director said that there were a number of elements to this programme, most of which would be completed within the current financial year, including the replacement of the student loan system, and the HR and payroll system. The biggest element, however, was the development of the student record and curriculum record system, which had been designed for the module world and was not fit for the qualification world;

b) the Vice-Chancellor said that, unlike other systems projects, this programme was not discretionary; the investment was essential in order to run the business.

b) the University Secretary said that a discussion had taken place a few years ago when the project was being established. It was the biggest strategic programme, with a significantly larger spend than any other (the overall spend was £22 million) and it would be appropriate to bring the matter back to the Council.

9.7 The Vice-Chancellor said that a summary of all the significant strategic investments, and who had oversight of them, would be presented to the November 2013 meeting of the Council.

Action: MSH

9.8 A member asked for an explanation of the discrepancy between the £4.9 million to set up FutureLearn and the £15 million of share capital to fund FutureLearn as identified in the Finance Committee paper (C-2013-03-07). The Finance Director explained that the revenue budget was for the consolidated group as a whole, and incorporated the results of the University and its subsidiaries. In this instance, the expenditure within FutureLearn was revenue expenditure on staff and other services and would be represented as a cost in the consolidated group accounts. In the accounts of the University as a separate entity, the cost of FutureLearn was an investment and would be represented by share capital subscribed.

9.9 The Council **approved** the proposed consolidated revenue budget for 2013/14, which showed a deficit of £9.6m after allowing for £4.9m for the costs of setting up FutureLearn Limited.

10 FINANCIAL FORECASTS TO 2015/16 C-2013-03-06

10.1 The Finance Director introduced the paper, which was one of the key accountability returns that the University had to make to HEFCE. The forecasts were the first to be prepared in the light of some experience of operating in the new funding environment in England. Whilst risks remained in terms of student recruitment, grant funding, and achievement of cost reductions and net new income, the experience in 2012/13 to date was unequivocal: student numbers had exceeded target; specific grant allocations had increased due to the University outperforming the rest of the sector; and cost reductions and net new income streams were on target. Consequently, the overall level of uncertainty had reduced over the past year. Section 4 of the submission, which was normally purely a technical commentary, reported this year on the material uncertainty surrounding the timing and recognition of the recent VAT Tribunal result, the outcome of which would be known by the end of July 2013.

10.2 The Treasurer commented that, although the VAT matter had not yet been settled, it was clear that the momentum was in the University's favour and he thanked the Finance Director for his part in achieving this result. The graph in paragraph 37 demonstrated why the University was in a strong financial position and put the small budgeted deficit for the current year (C-2013-03-05) in context, particularly as the following years' forecast results returned so quickly to the target surplus. However, the commentary included a 'cautionary statement' (para 72), which reflected the natural level of uncertainty in any forward looking statement and was in line with best reporting practice for such documents.

10.3 Members raised the following issues:

a) with reference to paragraph 3b, which said that part-time fees for students in Wales were not expected to increase, whether this referred to part-time fees for the student or those received by the University;

b) with reference to paragraph 34, which indicated that the reason for the fall in student numbers in England was a result of the fall in students not eligible for loans, whether any research been done into the possibility that some students were less willing to take out a loan.

10.4 The Finance Director responded:

a) as in England, it was not expected that the unit of resource in Wales would change as a result of funding changes. The proposals were still going through the process of consultation and legislation would not be going to the Welsh Assembly until February 2014. The Director, the OU in Wales, added that the institutional teaching and learning grant would stay in place for the next few years, so whilst the student fee would pay part of the cost, the institutional grant would also contribute. However, the University might wish to increase fees to cover inflation or a drop off in any premium payments. A loan system was being introduced for new students in Wales, but essentially this would be within a lower fee economy;

b) the UK Market Strategy had anticipated that the proportion of those students with equivalent and lower qualifications (ELQ) students would reduce, and it had done so in line with expectations. The recruitment of students from other segments was also as anticipated. It was thought that other HEI's might have had a larger proportion of ELQ students, which accounted for the larger drop elsewhere, but sector wide data would not be publically available for some time. The University Secretary added that the UK Market Strategy had tested whether loans would be attractive to students. It had concluded that they were attractive to all groups of student, with the possible exception of older students. There had been significant growth in the proportion of young students registering with the OU, both unemployed and unemployed.

