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**hefcw**

Higher Education Funding  
Council for Wales

**REPORT TO THE ACCOUNTING OFFICER OF THE  
HIGHER EDUCATION FUNDING COUNCIL  
FOR WALES**

**REVIEW OF THE TERMINATED MERGER DISCUSSIONS BETWEEN  
THE UNIVERSITY OF WALES INSTITUTE, CARDIFF  
AND THE UNIVERSITY OF GLAMORGAN**

**BY**

**GAELWa**

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## GAELOWa

# REVIEW OF THE TERMINATED MERGER DISCUSSIONS BETWEEN THE UNIVERSITY OF WALES INSTITUTE, CARDIFF AND THE UNIVERSITY OF GLAMORGAN

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## Executive Summary

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### Background

#### *The requirement for reconfiguration*

The drive to reconfigure the Higher Education sector in Wales is closely linked to the policies of the Welsh Assembly Government (WAG). Successive reports commissioned by the WAG, and responses by the HEFCW since 1998 have highlighted the need for the HE sector in Wales to respond to a range of challenges in order to continue to play a role in the development of the UK and international knowledge economy. The most recent report "*Reaching Higher – A Strategy for the Higher Education Sector in Wales*" was published in March 2002.

One of the key challenges highlighted by the WAG reports is the need to respond to the competition created by the formation of relatively larger new Higher Education Institutions (HEIs) in England and beyond. The reports refer to the strength of this competition, and the disproportionately large number of small institutions in Wales.

The WAG concludes that the sector in Wales should reconfigure in order to achieve economies of scale and to reach the critical mass necessary to compete within the UK and internationally, thereby increasing the amount of funding available for key objectives relating to widening access, improving resources and enhancing teaching provision and research. This would be of benefit both to individual learners and, more widely, to the economy and people of Wales.

#### *HEFCW's role*

The WAG sets out its expectations of the HEFCW through an annual remit letter. This is used as the primary source for development of the HEFCW's Corporate Strategy and Operational Plan. The remit letter for 2002-03 set out the WAG's expectation that HEFCW would work to implement the recommendations of the *Reaching Higher* report. This remit was taken forward through the establishment by the HEFCW of a Reconfiguration and Collaboration Fund against which bids were sought from institutions to deliver the reconfiguration agenda.

It is important to note that, whilst there is much that the HEFCW can do to lever such initiatives through funding, guidance, facilitation, persuasion and discussions with the sector, neither the HEFCW nor the WAG have the statutory powers to enable them to force institutions to merge or collaborate should the institutions' governing bodies choose not to do so.

#### *The proposed University of Wales Institute, Cardiff (UWIC) / University of Glamorgan (UoG) merger*

The concept of collaboration between the UoG and UWIC was not a new one. UoG and UWIC had established a Joint Working Committee in December 2001 to explore the potential for a more strategic alliance between the two institutions together, possibly, with the University of Wales Newport. The Joint Working Committee met on only one occasion following which the initiative was suspended indefinitely by a

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resolution of a Special Meeting of the UWIC Governing Body in February 2002. It is clear from the relevant minutes that UWIC's Governing Body did not see merger as an option they wished to pursue at that time. Indeed, whilst both UoG and UWIC made bids against the HEFCW reconfiguration and collaboration fund in October 2002, neither bid involved any significant reconfiguration initiatives with each other. It is therefore clear that no shared vision of a potential merger between the two institutions existed at this time.

As part of a tour of all HEIs in Wales to promote the *Reaching Higher* agenda the Minister for Education and Lifelong Learning (the Minister) made visits to both institutions' governing bodies in November 2002. These meetings appear to have had a significant impact on the vision of the two governing bodies and the UWIC Chairman responded by contacting the UoG Chairman with a view to commencing merger discussions.

Despite the lack of a shared vision of a potential merger immediately prior to the Minister's visits, the commitment on both sides appeared to be strong in the early stages of discussions and progress was encouraging. The institutions jointly developed a document, *"An Appraisal of the Benefits of Institutional Merger between the University of Glamorgan and the University of Wales Institute, Cardiff"*, which highlighted that there was much to be gained from the merger of the two institutions.

In particular, it was concluded that *"New U could offer learning, teaching, research and enterprise opportunities and support the social and economic goals of WAG in a way which amounts to something much greater than the sum of the parts"*.

The early signs of good progress did not continue. During the early summer of 2003, the HEFCW became increasingly concerned at an apparent lack of progress towards achieving a merger to the extent that the former Chief Executive of the HEFCW wrote to the Chairmen of both institutions on 12 December 2003 informing them that *"the Council has decided to ask its Audit Service to conduct a review of the factors that led to the lack of progress and how they might be avoided in future"*. The UWIC Governing Body met on 16 December 2003 and resolved to finally terminate merger discussions.

The key objective of this review, in accordance with the letter from the former Chief Executive, was to consider the factors that led to the lack of progress and to consider what lessons could be learned for future potential mergers. The review considers the roles played both by the institutions and by the HEFCW. It includes consideration of:

- a) the achievement of corporate and management aims and objectives;
- b) compliance with established policies, procedures, regulations and recognised good practice; and
- c) the safeguarding and proper application of the £227k funding support provided from the HEFCW's Reconfiguration and Collaboration Fund.

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## Summary of Audit Findings

### *The case for merger*

The initial appraisal of the benefits of institutional merger carried out jointly by UWIC and UoG identified a *prima facie* case and no barriers to merger. The benefits to Wales and to individual learners identified included:

- a) a much broader and more flexible undergraduate course portfolio;
- b) expansion of post graduate opportunities;
- c) improvements in learning resources;
- d) expanded progression routes for FE learners;
- e) efficiency gains, creating the capacity for new initiatives;
- f) opportunities for continued growth and access to new income sources; and
- g) significant opportunities in terms of widening access and participation.

The GAELWa consider that the case for merger was demonstrably strong. None of the parties interviewed during the course of this review argued that the initial case for merger as set out in the appraisal document was flawed or that the benefits to Wales and to individual learners identified at the commencement of the process were unrealistic. There is general agreement that the termination of the proposed merger is a lost opportunity.

It is of note that no detailed options appraisal was carried out prior to embarking on a process designed to achieve merger between the two institutions. A brief option appraisal was included within the merger appraisal report prepared by the JWC in March 2003. The documented options appraisal was extremely short, consisting mainly of a small number of 'bullet points' within an Appendix to the report. Good practice dictates that a comprehensive appraisal of other options incorporating reference to other Higher Education and possibly association with Colleges of Further Education should have been conducted prior to reaching the conclusion that merger provided the best way for the two institutions to implement the *Reaching Higher* agenda.

### *Use of HEFCW Funding*

The HEFCW released £226,876 of transitional funding in September 2003. By this time, substantial time and resources had been committed by both institutions to the project, including the completion of the draft Business Plan for the proposed merged institution. The draft Business Plan together with a supplementary document entitled the "Vision Paper" provided the basis for the release of this funding. Overall the draft Business Plan included a funding requirement of £56.1m, £41.1m being shown as the funding required from HEFCW. Adequate funding of the proposed merger was seen as a key factor in achieving the 'big wins' that had been identified.

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GAELWa have reviewed the use of the transitional funding allocated and are satisfied that it has been used for the purposes provided.

On 17 September 2003 HEFCW officers provided initial feedback to both institutions on the Business Plan indicating that the issues would be further discussed at a meeting with the Council proposed for 30 September. No formal comment or reference was made regarding officers view of the desired HEFCW funding of £41.1m, although it is understood that during informal discussions with the Directors of Finance of both institutions HEFCW officers had indicated that this level of funding was exceptionally high by all available comparators and was unlikely to be available.

