

Optimum Support

Open University Students Association

10th Update Prepared by Tim O'Brien (TJOB) – 9 April 2019

Phased Route Map to Incorporation Project:

Phase	How	Who Responsible for Delivery	By When	Status	Commentary
1) Confirm background to project and obtain understanding of project aims	Research and discussion	TJOB with Tom Murdoch (TM) of Stone King (SK), and Rob Avann (RA) and Peter Cowan (PC).	06/17	Done	
2) Determine approach to the project and confirm approval to proceed including with Company Limited by Guarantee (CLG) as incorporation vehicle	Meet with RA & Trustees	TJOB/RA/Trustees	08/17	Done	
3) Establish working party of OU Students Association personnel and External Professional advisers (EPAs)	Meet as a group and agree responsibilities and reporting lines	TJOB/RA/TM	09/17 onwards	Done	See list of EPAs below
4) Prepare “consultation” pack for stakeholders including OU, OU Students Association membership etc., this to include a communications plan with milestone dates.	Working Party (WP) to develop briefing including the use of FAQs etc. Populate a milestone dates schedule as an appendix to the Route Map and update/revise regularly	TJOB/RA	On-going	In hand	This process is on-going with all stakeholders regularly updated and informed as necessary. The regular updating of the Route Map serves as a communication vehicle for the OU, the CEC and OU Students Association Trustees. See 5) below for students/members’ consultation process.

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5) Plan a consultation with students (members) via the University's student consultative forums.	Based on data assembled in 4) above	RA/TJOB/ Jerard Bretts (JB)	03/18	Done	Following discussions with JB, it has been decided (and endorsed by the CEC) not to have a formal consultation process but instead to publish an informative article in OU Student magazine. The article will be supported by associated promotion via OU Students Association's website and social media It is envisaged that this will invite comments/questions.
6) Draft informative article for the OU Student magazine (see 5) above) and associated information on the website and social media	RA to commission and collate comments/ questions received. RA & TJOB to review/action as necessary	RA/TJOB	03/18	Done	The article was drafted by RA/TJOB with assistance and input from Cath Brown, Steph Stubbins and members of the Board of Trustees. It duly appeared, with support from the OU Students magazine team, as planned in the March 2018 edition. The article was also posted on a special section of the website (www.oustudents.com/incorporation). This will host future papers on the project. A FAQ document is envisaged (see 7 below) as a follow up.
7) Prepare a general FAQ document for the website	RA/TJOB to populate based on feedback to article at 6) above plus input from CEC	RA/TJOB	4/18	Done	Awaiting feedback, one comment received to date.
8) Identify assets, liabilities, staff, contracts, undertakings etc. to be transferred and any incumbrances to so doing	RA working with TJOB & EPAs	RA/TJOB/TM/Auditors	On-going	In hand	Following discussions with TM at Stone King, the transfer of all aspects can be readily incorporated into the Transfer Agreement which SK will draw up. There is no necessity to obtain audited figures for assets and liabilities as everything will be transferred from the Trust to the CLG. RA and Alison Lunn (AL) are collating details of contracts, staff and undertakings as necessary for inclusion (probably as appendices) in the Transfer Agreement . TM will advise further as necessary.