10.5 The Chair observed that the University had managed to increase its market share, partly because of the decision to set a fee of £5000, when other HEIs were charging £9000 or more. Despite this low fee, the University's finances were good. Appendix 2 illustrated the historical trends and showed the deficit of £9.6m in 2013/14 moving to a surplus of £23.1m in 2015/16, demonstrating the impact of the University's actions over the past few years. The funding body grants dropped £50 million from 2012/13 to 2013/14 and £20 million in the following year. The Finance Director said that these included grants from the funding bodies in Scotland and Wales, which it was assumed would remain unchanged. Transitional students in England would become a smaller proportion of the student body over the next few years, which explained both the drop and the levelling out of funding body grants.

10.6 The Council **approved** the recommendation of the Finance Committee, for the financial forecasts and commentary

11 FINANCE COMMITTEE C-2012-03-07

11.1 The Treasurer commented that the budget and the report to HEFCE, which made reference to the successful VAT ruling, demonstrated the University's strong financial position. Consequently, the discussion on the financial strategy had been postponed until January 2014 and the Finance Committee were recommending to the Council that the strategy remained the same at present (minute 8, resolution ii). The Finance Committee had also reviewed its effectiveness and had recommended no change to its constitution.

Closure of Branch Office in Belgium

11.2 The Finance Director said that the series of technical recommendations contained in the paper were required by the University's legal representatives in Belgium in order to meet local legislative requirements in respect of the closure of the University's branch activities in Belgium. This was a consequence of an earlier decision by the Council to cease direct employment of staff outside the UK and Republic of Ireland.

FutureLearn Limited

11.3 The Finance Director gave a brief presentation on the investment in FutureLearn Limited. The Finance Committee had reviewed the business plan for the companyand both the initial outline and final business plans approved by the FutureLearn Limited directors had been reviewed by KPMG, which had presented a detailed report to Finance Committee on each occasion. The cost base was reasonably secure; but the income projections were a best estimate, as the immaturity of the market meant that there was limited comparative information about revenue. The investment would provide FutureLearn Limited with the security to ensure that it could attract and retain the quality staff required to deliver such an ambitious business plan.

11.4 The Treasurer said that it was pleasing that the business plan could be contained within a lesser figure than had previously been anticipated. The funds would only be paid to FutureLearn Limited as its cash flow profile required, but the OU's commitment to provide them was important to providing stability and enabling progress. The investment was relatively risky, not least because the financial viability and value of FutureLearn Limited would only begin to become apparent during the second half of 2014, when the University would begin to see how much income it would generate, directly or indirectly. However, on the basis of the business plan, the Finance Committee believed that it was a suitable investment for the University to make. In addition, the Committee believed that the brand and potential recruitment benefits for the University were important at a time when the digital revolution in worldwide education was gathering momentum. The Committee would review progress at appropriate junctures, particularly as each year's results were produced and each year's budget was set. The Committee had examined the potential for reducing the risk by funding FutureLearn Limited with cash from other sources, but had taken the view that it was currently in the University's best interests to continue to finance it alone. The University had the resources to do so; but it would also welcome any philanthropic support that might be generated through the normal OU development channels.

11.5 A member of the Finance Committee said that members' questions on this matter had been probing and the Committee was now confident that the investment was the appropriate way forward. In the context of the University's reserves it was not a large investment, but it was a strategically important one.

11.6 The Chair of the Audit Committee, Claire Ighodaro, said that the Audit Committee had thought that the way forward for FutureLearn Limited had been worth a careful and measured examination. A review of an internal audit report had provided assurance that the FutureLearn Limited management had considered the risks and put in place a structure to minimise them.

11.7 An Associate Lecturer (AL) member said that the paper about governance relating to FutureLearn Limited (C-2013-03-01 Appendix 1) had been very helpful, but a number of Council members had also asked to see the FutureLearn Limited business plan. It was appropriate to delegate consideration of the financial risk to Finance Committee, although a written report on the advantages of the investment would have been useful. However, sight of the business plan might also help the Council to understand how the FutureLearn Limited business would impact on the OU operation, not just in terms of financial return and student numbers, but also in terms of staff resource, expertise and intellectual property, as this was not within the remit of either Finance or Audit Committees.