Following the submission of the Business Plan, the HEFCW made a number of attempts to arrange meetings with representatives of the two institutions in order to progress discussion and debate on these documents in preparation for their consideration by the HEFCW but, no such meeting took place. Consequently, the Director of Higher Education wrote to the two Vice Chancellors informing them that consideration of the draft Business Plan by the HEFCW would not be possible until December 2003.

Given the overall funding likely to be available to the sector for reconfiguration of some £50m over 4 years, and the competing demands for this funding, it is considered that the merging institutions should have been provided with clear timescales for receiving information on the level of HEFCW funding to be invested. This would have enabled them to plan to meet HEFCW requirements for information and to meet HEFCW deadlines to avoid taking forward a Business Plan based on unrealistic sources and levels of funding.

### ***Observations on the merger process***

The processes adopted to manage the merger project were considered as part of this review. In terms of project management, the processes adopted included many features of good practice and indeed there is general agreement by most parties that work was progressing well at operational level, particularly the tasks being undertaken by the Day 1 Groups. However, this good progress at operational level was not mirrored at strategic level.

#### ***Agreement on Deal Breakers***

Following the Minister's visit, the Chairman of UWIC's governing body contacted his UoG counterpart and they agreed to meet for preliminary discussions at the Hilton Hotel on 19 November 2002. The meeting was attended by the two Chairmen, the Deputy Chair of UoG and another UWIC governor. This meeting became known as the 'Hilton Meeting' and the results of the discussions held are widely referred to within both institutions as the 'Hilton Agreement'.

Whilst there was no formal record of this meeting, the GAELWa were informed that the key purpose of the meeting was to identify at the earliest possible opportunity,

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potential 'deal breakers' in moving towards merger. A range of issues were discussed, most significantly:

- a) membership by the new merged University ('New U') of the University of Wales (UoW);
- b) the Vice Chancellorship of New U; and
- c) the importance that the merger should be a 'merger of equals'.

Some possible ways forward on the issues discussed were considered and the Chairman of UoG prepared an informal note of the issues and potential solutions which was shared with the UWIC Chairman. It is important to note that the meeting was an informal one which could not form the basis of any formal agreement or commitment unless and until the detail of such agreements were considered and agreed by the full governing bodies. This is clearly understood by those that attended the meeting. However, various parties from both institutions when interviewed by the GAELWa considered that the changes in position by the other party on issues 'agreed' during the Hilton Meeting represented a key factor in the termination of the merger discussions.

A Memorandum of Understanding relating to the key issues and agreed by the governing bodies of both institutions at the outset could have avoided many of the problems later encountered. This should have incorporated a dispute resolution mechanism for resolving the issues that required further work prior to resolution.

#### *Membership of the UoW*

UoG has taught and research degree-awarding powers. It is a university in its own right, outside of the federal UoW, granting degrees in its own name. UWIC is a constituent member of the UoW, possessing its own taught degree-awarding powers, but, like all other University of Wales members, not categorised as a university in its own right. Its own degree awarding powers have been held in abeyance in accordance with UoW conditions of membership whilst its students are awarded degrees conferred by the UoW.

UoG considers that its degree awarding powers provide a significant advantage in enabling the University to respond quickly to the changing needs of students particularly in the development of e-learning and in widening participation. UWIC, however, places great emphasis on the value of the status and generally recognised high quality of UoW degrees.

Both governing bodies at their respective meetings in March 2003 endorsed the following Joint Working Committee, (JWC) recommendation; *"New U on creation would join the University of Wales (UoW) for a defined transitional period of three years. During this period it would assess its position in UoW against agreed criteria expressed in advance to UoW prior to joining and phrased in terms of outcomes, with a view to deciding whether at the end of the defined period to stay in (and put its degree-awarding powers in abeyance) or to leave. It would also review its position at any time during the defined period, if it felt that membership of the UoW was inhibiting*

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*its development During the defined transitional period it would exercise its own degree awarding powers for existing students and, in addition, in the early discussions with UoW prior to joining, it will indicate that it seeks to use them for new purposes if it felt that membership of UoW was inhibiting its development."*

This position was set out in a letter to the UoW dated 17 April 2003 which was considered at a meeting of the UoW Vice Chancellors' Board on 2 May 2003. The Vice Chancellors' Board requested that meetings should be held with representatives of UWIC and UoG to discuss the issues in more detail. These meetings took place in May and June 2003. The records of these meetings compiled by the Secretary General of UoW record the apparent acceptance by the Vice Chancellor of UoG to New U holding its degree awarding powers in abeyance and the UWIC Chairman and Vice Chancellor are therefore understood to have believed that this was not an issue. The Vice-Chancellor of UoG does not share the interpretation expressed in the Secretary General's records.

The letter and results of the discussions with the two institutions were considered at the UoW Council meeting on 27 June 2003. The UoW Council resolved to approve the proposed membership of the merged institution within the UoW subject to the previously defined conditions and not in accordance with the position agreed by both governing bodies as set out in the letter of 17 April 2003, in particular the proviso that it must hold its own degree awarding powers in abeyance. The Chairman and Vice Chancellor of UWIC, both of whom are UoW Council members, attended the meeting but, nevertheless, the resolution was carried *nem con* with no abstentions.

Strictly the resolution related to New U and not to UWIC, although obviously it would directly affect the activities, staff and students currently at UWIC if the merger had gone ahead. Nevertheless GAELWa is of the opinion that a danger of a conflict of interest existed for the Chairman and Vice Chancellor on this issue, and that, as such, it was unwise for them to participate in this decision. The minutes of the meeting do not record any discussion of a potential conflict of interest. The UWIC Vice Chancellor maintains however, that this issue was appropriately addressed at the meeting and that any decision other than that taken at the meeting would have prevented New U's establishment within the University of Wales on 1 August 2004.

The UoW issue of 'a university within a university' came to the fore through other means during the latter part of 2003. Of particular relevance was the desire of University of Wales, Cardiff to use its own degree awarding powers whilst remaining closely associated with the UoW through an appropriate category of membership.

An agreement was reached in March 2004 creating a new category of 'linked' association with UoW allowing both the university's own awards and those of the UoW to be conferred.

<p>The template for a solution that could potentially have been acceptable to the governing bodies of both UWIC and UoG in respect of association with the UoW was therefore imminent at the point in December 2003 when the UWIC governing body resolved to terminate the proposed merger initiative.</p>
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### *Vice Chancellorship of New U*

The notes of the informal Hilton Meeting indicate that the UWIC representatives proposed that the current Vice Chancellor of UoG would become the Vice Chancellor of New U for a year followed by the current Vice Chancellor of UWIC for a period of two or three years prior to proceeding to open competition for the post following this time-limited transitional period. It would clearly be a matter for the incoming governing body of New U to formally appoint the Vice Chancellor, together with other designated senior post holders.

This proposed arrangement did not proceed to be formally agreed by the respective governing bodies. The minutes and resolutions of the meetings of the respective governing bodies in March 2003 are silent on the matter.

At its meeting on 14 July 2003, the draft resolutions presented to the UoG governing body include confirmation that the target date of August 2004 for merger was achievable subject to three matters being addressed to the satisfaction of the board. One of the matters was *".....agreement on senior management for New U."* Following discussion at the meeting, the members agreed that this matter should be clarified and expanded upon. They agreed to add the following text to the resolution. *"Having regard to the advice from PWC through the due diligence work and the letter from the Chair of the Funding Council (see paragraph 137), the Vice Chancellor/Chief Executive to be appointed through open competition with appropriate outside assessors...."*

At its meeting on 17 July 2003 the UWIC board received copies of the UoG resolutions and in particular noted the position which had been taken on Level 1 and Level 2 posts. Within its own resolutions the UWIC Board affirmed its recognition that there was a prima facie case for merger with UoG but that one of the matters to be resolved was *".. the board being satisfied that UWIC and the University of Glamorgan had reached agreement on the determination and assignments of Level 1 and Level 2 staff which reflected the current character and ethos of the respective institutions in the initial period of New U."* From discussions with UWIC governors, this is understood to mean that the governing body was committed to the type of arrangement discussed at the Hilton Meeting.