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9) Consider aspects to be addressed re University Superannuation Scheme (USS) including confirming the "window of opportunity" (Relevant Period)	Review guides and information provided by USS. Identify the USS contact and liaise as necessary	RA/ARC Pension Advisor	On-going	In hand	USS and our advisors (Anne-Marie Winton and Aneliese Sweeney at ARC Pensions Law) have continued to liaise. USS have agreed to enter in to a Flexible Apportionment Arrangement (FAA) (subject to the completion of a funding test as required by legislation). The FAA will transfer the liabilities from the Trust to the CLG. It is envisaged that the FAA will be drafted along with a new Deed of Accession (DOA) to enter the CLG in to USS. This will be based on the same terms applicable to the current OUSA DOA. RA will follow up to ensure that the legal documentation is available for review by Trustees in good order. Via AS at ARC, USS have confirmed that no further information is required, approval has been granted for the FAA & DOA . USS's solicitors will be sending documents trough for final review. There should be no problem with meeting the 1 August 2019 deadline.
10) Identify any revisions made to the OU Students Association Constitution as part of the quadrennial review or changes made due to the Remits Review that need to be reflected in the incorporation documents.	Feedback to be obtained in 11/17. CEC in 01/18 to confirm	RA/PC	01/18	Done	These have been identified and are the subject of the relevant CEC paper.
11) Draw up a "Memorandum of Understanding" of the transfer to a CLG (including its proposed name) which is endorsed by OU, OU Students Association Trustees (and CEC?)	To be drafted initially for OU Students Association Trustees' meeting on 2/11/17. Input also from OU & CEC to be requested	TJOB/RA with OU Students Association Trustees	01/18 onwards	Done	As Conference have now approved incorporating OUSA, the MoU has now served its purpose.
12) Inform the Vice Chancellor's Executive (VCE) to obtain their agreement "in principle" to proceed	JB to prepare a paper for VCE	JB in conjunction with RA & TJOB	12/17	Done	A draft prepared by JB has been agreed by RA & TJOB and was submitted to the VCE at their January 2018 meeting. No objections in principle were raised. VCE will be kept informed through JB (Or his successor) going forward.

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13) Consider how (and when) the CLG membership should be determined (drawing the distinction with the student association membership).		TJOB/RA with OU Students Association Trustees	04/19	In hand	It is envisaged that the Trustees will form the corporate members. This requires formalisation at a future Board Meeting. (see also 19) below). It is intended to do this at the Board meeting on 10 May 2019.
14) Confirm instructions to SK to draft legal incorporation and related documents		TJOB/RA/TM	04/19	In hand	At a conference call meeting with TM on 5 April 2019, instructions were confirmed for SK to:- <ul style="list-style-type: none"> • Finalise the approved Articles. • Form the CLG – this will be called The Open University Students Association Ltd. • As Draft Articles (see 15) below) are now approved, these can now be formalised so as implementation of the incorporation can take place in August 2019 . • Draft the transfer agreement between the Trust and the CLG. • Prepare the registration of the new CLG charity with the Charity Commission (CC) and OSCR.
15) Articles of Association (in effect the Governance Document) drafted for OU Students Association “Ltd”	Review NUS Model documents to determine their applicability for OU Students Association and refine as appropriate	RA/TJOB/TM	03/19	Done	A “working party” of RA: TJOB: & PC have worked on these over the summer. A final draft (Version 8) has been passed to TM of Stone King and to JB & IS of OU for review and comment. The CEC will be invited to give theirs at their October meeting . All stakeholders including Trustees and the University Council, have approved the Final Draft (16).
16) OU Students Association incorporated as a CLG (OU Students Association CLG)		TM	04/19 onwards	In hand	See 14).

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17) Register OU Students Association CLG with the Charity Commission (CC) and the Office of the Scottish Charity Regulator (OSCR)		TM	04/19 onwards	In hand	See 14). This cannot be done concurrently as OSCR will only accept registration once the primary regulator (CC) have approved the “new” CLG Charity. TM has advised that so long as the CC’s approval is received in time (there is evidently currently a significant backlog of applications at the CC – SK will expedite the process as much they can), the new CLG Charity can come into effect on the target date of 1/8/19. The OSCR registration, if it should prove necessary, can be done after 1/8/19 with the old OUSA Trust being retained as a “shell” entity until it is eventually lapsed.
18) Consider and plan the arrangements for transfer of employees (including USS).		RSM	03/19 onwards	In hand	RSM are liaising with RA and AL on this. They will advise on the appropriate communication with staff, produce all the necessary paperwork and oversee a 6-week consultation period commencing 1 June 2019. No problems are envisaged.
19) Formal appointment of Directors/Trustees and Officers of OU Students Association CLG. Fix the 1 st Board Meeting formally to approve appointments	To be formalised at OU Students Association Trustees’ Meeting	RA/TJOB	05/19		It is planned to do this at the 10 May 2019 Board meeting.
20) Relationship Agreement between OU Students Association & OU to be reviewed and modifications to be proposed to reflect new legal CLG entity, to include the formalisation of shared services agreements (e.g. payroll, accommodation, IT support)		RA/JB/IS/JV		Done	RB/JB/JV have been working on this and considering matters with Head of Property, Regions & Finance Dorian Holloway (DH). The consensus was that modifications should be made to the Relationship Agreement so that it details the accommodation and shared services (e.g. Payroll & Pensions, IT Support) as in-kind/no charge support and that there should not be a formalised lease agreement. A revised version was approved by the OU Students Association Board of Trustees and by the OU’s Council in March 2018.