11.8 The University Secretary observed that the business plan concerned FutureLearn Limited, not the OU's involvement in the venture as one of several partners. At previous Council meetings, members had expressed a lack of clarity between FutureLearn Limited and the OU's contribution to FutureLearn Limited, and it had been agreed that future presentations would make that distinction clear. It was Finance Committee's role to advise the Council, as a shareholder, as to whether to invest in FutureLearn Limited. As the business plan belonged to the FutureLearn Limited board, the Committee had found it difficult to interrogate the business plan. Consequently, KPMG had been employed to scrutinise it and advise the University, through the Finance Committee, as to the robustness of its assumptions. As previously mentioned, the costs were fairly certain, but the income assumptions were risky and speculative. It was unlikely that this would have been clear from the business plan, but as an expert committee it was Finance Committee's role to advise the Council on such issues.

11.9 Members expressed their support for the FutureLearn Limited investment and that the company should remain wholly owned by the OU, and made the following comments:

a) the investment figure was reassuring, as the biggest risk for FutureLearn Limited was undercapitalisation;

b) the values of venture capitalists would not be the same as the OU's, and this might be an important factor in the future. Whilst it was important that FutureLearn Limited made money, there may be a point at which this was not the ultimate criteria;

c) the risks of the venture were unknown in the current unstable HE environment. The activity of FutureLearn Limited should be contained within the OU's scrutiny so that the University could respond appropriately;

d) if FutureLearn Limited did not exist, there would still be a risk to the OU through the activities of Coursera and others. The University had already made the strategic choice to engage with the competition. This investment was related to one of the OU's strategic priorities, Journeys from Informal to Formal Learning (JIFL), where

FutureLearn Limited and the other Open Educational Resources (OER) already in existence had been somewhat underplayed. By maintaining control, the University could ensure that FutureLearn Limited served the OU, rather than the OU served FutureLearnLimited.

11.10 Members raised the following issues:

a) whether any of the investment could be clawed back if the venture were unsuccessful;

b) whether there been any risk assessment of FutureLearn Limited's performance in relation to core OU business;

c) what the nature of the risk to partner institutions referred to in the Audit Committee minutes (C-2013-03-08A, para 2.3) was. This stated that the CEO of FutureLearn Limited had "informed the Committee that the risks of the initiative were spread across all partner institutions as all had taken on elements of both financial and reputational risk";

d) whether there were clear benchmarks at each stage of the development of FutureLearn Limited to indicate whether or not its objectives and targets were being met, and milestones where a decision could be taken to continue with the investment or to withdraw. The University's investment in the USA some years ago had been an example of the dangers of continuing with an investment for too long.

11.11 The following responses were made:

a) the Finance Director said that the investment had been made in order to ensure the stability of the company. The board of FutureLearn Limited had to act in the best interests of its shareholders, currently just the OU; if the company did not meet its targets as expected, and had no significant prospects of doing so, the company would not draw down further cash. The company would be closed down within any available cash; hence the budget for exit costs;

b) the Finance Director said that it was anticipated that FutureLearn Limited would be profitable on the basis of the assumptions made in the light of the OU's experience of journeys from informal to formal learning. However, the greatest value of FutureLearn Limited would be its ability to bring in students to study formal courses with the OU and other partner universities. Although these would represent a small proportion of those studying MOOCs, it should still be a significant driver of revenue and Global Direct numbers;

c) the Finance Director confirmed that the reference to financial risk for partner institutions was with regard to their investment in their own courses, not to a contribution of any share capital;

d) the Vice-Chancellor said that each stage before cash breakeven was clearly phased, so that the FutureLearn Limited board and Finance Committee could see whether or not the necessary milestones had been reached, not only in terms of cash, but also through other leading indicators. These milestones would be used to hold the FutureLearn Limited executive to account.

e) the University Secretary observed that, in line with HEFCE guidance to the sector in 2005, the University had strengthened oversight arrangements for subsidiaries and a substantial set of controls were now in place. Any change in ownership or in financial arrangements (which might dilute ownership) would have to be referred to the Council. The board was answerable to Finance Committee, which had oversight of the company's business plan and performance. The Committee would monitor any departures from the plan and alert the Council if necessary. The company's annual accounts would be reported to Finance Committee and, in the case of FutureLearn Limited, would also be reported to the Council. The company would be subject to both external audit, using the same auditors as the University, and internal audit, which would review the risks from the University's perspective and report to the Audit Committee. The board was answerable to its shareholders, which in the case of FutureLearn Limited currently consisted of just the OU, and the directors were duty bound to act in the best interests of that shareholder. A nominated officer, the University Secretary, had been appointed for each subsidiary, and had to report at least annually to Finance Committee, Audit Committee and the Council on the company's progress and any changes to the risk profile not otherwise reported. If such controls had been in place at the time of US OU, they would have ensured that the issues would have been dealt with earlier by the Council.