The two institutions had therefore reached an apparent impasse on the issue of resolving the senior staffing structure including the appointment of the Vice Chancellor of New U. These were referred to as Level 1 and Level 2 appointments. Subsequent governing body meetings of both institutions in Autumn 2003 merely repeat the widely differing resolutions of the respective July 2003 meetings.

### *Mutual trust and confidence*

The importance of the proposed merger being a merger of equals was established as a key issue. The issue of mutual trust and confidence was key to this. Progressively, from June 2003, actions by both institutions contributed to a divergence from the

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apparent united position that had been reached in March 2003. Examples of actions which were perceived by the other party as contributing to a breakdown in trust and confidence include the following:

- a) the Chair and Vice Chancellor of UWIC not supporting the agreed position of both the UWIC and UoG governing bodies in respect of membership of the UoW;
- b) the UoG governing body resolution in July 2003 to make the appointment of the Vice Chancellor of New U through open competition, conflicting with the framework of principles which had been 'agreed' at the Hilton meeting;
- c) the publication of a booklet by UoG in July 2003 entitled *New U Update*. The publication was an internal one. It contained the logos of both institutions (as had been the practice with all staff notifications on the merger) and, because of that, appeared to UWIC to look as if it were a 'Joint' publication. It contained a message from the Vice Chancellor of UoG which signalled his acceptance of the UoG Governing Body's position (see para 105) on the leadership of the merged institution;
- d) suspension of the work of officer groups by UWIC Chair in September 2003; and
- e) the merger message composed by the Vice Chancellor of UoG in September 2003 and placed on both the UoG and the joint merger web-site. In the message the Vice Chancellor of UoG commented critically on statements allegedly made by the Vice Chancellor of UWIC at a meeting of UWIC senior staff the previous week. The UoG Vice Chancellor did not seek to confirm the accuracy of the reported comments with his opposite number and following protestation from the Chairman of UWIC withdrew the statement from the UoG and the joint web-site.

In our discussions with governors and senior staff of both institutions other examples of actions, which were deemed to have led to the poor relationship, were quoted. The issues discussed with the GAELWa include;

- a) dissatisfaction regarding the process to choose the name of the institution;
- b) the wording of the public consultation document;
- c) a memo to selected JMG members in which the Vice-Chancellor of UoG commented that aspects of Business Plan, jointly to submitted to the HEFCW; needed to be improved; and
- d) the legal vehicle to be used to accommodate the merged institution.

None of the above matters were considered by those interviewed to be significant enough on their own to have impeded the progress of the proposed merger. However, they illustrate a lack of a shared vision by the two institutions on a number of basic issues.

Recognising the key issues which had been identified at an early stage as posing a risk to the success of the proposed merger, it is considered that it would have been appropriate to appoint an independent senior figure to Chair the JWC, or to

incorporate a role for an independent advisor of sufficient stature to play a strong facilitation role in the merger process. This is accepted, and commonly used, good practice and could have assisted in the resolution of disputed issues where a failure to agree threatened the achievement of the merger.

### *Provision of Information to Governing Bodies*

There were differences in style between the operation of the two governing bodies. There were a number of areas where information was made available to UoG Governors but not to UWIC Governors. Examples of the difference of approach are given below:

- a) UoG governors had the opportunity to discuss the due diligence report with PWC as its authors. UWIC did not accept PWC's offer to attend their 17 July meeting. UWIC carried out their detailed scrutiny of the report at a meeting of the Audit Committee which was then reported to the Governing Body. Similarly PWC were not invited to present their report on the potential risks of not merging at the UWIC governing body meeting on 16 December;
- b) on 26 September 2003, the Chairman of the HEFCW wrote to the Chairman of the UWIC governing body expressing concern about his decision to suspend officer level work on the proposed merger. The Chairman of HEFCW requested that copies of his letter be made available to all the UWIC governors at their meeting. The UWIC Chair did not comply with this request, and thus his fellow governors did not receive this communication. In the opinion of the GAELWa, it is poor practice for HEFCW communications sent to institutions, with a specific request for them to be shared with the governing body, not to be shared. Similarly, staff union bulletins that were shared with UoG governing body members were not shared with UWIC members; and
- c) at governing body meetings subsequent to the July 2003 meeting, members of the UWIC senior management team, the Vice Chancellor and Principal's Board (VCPB) were excluded from special meetings of the board dealing with the proposed merger and from parts of ordinary meetings which dealt with the issue. At UoG senior staff were present at meetings to advise and inform their governing body.

GAELWa consider that institutions involved in merger discussion should give careful consideration to the provision of consistent information to their respective governing bodies. This will help to ensure that governors are seen to be in receipt of full information upon which to base their decisions.

### ***Termination of merger discussions***

The termination of the merger process occurred in two key stages:

- a) a decision by the UWIC Chairman, after discussion with his Deputy Chairman and UWIC's JWC members, to suspend the work of all of the working groups except the JWC on 17 September 2003; and

- b) the resolution of the UWIC governing body to finally terminate the merger process on 16 December 2003.

The UWIC Chairman informed GAELWa that he had suspended the work of the groups because he had not been informed, until a meeting with the UoG Deputy Chairman on 16 September 2003, of the UOG governing body's resolutions on 14 July 2003. These resolutions included a decision that the Vice Chancellorship of New U should be determined by open competition. The UWIC Chairman indicated that this did not accord with the position previously agreed and that he wished to consult with his Governing body on how to proceed before allowing work on the proposed merger to progress. A meeting of the Governing Body was subsequently arranged for 29 September 2003. Good practice would suggest, however that such a significant action should have had the backing of the UWIC governing body and should have been discussed with UoG and at JWC.

We accept that this was the Chairman's recollection, but we note, however, that the UWIC Chairman wrote to the UoG Chairman on 25 July 2003 stating that "*At its meeting on 17 July 2003 UWIC's Board of Governors received the resolutions adopted by the University of Glamorgan's Board on 14 July*". As part of the finalisation of this report the GAELWa were informed that the Chairman's recollection of the sequence of events during discussion with the report writers was mistaken and that the action was taken due to wider issues of trust and confidence.

The final termination of merger discussions, through a resolution of the UWIC governing body carried by 14 votes to 3, occurred on 16 December 2003. The decision was based on a number of papers, including a tabled report from UWIC's JWC members. That report concludes that there appeared to be little or no prospect of an outcome in the merger proposal acceptable to UWIC, and that no further progress could be made in the merger discussions.

The UWIC governing body minutes note that "*merger discussions had been commenced on the basis of agreements on a number of fundamental issues; without such agreements, which no longer prevailed in a number of material particulars, merger discussions would not have commenced*". However, as indicated above, there was no documented agreement on the fundamental issues at the commencement of merger discussion or of how they would be progressed.

### **The Wider HEFCW Role**

The view, jointly expressed by the Vice Chancellors of both institutions in March 2003, that there was a strong case for the proposed merger was enthusiastically received and supported by HEFCW senior staff and Council members. The creation of a large post-1992 institution in Wales was viewed to be a major step forward in order to remain competitive in the UK and international higher education arena. This view is also understood by the GAELWa to be shared by WAG colleagues and at ministerial level.

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During the period June to December 2003, HEFCW, mainly through the involvement of its Chairman and senior officers, corresponded and met with representatives of both institutions and the UoW, attempting to ensure that the achievement of a successful merger was proceeding. The Chair of HEFCW, stating that he was determined to assist in whatever way he could, had offered his attendance at governing body meetings of both institutions if the respective governors deemed that to be necessary or helpful.