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21) Application of OU Students Association CLG with CC; seek consent for transfer of assets and liabilities from OU Students Association to OU Students Association CLG and closure or modification of OU Students Association Trust entity		TM/RA/TJOB	04/19 onwards	In hand	See 14).
22) Full Due Diligence Review to meet all appropriate requirements	Refer to TM's outline plan for the key elements of this.	TJOB/TM/RA	04/19 onwards	In hand	See 14). The principal issue is for Trustees to confirm that they are satisfied that the CLG is the best possible model for governance of the Charity going forward. If this not already minuted, it should be done so at the 10 May 2019 Board meeting. The on-going status of OSL & OUSET should also be confirmed.
23) Finalise asset transfer and shared service agreements, arrangements and mechanisms		TJOB/TM/RA/Auditors	04/19 onwards	In hand	See 8) & 14).
24) Set up appropriate banking arrangements for the CLG		RA	04/19	In hand	AL has been in touch with NatWest. They have commented as follows:- "As the charitable company is replacing the unincorporated charity and there is provision in the existing organisation's governing document for it to transfer its assets and liabilities to another organisation with similar or the same objects, there is no need to set up different bank accounts." There will be a need to complete and submit a new bank mandate for the CLG once it is formed. The account numbers will remain the same. AL has obtained the necessary form for completion in due course.
25) Transfer of Undertakings for Protection of Employment (TUPE) Process		TM/RA/RSM	06/19 > 08/19		See 14) & 18)
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		for Delivery			
26) Confirm payroll arrangements can be transferred seamlessly	Refer to OU Payroll department	RA/RSM	04/19 > 08/19	In hand	RA & AL liaising with Chris Slinn in Payroll Dept.
27) Communication Programme to all relevant stakeholders.		RA/JB/TJOB	on-going		
28) Draft resolution for Conference.		RA	05/18	DONE	Conference (6/18) passed the resolution to incorporate in 8/19
29) Approval of all transfer and novation contracts and documentation (N.B. OSL and OUSET to be comprehensively covered here including transfer of OSL share ownership to the CLG)		RA/TJOB/TM	04/19 > 08/19	In hand	See 8) & 14). The Board of Trustees will formally approve this when the Transfer Agreement is produced for review and approval.
30) OU Students Association CLG as an incorporated body "goes live"			08/19		
31) Status of OU Students Association CLG formally ratified by OU	At the March 2019 Council meeting.	RA/JB/IS/JV	03/19	Done	

External Professional Advisors

Role	Organisation	Lead contacts
Project Manager	Optimum Support	Tim O'Brien (TJOB)
Legal advisors	Stone King(SK)	Tom Murdoch (TM)
Pensions legal advisors	ARC Pensions Law	Anne-Marie Winton (AMW) Aneliese Sweeney (AS)
External Auditors	James Cowper Kreston, Oxford	Jess Curley (JC); Mike Farwell (MF)
HR Consultants	RSM UK	Christie Weston, Senior HR Consultant (CW)
Pension Scheme	USS	Joanna Rigby (JR); Clare Kearns (CK).
OU Liaison	OU	Liz Marr (LM); Ian Simpson (IS); Jo Vango (JV); Chris Slinn (CS).

OU Students Association Project Delivery Team: Rob Avann (RA); Alison Lunn (AL).