11.12 An AL member said that there was potential for confusion between the delivery models for normal OU courses and the new MOOCs. MOOCs normally attracted experienced students who did not expect any support. However, students familiar with the standard OU model, but attracted by the free courses, might have different expectations and could fail without such support. If the two models were to move closer together, it would create further confusion, and the risks associated with this should be included on the risk register. The Chair of the Audit Committee clarified that the report considered by the Committee had focussed on the controls and risks around the set-up of FutureLearn Limited; this issue was important, but outside the particular scope of that report. The Vice-Chancellor observed that this was a risk for the University, rather than for FutureLearn Limited. The University had been providing free content through OpenLearn, iTunesU and YouTube for some time, and there were significant numbers of students studying through such informal channels. Nevertheless, the Pro-Vice-Chancellor (Learning and Teaching) was asked to consider how the University should mitigate risk with regard to formal and informal students in this context, and to discuss the innovations driving the delivery model for the OU's MOOCs, including peer to peer support, with AL representatives.

Action: BT

11.13 The President, OUSA, Marianne Cantieri, commented that the average student might find it difficult to understand why their fees were being spent on funding an initiative for free education and asked how this would be communicated. The Vice-Chancellor replied that the University had always given away content as a means of opening access to formal courses, which provided students with more support and led to awards. FutureLearn Limited was another channel to support the JIFL strategic priority. The University was being bold in not being defined by its content; but by allowing people to experience and derive value from the OU's free spaces it strengthened its value proposition in the fee paying sphere. Fee paying students already used OpenLearn to supplement their studies; a deeper content reservoir enriched the whole proposition. A student member said that students did not question the OU's contribution to OpenLearn or to any other free resources, so were unlikely to question the investment in FutureLearn Limited, which aimed to breakeven in 2017. The recruitment of students would be enhanced via the FutureLearn Limited presentations, which should link well with the offerings from faculties.

11.14 A member observed that in promoting FutureLearn Limited the University might want to highlight the boldness and openness of its approach and the partnerships it was forming, not only with HEI's but also with other institutions such as the British Council and the BBC.

11.15 In response to a query from the Chair, the Pro-Vice-Chancellor (Learning and Teaching) said that the first MOOC would be available in November 2013.

Investment Committee

11.16 The Treasurer said recommendations of the Investment Committee had been directed to the cash resources that the University was unlikely to need to draw down in the short/medium term. The OU wanted to maximise the returns on these longer-term funds, at an acceptable level of risk. Once the process for appointing investment managers had been concluded in November 2013, the Finance Committee would bring any recommendations to the Council for its endorsement. The structure currently in place, where an Investment subcommittee made recommendations on investment strategy to the Finance Committee, which in turn sought Council's endorsement, was suitably conservative for such uncertain times.

11.17 Once the fund had been established, the University would have an appropriate spread of investments from relatively safe cash deposits, money market funds and gilt edged stock, to risky investments, such as FutureLearn. The values of these investments could go up and down, and would inevitably lead to significant fluctuations being recorded in the financial statements. However, over the long-term such a portfolio should generate a return in excess of inflation.

11.18 The Council:

a) **approved** the recommendations that:

i) FutureLearn Limited be funded by a further £15 million of share capital to be issued by the Company to the University as the cash flow profile requires;

ii) the University's financial strategy should remain unchanged until it is next reviewed in January 2014;

iii) the branch office and registration in Belgium be terminated in accordance with Appendix 2 of the Finance Committee paper;

iv) the Finance Director proceed with all necessary steps to terminate the branch office and registration in Belgium;

v) the Chair of The Council (or any other member in the absence of the Chair) be authorised to sign the power of attorney referred to in the Finance Committee paper; for and on behalf of The Open University, and that the seal of the University be affixed in accordance with Section 13 (26) of the Second Schedule of the Royal Charter;

vi) the persons stated in v. above, should also be authorised to execute such other documents which need execution for and on behalf of The Open University in order to put into effect or carry out the purpose stated in the Finance Committee paper;

vii) a long-term investment fund be set up with an initial fund size of £80 million and that investment managers be interviewed by the Investment Committee with a view to the appointment of one or more of them to manage the fund;

viii) an additional fund of £20 million to take advantage of sudden movements in equity prices prior to managers being appointed should not be set up; and,

ix) the Finance Committee constitution should remain unchanged.

b) **noted** the unconfirmed minutes from the meeting held on 18 June 2013 (F-2013-03-M).