In June 2003 senior officers and the Chairman of HEFCW had become concerned that inadequate progress was being made and that significant differences were developing in the position of the two institutions on fundamental issues. Following a meeting with the Vice Chancellors and Chairmen of the two institutions on 6 June 2003, in a letter dated 27 June 2003 the Chairman of HEFCW wrote to the Chairmen of both institutions expressing his concern about their apparent inability to resolve their differences on key issues. He went on to say that the Council would use its existing powers to ensure that the merger was achieved and would advise the Minister if those powers proved to be inadequate. The meeting on the 6 June was clearly a pivotal event although no record was made of the discussions. The respective Chairs' and Vice-Chancellors' recollection of the content of the discussions varies significantly.

The Chairman of UoG responded welcoming the HEFCW Chairman's letter and a copy of the letter was provided to governors at their meeting on 14 Jul 2003. The Chairman of UWIC did not respond, but the letter was included in the papers for the UWIC board meeting on 17 July 2003. Additionally, at that meeting the Chairman tabled copies of legal advice that had been sought by him on the content of the letter from the Chairman of the HEFCW. The UWIC Chairman's concerns are understood to relate to the powers of the HEFCW and the Minister to intervene in a merger process between autonomous higher education corporations.

Correspondence became increasingly terse between the HEFCW Chairman and the UWIC Chairman. In a letter on 6 October 2003 to the Chairman of UWIC, the Chairman of HEFCW again expressed concerns regarding the progress of the proposed merger and his discontent with specific actions by the UWIC Chairman, contending that such actions demonstrated that the UWIC Chairman was opposed to the proposed merger. The strong tone of the letter culminates with the HEFCW Chairman inviting the UWIC Chair to consider his position. The UWIC Chairman responded on 28 October 2003 questioning the appropriateness of the tone, content and purpose of the HEFCW Chairman's letter.

<p>The HEFCW Chairman informed the GAELWa that his intention in corresponding in strong terms with the UWIC Chairman were intended to progress the merger process to achieve the 'big wins' that had been identified. A number of UWIC governors have indicated that the effect of the HEFCW Chairman's interventions was in fact counter productive.</p>
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## Impact of the Termination of Merger Discussions

None of the documentation examined during this review or the interviews held with key individuals have provided any evidence that the 'big wins' identified in the early stages of the merger discussions were flawed and as such the termination of the proposed merger represents a major loss to learners and more widely to the economy and people of Wales.

In addition to the £226,876 of HEFCW funds invested in the proposed merger, significant people resources were invested over the period of a year within both institutions and the HEFCW in progressing the proposals. This represents a major opportunity cost to the institutions who now need to play 'catch up' by developing other reconfiguration and collaboration strategies. It will also undoubtedly have an adverse impact on staff morale within the two institutions. Furthermore, the breakdown in the discussions between UWIC and UoG has reportedly resulted in a breakdown in trust which will make it extremely difficult for the institutions to work co-operatively for the mutual benefit of the higher education sector in Wales.

## The Way Forward

Governors and staff interviewed in both institutions are agreed that it would be difficult, if not impossible under current circumstances to recommence the merger discussions, such is the lack of trust and mutual vision between the two institutions. The decision taken by the UWIC governing body was within their powers to make and neither the HEFCW, nor the WAG have the statutory powers to force a merger which the UWIC governing body does not wish to progress.

Whilst it is recognised that merger discussions have been terminated and that both institutions are seeking to meet the WAG Reconfiguration and Collaboration agenda through other mechanisms, the GAELWa recommends that the HEFCW should consider offering to fund some form of independent facilitation from a source mutually acceptable to the two institutions. The objective of this would be to explore the possibility of or re-establishing and building upon the collaborative relationship that existed between the two institutions prior to merger discussions in order to obtain better value for the financial and other resources invested in the terminated merger discussions.

## Conclusions

The UWIC/UoG proposed merger was based on sound principles which would have brought significant benefits to learners and to the people of Wales in accordance with WAG policies. The opportunity to create a large post-1992 institution in Wales was viewed by all parties to be a major step forward in order to remain competitive in the UK and international higher education arena.

It is disappointing to note that the termination of the merger discussions did not occur because the principles which led to the initiation of discussions were proved to be unsound but because the institutions found themselves unable to agree on deal

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breakers and on points of detail, and because, at strategic level there was a mutual breakdown in trust and confidence between the two institutions. The UWIC governing body saw these issues as fundamental enough to justify the termination of merger discussions.

Whilst it is fully accepted that neither governing body nor the HEFCW would countenance merger 'at any price', none of the issues identified should have been insurmountable, a conclusion endorsed by the institutions themselves who had informally identified all of the key potential deal breakers, and ways of dealing with them, at the commencement of their discussions.

**Note**

The opinions and assurances provided in this report are given solely for the use of the Council 's Accounting Officer.

Audit observations are provided to the Accounting Officer in order to promote the application of best practice and ensure compliance with those requirements designed to improve accountability in the Higher Education sector.

This report is not intended for other parties and GAELWa will not accept responsibility for any reliance such parties might place on it.

## Introduction

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### Background

- 1 The Minister for Education and Lifelong Learning visited all institutions in 2002 to discuss their contribution to implementing the Reaching Higher agenda. Following visits to the University of Glamorgan (UoG) and the University of Wales Institute, Cardiff (UWIC) by the Minister in November 2002, the governing bodies of both institutions agreed to explore the possibility of merger between their two institutions.
- 2 During the early summer of 2003, the HEFCW became increasingly concerned at an apparent lack of progress towards achieving a merger to the extent that the former Chief Executive of the HEFCW wrote to the Chairmen of both institutions on 12 December 2003 informing them that *'the Council has decided to ask its Audit Service to conduct a review of the factors that led to the lack of progress and how they might be avoided in future.'*
- 3 The UWIC governing body met on 16 December 2003 and resolved to terminate merger discussions. Nevertheless, in January 2004, the HEFCW Interim Chief Executive, in consultation with the HEFCW Chairman, determined that the GAELWa review should proceed.
- 4 The key objective of this review, in accordance with the letter from the former Chief Executive, was to consider the factors that led to the lack of progress and to consider what lessons could be learned for future potential mergers. The review considers the roles played by both institutions and by the HEFCW.
- 5 Detailed terms of reference were agreed by the Accounting Officers of both institutions in January 2004 and are reproduced at **Annex A**. In addition to the key objective for the review, they include consideration of:
  - a) the achievement of corporate and management aims and objectives;
  - b) compliance with established policies, procedures, regulations and recognised good practice; and
  - c) the safeguarding and proper application of the £227k funding support provided from the HEFCW's Reconfiguration and Collaboration Fund.
- 6 The review has covered the duration of the initiative from its inception to its eventual termination on 16 December and has included:
  - a) a review of minutes and papers submitted to and discussed by both institutions' governing bodies and relevant sub-committees;
  - b) a review of the minutes and papers of the Joint Working Committee, the Joint Management Group, the Joint Directorate (and, where relevant, selected feeder groups) established by the two institutions;
  - c) a review of minutes and papers submitted to and discussed by the HEFCW;
  - d) a review of correspondence relevant to the merger sent to or received by the two institutions, the University of Wales (UoW), the HEFCW and the

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Welsh Assembly Government, including notes relating to any formal or informal meetings and discussions;

- e) discussion with key personnel including the institutions' Chief Executives, Chairs, Governors, Secretaries to Governing Bodies, other relevant senior managers, and selected other interested individuals and organisations including NATFHE;
- f) discussion with key HEFCW personnel including the Chief Executive, the Chair and members of Council, the Clerk to the Council and relevant senior managers; and
- g) a review of other relevant documentation.