12 AUDIT COMMITTEE C-2013-03-08

12.1 The Chair of the Audit Committee, Claire Ighodaro, drew three matters to the attention of the Council:

a) the proposed minor revisions to the terms of reference for the Audit Committee reflected the policies for which the Committee had direct oversight;

b) whilst the Audit Committee would not normally present internal audit reports to the Council, it was considered appropriate to include the report on FutureLearn Limited in order to provide Council with the assurances it needed about this new initiative. The report did not consider the impact of FutureLearn Limited on the University's strategy, but reviewed the controls and corporate governance being put in place for FutureLearn Limited. As there was as yet no means of testing these, there was no formal audit opinion, but the Committee had confidence in the process;

c) the external audit function had been put out to tender. KPMG had not put themselves forward; not because of any lack of confidence in the OU, but because of their engagement with other work for the University, which could result in a conflict of interest. There had been no dissatisfaction with the current external auditors; a recent review of their work had been very satisfactory. The exercise was a matter of good corporate governance, testing the proposition and value for money. The Finance Director added that two companies had submitted firm proposals.

12.2 Referring to Appendix 4, page 3, an AL member expressed surprise at the conflation of MOOC content with the University's existing OERs. In terms of intellectual property (IP) these were very different. This was not a risk for FutureLearn, but a secondary OU risk. It was important to maintain clarity about the different types of IP in different situations.

12.3 The Council:

a) **approved** the proposed revisions to section 1(f), of the Audit Committee's Terms of Reference (C-2013-03-08A-Appendix);

b) **noted**:

i) the unconfirmed minutes of the meeting of the Audit Committee held on 4 June 2013 (AUC-2013-02-M);

ii) the report from Internal Audit on MOOCs/FutureLearn (AUC-2013-02-02-Appendix-04).

13 ESTATES COMMITTEE C-2013-03-09

13.1 There was no annual presentation from the Estates Committee, as there had been little activity during the year. The Chair of the Estates Committee, Peter Mantle, highlighted the following matters:

a) The potential for a wind turbine had been investigated, but it had not proved viable, which had created a difficulty for the achievement of its Carbon Management Plan. The University was reverting to more traditional energy saving measures and an energy conservation campaign had been launched across the University;

b) areas of the Michael Young Building were being prepared for sub-letting, should the University decide to use that option. However, the University should be cautious, as it might need greater flexibility in the future;

c) the University had been able to take advantage of the current market conditions with regard to its off-site properties by sub-letting space to create income and renegotiating leases to reduce rent;

d) amendments to the Committee's terms of reference had been proposed to reflect its mode of operation.

13.2 Members made the following comments:

a) the automatic lighting systems in many of the University buildings meant that lights were on unless switched off. A simple way of saving energy might be to ensure the default was for the lights to be off.

b) the large meeting rooms in Michael Young should be maintained for University use;

c) it would be preferable to refer to sites within the regions and nations or to refer to them by name, rather than use the term 'off-site properties'

d) that congratulations should be passed on to the gardeners for the innovative planting on campus.

13.3 A member asked why FutureLearn should be London-centric, when the OU had accessible properties elsewhere, such as in Cambridge, where space was being sub-let to other organisations. The Vice Chancellor said that he would take note of this comment, but that FutureLearn would be located in London.

13.4 Mr Mantle commended his successor to the Council. Bill Monk was very experienced in the world of real estate.

13.5 The Council:

a) **noted** the unconfirmed minutes from the meeting (E-2013-02-M). The Carbon Management Plan (Annual Progress Report) at Minute 4 is available to view on-line at http://intranet6.open.ac.uk/governance/main/university-committees/formal-committees/council

b) **approved** the proposed amendments to the Committee's Terms of Reference and Mode of Operation (see Appendix)

14 STAFF STRATEGY COMMITTEE **C-2013-03-10**

14.1 The Chair of the Staff Strategy Committee (SSC), Ros McCool, drew attention to the proposal to amend the Committee's terms of reference to the Council. The revisions would enable the Committee to change its approach and provide more added-value. A member of the Human Resources (HR) Executive Team had been added to those in attendance at SSC to ensure that the Director of Human Resources was supported in the implementation of any decisions made by the Committee. The Committee's responsibility for health and safety, and for equality and diversity, had also been made more explicit.

14.2 A member observed that there was an error in the Mode of Operation (para 5): "equal" should read "equality".

Action: GT

14.3 Ms McCool introduced the second annual presentation by the SSC by thanking the members of the Committee for their considerable input. Over the past year, the Committee had tried to focus on key strategic issues and not to be drawn into operational detail. One of its key functions was to monitor progress with the People and Culture work stream, and to assure the Council that the key performance targets were being delivered effectively. SSC helped to identify the key risks to the OU in this area and to propose solutions as necessary. Its external expert members provided insights into new ways of tackling people issues and acted as critical friends to support the work of the HR directorate. In order to look in depth at some of the challenges facing the OU, the Committee planned to extend one of its meetings with an annual workshop that would focus on the real drivers within the organisation. It was important to be outward looking and the Committee would draw on best practice in industry to inform the OU's approach. SSC also sought more feedback from the Council on the work that it was doing and where it should focus its efforts in the future.

14.4 The Director of Human Resources, Nigel Holt, presented further on results from the recent staff survey and key themes from the People and Culture Programme – building leadership capability, performance management, improving customer and student focus and a review of HR Services.

14.5 Ms McCool said that the Committee's future programme covered a number of substantive issues including equal opportunities, diversity, talent management and succession planning. More work was necessary on culture change and engagement in order to respond to the disparities that had emerged about the alignment of staff with the organisation's goals.Further work was required on succession planning and talent management, particularly at senior level, in order to ensure to ensure there was a pipeline of very able managers and leaders to ensure the future success of the University. The Committee would aim to provide the Council with evidence that these initiatives were on track and were expected to deliver.

14.6 A member commented that the management of underperformance took a considerable amount of time. The processes and procedures leading to dismissal were labyrinthine and it would be helpful if these could be reviewed. Ms McCool said that SSC had discussed this issue on many occasions, but there were restrictions to changing the policies and procedures concerned.

14.7 A member said that it was important to focus on engaging staff with the University's objectives, and how their performance related to them, in order to avoid such issues. Consistency of management practice, which was often difficult in an academic environment, was also essential if the University was to have policies and procedures that were seen to be fair and sensible. Engagement and consistency were the areas where improvements were most needed.

14.8 A member said that the presentation had given an intriguing glimpse into the work of the Staff Strategy Committee. It was clear that the most important aspect of the University was its people, but not enough information was provided to the Council on a regular basis. Ms McCool replied that the Council should know more about the health of the people in the organisation and the SSC would consider how this might best be achieved.

Action: RM

14.9 The Council:

a) **noted**:

i) the unconfirmed Minutes from the meeting held on 25 June 2013 (CSSC-2013-02-M);

ii) the Health and Safety Committee Annual Health and Safety Report (CSSC-2013-02- 05) presented to the Committee. The Health and Safety Committee Risk Register (CSSC-2013-02-05 Appendix) is available to view online at http://intranet6.open.ac.uk/governance/main/university-committees/formal-committees/council;

b) **approved** the proposed amendments to the Committee's Terms of Reference (CSSC-2013-02-06 Appendix 2).

15 STRATEGIC PLANNING AND RESOURCES COMMITTEE C-2013-03-11

The Council:

a) **approved** the proposed amendments to the Committee's Terms of Reference (see Appendix 1)

b) **noted**:

i) the unconfirmed Minutes from the meeting (SPRC-2013-01-M);

ii) the updated paper presented to SPRC on the UK Political Landscape and Funding Environment (SPRC-2013-03-05 updated);

iii) the paper presented to the SPRC summarising the output from the two sessions at the Council Strategy Workshop on 8 May 2012 and follow up action (SPRC-2012-03-07);

iv) that the recommendation from SPRC on qualification completion targets (SPRC-2013-03-M Minute 6) was covered elsewhere on the agenda (C-2013-03-02);

v) that the recommendation from SPRC on the proposed suite of KPIs for inclusion in the Annual Sustainability Assurance Report (SPRC-2013-03-M Minute 7) was covered elsewhere on the agenda (C-2013-03-03).