### Structure of the report

- 7 This report consists of the following sections:
- 8 **Executive Summary** - sets out significant findings arising from the review.
- 9 **Introduction** - sets out the objectives of the review and the structure of the report.
- 10 **Detailed Audit Findings** - sets out the detailed findings from the review analysed by subject area as below:

<b>Sector background to reconfiguration and mergers</b>	This section describes the wider environment of mergers within the HE sector in Wales, identifying the priorities identified by the Welsh Assembly Government and the HEFCW. An overview is provided of the series of reviews undertaken and the reports published since the Assembly was established in July 1999.
<b>The UWIC and UoG merger discussions</b>	The chronology of the UWIC and UoG merger is outlined together with a description of the role and structure of the key groups and committees. The section contains an evaluation of the process used comparing it to published and generally accepted good practice.

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*Continued..*

<b>Progress on Key Issues</b>	<p>Early in the merger discussions a number of strategic issues were identified which needed to be resolved in order for the proposed merger to progress and be achieved. The main issues were:</p> <ol style="list-style-type: none"> <li>1) Membership of the University of Wales</li> <li>2) Leadership of the merged institution</li> <li>3) Funding</li> <li>4) Date of merger</li> <li>5) Parity of esteem</li> </ol> <p>This section examines the way these key issues were progressed.</p>
<b>HEFCW's Role and Powers</b>	<p>This section reviews the involvement of the HEFCW in the development and progressing of the merger initiative, particularly in dealing with the Business Plan and also in its more general interaction with the institutions during the period of the merger discussions.</p>

- 11 The terms of reference for the review, a chronology of events, extracts from background reports and the terms of reference for the various working groups associated with the proposed merger are set out in **Annexes A-D** of the report.

### **Protocol**

- 12 Audit observations have been made where considered appropriate together with recommendations designed to improve and strengthen controls. These are set out in the form of the key 'lessons to be learned' for potential future mergers and are summarised at **Annex E**.

## Sector Background to Reconfiguration and Mergers

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### The Case for Reconfiguration and Merger

- 13 The drive to reconfigure the Higher Education sector is closely linked to the policies of the Welsh Assembly Government (WAG). Successive reports commissioned by the WAG, and responses by the HEFCW since 1998 have highlighted the need for the HE sector in Wales to respond to a range of challenges in order to continue to play a role in the development of the UK and international knowledge economy. The following reports are of particular relevance:

Report Title	Source	Date
The Scope for Institutional Mergers at the Higher Educational Level	HEFCW Review	September 1999
The Learning Country	Welsh Assembly Government Report	September 2001
Policy Review of Higher Education	Education and Lifelong Learning Committee Report	January 2002
Reaching Higher – A Strategy for the Higher Education Sector in Wales	Welsh Assembly Government Report	March 2002

- 14 One of the key challenges highlighted by these reports is the need to respond to the competition created by the formation of relatively larger new Higher Education Institutions (HEIs) in England and beyond. The reports refer to the strength of this competition and indicate that its disproportionately large number of small institutions hinders Wales' ability to compete.
- 15 A common theme of the reports is that the sector in Wales needs to reconfigure in order to achieve economies of scale and to reach the critical mass deemed to be necessary to compete within the UK and internationally, thereby increasing the amount of funding available for key objectives relating to widening access, improving resources and enhancing teaching provision and research.
- 16 The need for strategic reconfiguration, including mergers, is highlighted in each of the reviews. In its report, *The Learning Country*, the WAG states that the status quo, in terms of the configuration of the current Higher Education sector in Wales, is not an option. The report then goes on to set out an expectation of a radically new approach to the development of collaboration and co-operation across Wales. The *Reaching Higher* strategy developed these concepts further.
- 17 Extracts from the published reports, relevant to the UWIC/UoG merger, are summarised in **Annex B** of this report. The key issues emerging from the reports include:

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- a) the WAG's view that – *“The sector carries administration costs above the norm – perhaps as much as 4% higher than the average of the other HEI sectors in the UK. Basic administrative functions could be handled far less expensively in collaborations. Large institutions spend a smaller proportion of total income on staff and premises than smaller ones”*, and that *“The drive towards reconfiguration will allow institutions to focus on all aspects of their performance, including pressing management issues. There is plainly room to improve management practice and expertise, giving it the same attention as is given to academic excellence.”*
  - b) the Education and Lifelong Learning committee's view that – *“Achieving critical mass in an institution relates to achievement both in teaching and research. The committee notes that no individual teaching-led institution in Wales is of comparable size to the big HEIs in England....We learnt that even HEIs of considerable size and reputation in England were proposing merger as a means of maintaining their competitive edge.”*
  - c) the WAG's objective to promote – *“Reconfiguration to achieve critical mass sufficient to reduce overhead costs for the HE sector as a whole to better the England and Wales average by 2005, and to the lowest quartile by 2010”*;
  - d) the HEFCW's belief that there is a case for seeing some five or six, general, multi-mission institutions in Wales as an aim. However it notes that mergers will require a will and a drive both on the part of the WAG itself and on the part of individual institutions in identifying appropriate partners;
  - e) the WAG's undertaking that *“Provided the sector plays its part to achieve success through reconfiguration and collaboration, we should be prepared to assist through increasing funding streams in support of knowledge exploitation.”* and
  - f) the Education and Lifelong Learning committee's view that HEFCW should *“facilitate a teaching led cluster based on the University Of Glamorgan, UWIC and UWCN..... This should also be with a view to possible merger.”*

### The HEFCW Response

- 18 Responding to the WAG report, *Reaching Higher*, the HEFCW established a Reconfiguration and Collaboration Fund as a successor to the previous Structural Change Fund. *Reaching Higher* had identified reconfiguration and collaboration as key to ensuring a successful and internationally competitive Welsh HE sector for the future. That view was reiterated in the Council's 2002-03 remit letter and reinforced by the award by WAG of additional funding of £3 million above the baseline grant-in-aid in 2002-03 expressly for reconfiguration and collaboration.
  - 19 The Council also set aside £2 million from its baseline grant for the same purpose, creating a single reconfiguration and collaboration fund of £5 million for 2002-03. The Assembly later indicated that £6 million would be made
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available for 2003-04 and indicative sums of £8 million and £28 million respectively for 2004-05 and 2005-06:

<b>Year</b>	<b>Funds Available £M</b>
2002-03	5
2003-04	6
2004-05	8
2005-06	28*
<b>Total</b>	<b>£47M</b>

\* Reduced to £13m during the 2003 budget planning round in the light of progress on reconfiguration

- 20 In its July 2002 Circular to the sector, W02/48HE, the Council invited proposals from sector institutions to seek an allocation from the fund, first and foremost to support collaboration at the topmost level at the institutions. The Circular set out broad criteria to be used in assessing proposals and set a deadline of 31 October 2002 for the receipt of applications. Applications for support funding were received involving each of the 13 institutions.
- 21 In this way, and through discussions with individual institutions, the HEFCW sought actively to take forward the remit handed down by the WAG. It is important to note that, whilst there is much that the HEFCW can do to promote, facilitate and lever such initiatives within the sector, it does not have the statutory powers to enable it to force institutions to merge or collaborate should they choose not to do so.
- 22 In practice, applications for support funding were received involving each of the 13 Higher Education institutions in the sector. The initial application from UWIC contained a number of collaborative initiatives totalling £727k whilst the proposal from UoG again contained collaborative projects and totalled £4,033k. Neither of these two applications contained any reference to any potential alliance or merger with each other and this was clearly not a way forward that either institution was actively considering at this time.