16 THE SENATE C-2013-03-12

The Council **noted** the following matters for information:

a) New Policies for an Academic Framework for Qualifications and Modules

b) Principles for Promotion to Senior Lecturer, Reader, Senior Research Fellow and Professor

c) Academic Governance Review

d) The Council

17 SCOTTISH GOVERNANCE CODE C-2013-03-13

This paper had been withdrawn from the agenda, pending the imminent publication of the final version of the Scottish Code of Good Higher Education Governance. Professor Bill Stevely commented that it would be premature to take any action before the Council meeting in November 2013.

18 ANNUAL EFFECTIVENESS REVIEW C-2013-03-14

18.1 The University Secretary said that the formal self-assessment questionnaire regarding the effectiveness of the Council had not been carried out in 2013, but that the Vice-Chair of the Council had continued to conduct individual Council member reviews, which included feedback on the effectiveness of the Council, as part of a rolling programme. It would be premature to report on the reviews at this meeting, but a further report would come to the November 2013 meeting of the Council. A comparison of the Council's business against its terms of reference did not suggest a need to revise those terms of reference.

18.2 The Council **agreed** the Corporate Governance Statement for inclusion in the Financial Statements 2012/13

19 NOMINATING ADVISORY COMMITTEE C-2013-03-15

19.1 The University Secretary said that the University management and the unions, through the Joint Negotiating Committee, had agreed to simplify and accelerate the process for appointing the members of a Grievance Committee The paper proposed that there were pre-agreed panels for each of the constituencies in a Grievance Committee, and that the membership for an actual grievance was drawn from these panels by the Director of Human Resources.

19.2 The Council

a) **agreed** that the three members of a Grievance Committee should be drawn one each from a panel of Chairs, a panel consisting of the external co-opted members of the Council, and a panel of academic or academic-related staff as appropriate;

b) **delegated** to the NAC the appointment of a panel of Chairs;

c) **delegated** to the academic-related staff of the University the appointment of a panel of academic-related staff by election;

d) **delegated** to the Director of Human Resources, the selection of members from each panel to constitute a Grievance Committee for each case;

e) **approved** the amendments to The Council Schedule of Delegations and the NAC constitution as shown in Appendix 1 and 2 of this paper.

20 MEMBERSHIP COMMITTEE C-2013-03-16

The Council:

a) **approved** the reappointment of Howard Brown and Ruth Spellman as *external co-opted members* of the Council from 1 August 2013 to 31 July 2017;

b) **approved** the reappointment of Howard Brown as one *of two members of the Council, appointed by the Council* to the Finance Committee from 1 August 2013 to 31 July 2017;

c) **approved** the reappointment of Ruth Spellman as *a member of the Council, appointed by the Council* to the Staff Strategy Committee from 1 August 2013 to 31 July 2017.

21 DECLASSIFICATION OF COUNCIL PAPERS

The Council **agreed** that the following papers should remain confidential:

C-2103-03-05	2013/14 Revenue Budget
C-2013-03-06	Financial Forecasts to 2015/16
C-2013-03-07	Finance Committee Appendix 1 Proposed Treasury Management Policy

C-2013-03-07 Finance Committee Appendix 2 Procedures for the Closure of the Branch Office in Belgium

C-2013-03-08B Audit Committee

and that the following papers could be declassified:

C-2013-03-16 Membership Committee

22 NEXT MEETING

The next ordinary business meeting of the Council will be held on Tuesday 26 November 2013 at 9.45am for 10.00am in the Hub Theatre, The Open University, Walton Hall, Milton Keynes, MK7 6AA

23 REVIEW OF MEETING

This item was included following a recommendation from the Council Governance Review Group, agreed by the Council in July 2010. There were no comments on this occasion.

24 GOODBYES AND THANKYOUS

On behalf of the Council, the Chair said goodbye and thank you to Professor Josie Taylor, Director of the Institute of Educational Technology, who would be retiring from the University in November 2013; and Claire Ighodaro, Chair of the Audit Committee and Peter Mantle, Chair of the Estates Committee, who had both reached the end of their second and final term on the Council.

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Key:

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