## The UWIC and UoG Merger Discussions

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### Introduction

- 23 The UWIC/UoG merger discussion process has been reviewed and compared with good practice and guidance set out in the following documents
- a) *Mergers and Collaboration – A Guide for Further and Higher Education Institutions* published by CIPFA in 2001.
  - b) *Handling Merger Proposals* published by the Higher Education Policy Institute in 2003
  - c) *Mergers in the Higher Education Sector* published by the Higher Education Funding Council for England in 2004.
  - d) *How to manage a merger...or avoid one* published by Heist in 1998
- 24 A chronology of the key events in the process is set out at **Annex C**. The remainder of this section sets out GAELWa's findings in relation to the key events and the processes followed in pursuing a potential merger.

### Discussions between the institutions on collaboration prior to October 2002

- 25 The concept of collaboration between higher education institutions in South Wales in general, and between the UoG and UWIC in particular, was not a new one. Following a track record of some operational collaboration between UoG and UWIC, a Joint Working Committee was established in December 2001 to explore the potential for a more strategic alliance between the two institutions. The possibility of the University of Wales College, Newport (UWCN) joining the initiative was also to be considered and indeed UWCN staff were involved in the discussions.
- 26 A broad framework for the alliance was developed into a Collaboration Agreement. However the Joint Working Committee met on only one occasion, on 18 January 2002, following which the initiative was suspended indefinitely by a resolution of a Special Meeting of the UWIC Governing body on 11 February 2002. The relevant minutes of that meeting state, "*UWIC is not and sees no prospect of being involved in merger talks with any institution.*" A resolution was approved stating that, for an indefinite period, UWIC would not, through members of the Board of Governors or the Executive, take part in meetings of the Joint Working Committee.
- 27 It is clear therefore that, despite the steers and expectations contained in the Education and Lifelong Learning Committee's *Policy Review of Higher Education* (January 2002), UWIC's Governing body did not see merger as an option they wished to explore or pursue at that time.

### October 2002 Reconfiguration and Collaboration bids from UWIC and UoG

- 28 As described in the previous section of this report, HEFCW Circular W02/47HE required all institutions to submit a Reconfiguration and Collaboration Plan in response to the requirement for such plans in the Assembly's 2002-03 remit letter.

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- 29 Responding to the requirements of HEFCW Circular W02/48HE both UWIC and UoG submitted applications in October 2002 for support from the Reconfiguration and Collaboration Fund. The UWIC application contained 5 bids, 4 of which involved collaboration with other HE and/or FE institutions and one bid involving the rationalisation of provision with UWCN, requesting support funding totalling £727k.
- 30 The UoG application also contained 5 bids, one of which involved reconfiguration with Merthyr College and three others involving collaboration with HE and/or FE institutions. The remaining bid was in respect of the rationalisation of provision with UWIC. The total value of the UoG bids was £4,033k.
- 31 It is important to note that neither the UoG bid nor the UWIC bid involved any significant reconfiguration initiatives with each other, the only reconfiguration project being UoG's integration with Merthyr College. Thus it can be concluded that, at this time, no shared vision of a potential merger between the two institutions existed.

### **Visits of the Assembly Minister for Education and Lifelong Learning**

- 32 On 4 November 2002, as part of a consultation tour visiting all the HE institutions to discuss their contribution to implementing the *Reaching Higher* agenda including reconfiguration and collaboration proposals, the Minister for Education and Lifelong Learning (the Minister) visited UWIC. The GAELWa understand that the Minister encouraged the governors to develop and bring forward proposals which were more strategic in nature and would contribute to the reconfiguration objectives set out in *Reaching Higher*.
- 33 The Minister visited UoG on 13 November 2002 and, in discussing the institution's current plans, encouraged the governors to bring forward reconfiguration proposals which could attract additional Assembly funding into the future.

### **Responses of the respective Governing Bodies**

- 34 Following the Minister's visit, the Chairman of UWIC's Governing Body contacted his UoG counterpart and they agreed to meet for preliminary discussions at the Hilton Hotel on 19 November 2002. The meeting was attended by the two Chairmen, the Deputy Chair of UoG and another UWIC governor. This meeting became known as the 'Hilton Meeting' and the results of the discussions held are widely referred to within both institutions as the 'Hilton Agreement'.
- 35 There was no formal record of this meeting although the UoG Chairman produced a short summary note of the meeting and shared this with his UWIC counterparts. No feedback was received regarding the content of the note and it was taken by UoG to represent an accurate, if brief, account of the discussions. The GAELWa were informed that the key purpose of the meeting
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was to identify at the earliest possible opportunity, potential 'deal breakers' in moving towards merger. GAELWa were informed that the following issues were discussed:

- a) membership by the new merged University ('New U') of the University of Wales;
- b) the Vice Chancellorship of New U;
- c) the concept of a 'merger of equals' rather than a takeover by either party;
- d) the naming of New U;
- e) the Chairmanship of New U
- f) adequate funding of the proposed merger; and
- g) the legal vehicle for the creation of New U.

36 The note prepared by the UoG Chairman indicates possible solutions to some of the issues. GAELWa were informed that none of the issues were considered at this stage by either party to be insurmountable, and this view is also reflected in the initial appraisal document (see paragraph 41). However there were some inconsistencies in the recollections of the various attendees of the possible solutions that were proposed at the Hilton Meeting.

37 These inconsistencies should not have been important given that the meeting was an informal one which could not form the basis of any formal agreement or commitment unless and until the detail of such agreements were considered and agreed by the full governing bodies. This is clearly understood by those that attended the meeting. However, various parties from both institutions when interviewed by the GAELWa considered that the changes in position by the other party on issues 'agreed' during the Hilton meeting represented a key factor in the termination of the merger discussions.

38 Following a meeting of the UWIC Board on 4 December 2002 it was agreed with the UoG Board that a Joint Statement would be issued on 5 December stating that both institutions had agreed to establish a joint committee comprising governors and the respective Vice Chancellors to consider the benefits and feasibility of merger.

### **Reaching agreement on key issues or potential deal breakers**

39 Deal breakers or, more positively, issues to overcome are those issues that could cause a merger to fail. Identifying deal breakers is one of the most important aspects of a proposed merger process. Agreement on the key principles upon which any merger deal moves forward, as recommended in the CIPFA Guide, should be achieved prior to the formal feasibility stage. The Guide recommends that a Memorandum of Understanding should be drawn up which addresses each issue and records what has been discussed and agreed by the governing bodies.

40 As explained above, the two Chairmen recognised the importance of early identification of the deal breakers and met informally (the Hilton Meeting) to

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explore these. These matters were discussed by at the next meetings the respective Governing Bodies, however they were not formalised into any agreement or Memorandum of Understanding and approved by the Governing Bodies of the two institutions.

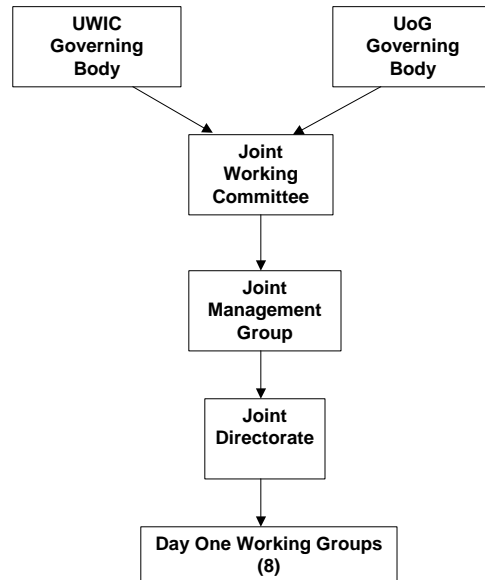
- 41 The two institutions did develop a joint report published in March 2003 entitled *"An Appraisal of the Benefits of Institutional Merger between the University of Glamorgan and the University of Wales Institute, Cardiff"*. This report does not, however, refer to the potential deal breakers other than membership of the UoW. The report recognises that this is an important issue to resolve but does not recommend a mechanism or framework to do so. The report did state , however, that early decisions on governance and management arrangements were essential.

#### **Lesson to be Learned**

- 42 Key issues to overcome, or deal breakers, should be identified at an early stage and the positions of the respective Governing Bodies formally recorded together with the agreed mechanism for resolving the issue. This should form the basis of a Memorandum of Understanding between the institutions.

#### **Establishment of the Joint Working Committee and Supporting Groups**

- 43 Following the announcement that a feasibility study of a potential merger of the two institutions was to be undertaken it was resolved to establish a Joint Working Committee (JWC). A Collaboration Agreement was developed and agreed, setting out the Terms of Reference, authority and membership of the Committee. A copy of the Collaboration Agreement is included as **Annex D** to this report.
- 44 The JWC met for the first time on 17 December 2002. The meeting agreed to the establishment of a number of working groups, subsequently referred to as "Day 1 Groups", to take forward discussion on strategic and operational issues that needed to be resolved by the agreed merger date. The meeting also agreed that specific proposals regarding the merger would be completed for presentation to meetings of the respective Boards in March 2003.
- 45 A Joint Management Group (JMG) and a Joint Directorate (JD) were also established with JMG meeting for the first time on 6 January 2003 and the Joint Directorate on 10 April 2003. Terms of reference were established and documented for both these groups (**Annex D**). The overall structure is illustrated as follows:



- 46 The structure and operation of these groups is considered by the GAELWa largely to accord with good practice in terms of project management and the guidance referred to in paragraph 23. An exception to this is the decision not to keep full records of the meetings held. In practice only action points were recorded and this led, in particular in relation to the JWC, to some later differences in the recollections of attendees over the nature of discussions and what had been agreed. Whilst it is understood that maintaining full records of meetings may have been considered to be undesirable since it could have hampered the free exchange of views, it is considered essential that there should be a record of the issues discussed and any agreements reached.

#### Lesson to be Learned

- 47 Comprehensive minutes of key meetings should be maintained when working towards a merger, including the nature of the discussions, any agreement reached and forward action points.

#### Development of Prima Facie case for merger

- 48 As preparation for the completion of a feasibility review of the case for the merger, the two institutions jointly commissioned PricewaterhouseCoopers (PWC) to complete an initial high level evaluation of the ultimate benefits of the creation of New U. This work was completed and a draft report was submitted to the JMG in February 2003. At the same time BKR Haines Watts and Eversheds were commissioned to prepare a Critical Path Analysis for the proposed merger. This analysis was again completed and reported to the JMG

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in February 2003. The JMG reported its views and the progress of the initial studies to the JWC and this work formed the basis of the JWC's report to the two governing bodies.

- 49 The JWC's report was completed in March 2003 and was entitled "*An Appraisal of the Benefits of Institutional Merger between the University of Glamorgan and the University of Wales Institute, Cardiff*". The Opening Statement in the report states that there is a prima facie case for UoG and UWIC to merge to create New U. The report, in the Conclusions and Recommendations section, recommends to each governing body that a new institution should be created and that detailed work should proceed on the issues to be resolved prior to merger. A target date of 1 August 2004 was recommended for the merger to be completed.
- 50 The respective Governing body meetings of each institution in early March 2003 resolved to adopt the recommendations of the JWC and on 11 March 2003 a joint press statement was issued stating that the Boards had agreed to actively pursue merger negotiations.

#### **Due diligence work**

- 51 The JWC commissioned financial and legal due diligence reviews following a competitive tendering exercise. It had been agreed that a joint review should be undertaken rather than separate reviews by each institution on the other. PWC were engaged to undertake the financial aspects of the work and Eversheds the legal aspects. This work commenced in February 2003 and was completed and reported to meetings of the respective governing bodies in July 2003. No significant issues that might threaten the progress of the merger discussions emerged from this work.

#### **Development of a Business Plan for the merged institution**

- 52 In support of an application for financial support from the Reconfiguration and Collaboration Fund, and particularly in order to access transitional funding to cover consultancy costs, staff cover etc, the institutions were required to prepare and submit a Business Plan to the HEFCW. Such a plan was developed using the work undertaken by PWC on the initial high level evaluation of the ultimate benefits of the creation of New U. The work was led by the institutions' Directors of Finance with a deadline of 31 July 2003 for the submission of a substantive draft to the HEFCW. The principal objective of meeting the deadline of 31<sup>st</sup> July for the submission of the plan was to ensure early commencement of the negotiations and to obtain the earliest possible decision on funding.
- 53 A number of meetings were held with HEFCW officers to develop aspects of the Business Plan and the draft was submitted to HEFCW on schedule on 31 July 2003. Subsequently, in discussions with the institutions' respective Directors of Finance, the HEFCW requested additional information on the vision and strategic position of the merged institutions. This was developed and submitted to HEFCW as a supplementary "Vision Paper". The HEFCW

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deemed that this was sufficient to agree to release initial transitional funding of £227k.

### Ongoing Progress of the merger discussions

- 54 During the period March to June 2003 the JWC, JMG, JD and Day 1 Groups continued to meet regularly and progress at an operational level was in line with key events and dates in the documented critical path. However, at a strategic level, little progress on resolving key issues was being achieved. Two key issues in particular emerged as the main inhibitors to progress at this level. These were:
- a) the different positions being taken by the two institutions on the New U's position within or outside the University of Wales' federal arrangements; and
  - b) the senior staffing structure, including the appointment of the Vice Chancellor of New U. (These were referred to as Level 1 and 2 appointments).
- 55 The lack of progress on these issues is considered by the GAELWa to be critical to the final termination of the merger discussions and they are therefore explored in more detail in the next section of this report.
- 56 The lack of progress crystallised when, at the end of a JWC meeting on 30 June, the members were unable to agree on a joint common set of recommendations to be presented to the institutions' governing body meetings in July 2003. There is specific reference in the minutes of the UoG governing body meeting on 14 July 2003 that *"..the UWIC representatives were unwilling for the JWC report to contain any recommendations."* Inevitably, different resolutions emerged from the respective meetings, particularly in respect of the two key issues referred to above.
- 57 On 17 September 2003 the Chairman of UWIC's governing body, following his meeting the previous day with the Deputy Chair of the UoG governing body, announced that meetings of all groups other than the JWC were being suspended. He informed the GAELWa that he had consulted with his Deputy Chairman and UWIC's JWC members before taking this action. The Chairman indicated to GAELWa that he had taken this action as he had not been informed of UoG's resolutions on 14 July until the day of his meeting with the UoG Deputy Chair and that he wished to consult with his Governing body on how to proceed. A meeting of the Governing Body was subsequently arranged for 29 September 2003. We accept that this was the Chairman's recollection, but we note, however, that the UWIC Chairman wrote to the UoG Chairman on 25 July 2003 stating that *"At its meeting on 17 July 2003 UWIC's Board of Governors received the resolutions adopted by the University of Glamorgan's Board on 14 July"*. The receipt of the resolutions is confirmed in the UWIC governing body minutes of 17 July. As part of the finalisation of this report the GAELWa were informed that the Chairman's recollection of the sequence of events during discussion with the report writers was mistaken and that the action was taken due to wider issues of trust and confidence.
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- 58 The suspension by the UWIC Chairman on 17 September of the work of the groups other than the JWC was a highly significant event. There is general agreement amongst all parties that these Groups had been working well and were making good progress against their terms of reference.
- 59 The UWIC Board held a special meeting on 29 September 2003. The only agenda item was the merger and at the end of the meeting the governors resolved to re-affirm the resolutions held on 17 July and to seek to arrange a meeting of the JWC to discuss the issues of difference between the two institutions. The minutes also refer to the loss of trust and confidence occasioned by actions of the UoG over recent months specifically:
- a) the UoG governing body's resolutions on leadership of New U at its meeting of 14 July (see paragraph 105);
  - b) a message supporting the resolution issued by the Vice Chancellor of the UoG in an update on merger progress (see paragraph 109c); and
  - c) a statement by the UoG Vice Chancellor on the UoG and Joint web site which was subsequently removed (see paragraph 109e).
- 60 On 1 October the UoG Board also held a special meeting and amongst its resolutions re-affirmed its resolutions of 14 July, stating that the governing body continued to believe that merger was in the best interests of both institutions and of higher education in Wales.
- 61 The JWC did not meet between 30 June and 15 October. This was due to a combination of leave commitments by members and the need to await feedback from the HEFCW on the Business Plan. At what transpired to be the final meeting of the JWC on 15 October, it was agreed that for the first time, comprehensive minutes of the meeting would be maintained as opposed to the practice to date of merely recording agreed actions. It is clear from the draft minutes that little agreement was reached on any of the issues debated. The extent of the differences is illustrated by a failure to even agree the contents of the minutes after three revisions. Although a further meeting of JWC was arranged on 4 November this meeting did not take place and no further meetings were arranged.
- 62 At the next ordinary meeting of the UWIC governing body on 21 October, discussion of the state of the merger initiative was the major item of business. The Minister for Education and Lifelong Learning attended that meeting and emphasised the WAG's continuing commitment to reconfiguration and collaboration, as shown by the money which had already been announced to support *Reaching Higher* over the next three years. She encouraged the governors to resolve the issues which were currently impeding progress, whilst making it clear that it was for the governing body to decide what to do. After the Minister left the meeting, the governors resolved to make a further attempt to identify common ground and to progress discussions on the basis of signed Heads of Agreement, the content of which was discussed and agreed. However no further actions were taken to progress this matter, primarily due to no further meetings of the JWC being held.
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- 63 An ordinary meeting of the UoG Board was held on 10 November 2003. The members received a progress report on the merger discussions and received copies of a letter dated 3 November from the Chairman of the HEFCW proposing the establishment of an advisory body to assist the institutions to achieve merger. The governors resolved to accept the HEFCW's proposal unconditionally and chose its two nominees for the suggested board.
- 64 A meeting of the UWIC Board was held on 16 December. The members received copies of correspondence exchanged between the two institutions and the HEFCW relating to the merger. In addition, a paper prepared by UWIC's JWC members was tabled at the meeting. One of the recommendations contained in the paper was that merger discussions with UoG should be immediately and finally terminated. A report prepared by PWC at the request of UWIC's Audit Committee was also received. This report was a detailed analysis and evaluation of the risks to UWIC of not merging with UoG.
- 65 The UWIC governing body rejected HEFCW's suggestion that an advisory body be established to assist in progressing the merger discussions. The minutes record that the members considered that there was no prospect of achieving changes to the terms of reference of the proposed advisory body since the terms of reference had been accepted without change by the UoG governing body and the HEFCW Chairman's letter of 3 November stated that only joint suggestions for modifications in the composition or responsibilities of the advisory body would be entertained. The UWIC Chairman, in a letter to the HEFCW Chairman on 17 November 2003 had already expressed reservations about perceived imbalances in the membership of the proposed advisory body which he was concerned to ensure would reflect the negotiating positions of both institutions.
- 66 By a majority of 14 to 3 the UWIC board meeting resolved to immediately and finally terminate the merger discussions. The decision was based on a number of papers, including a tabled report from UWIC's JWC members, which concluded that there appeared to be little or no prospect of an outcome in the merger proposal acceptable to UWIC and that no further progress could be made in the merger discussions either through a JWC or the advisory board mechanism as proposed.
- 67 The UWIC governing body minutes note that "*merger discussions had been commenced on the basis of agreements on a number of fundamental issues; without such agreements, which no longer prevailed in a number of material particulars, merger discussions would not have commenced*". As indicated in paragraphs 34-42, there was no documented agreement on the fundamental issues at the commencement of merger discussion or of how they would be progressed.

### **Observations on the process for progressing the merger initiative**

- 68 The process adopted for the progressing and management of the merger proposal contained some elements of good practice that are contained in the
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various reports and guides which are referred to in Paragraph 23 of this report. However there are some aspects that, if they had been incorporated, would potentially have enhanced the prospects of merger taking place.

### Options Appraisal

- 69 Starting with the informal meeting led by the Chairmen of the two institutions in November 2002 the immediate focus was on merger. Even at that early exploratory stage, discussion of some of the issues clearly centres on a situation of an assumed merger. The issues discussed included the leadership of the 'merged institution', a framework for deciding the Chair of the new institution and the legal vehicle to be used.
- 70 No robust evaluation of options was undertaken. A brief *post hoc* option appraisal was included within the merger appraisal report prepared by the JWC in March 2003. The documented options appraisal was extremely short, consisting mainly of a small number of 'bullet points' within an Appendix to the report. There was limited further development of the option appraisal in the Business Plan document submitted to the HEFCW in July 2003, but this was perfunctory and is considered to be too late in the process.
- 71 UWIC is now considering other possible options to implement the 'Reaching Higher' recommendations and the Vice Chancellor expressed a view to the GAELWa that a proper options appraisal might have shown that the UWIC/UoG merger option may never have been the best approach to meeting the reconfiguration agenda.

### Lesson to be Learned

- 72 Prior to engaging in costly and resource intensive merger processes, governing bodies should ensure that a robust, broadbased and comprehensive options appraisal has been undertaken and that the most beneficial option is pursued.

### Selection of date of merger

- 73 At a very early stage in the initiative, January 2003, an assumed date for merger of August 2004 emerged in the preliminary documentation and after being formally confirmed at meetings of both governing bodies in March 2003 was announced in Press Releases as the target date for merger. It is clearly desirable not to prolong initiatives such as mergers, principally to avoid the stagnation that could occur, particularly if the initiative is not successfully concluded. Nevertheless, adequate time should be incorporated to allow key elements of the process to be completed effectively.
- 74 In the case of this proposed merger the short timescale imposed by the target date of August 2004 resulted in detailed work having to be commenced prior to the governing bodies formally committing and agreeing to merge, thus increasing the risk of wasting time and financial resources. The timeframe was also not adequate to allow for the interaction and interface with external

organisations such as the HEFCW and UoW. The period July to September 2003 was critical in this respect with important activities having to be undertaken and completed when key senior staff and governors were unavailable due to leave commitments. Whilst a legal merger by August 2004 would have been possible, it is likely that work to achieve the stated aim of creating an 'exemplar institution' would have been at an early stage at that date.

#### **Lessons to be Learned**

- 75 Realistic target dates should be set for the achievement of proposed merger s, allowing adequate time for key elements to be effectively completed including, where appropriate, interaction with external agencies and any substantial periods when key staff or governors may be unavailable.
- 76 A firm target date for proposed merger should not be set or announced until the decision to merge is formally made by the merging institutions' governing bodies.

#### **The role of an independent person or body within the initiative**

- 77 It is accepted, and commonly used, good practice to involve an individual independent of the merging institutions to Chair the steering group taking the project forward. Recognising the key issues which had been identified at an early stage as posing a risk to the success of the proposed merger , it is considered that it would have been appropriate to appoint an independent senior figure to Chair the JWC, or to incorporate a role for an independent advisor of sufficient stature to play a strong facilitation role in the merger process. This could have assisted in the resolution of disputed issues where a failure to agree might threaten the achievement of the proposed merger.

#### **Lesson to be Learned**

- 78 As an early feature of the exploration of a major collaborative arrangement, particularly merger, an independent individual respected and trusted by all parties should be appointed to Chair or facilitate the project steering group.

#### **Framework to resolve key issues**

- 79 An important feature of maintaining the progress of a strategic project such as merger is the development and documentation of an agreed framework to resolve key issues. Such a framework would provide a consistent process by which issues that might threaten or delay the initiative are highlighted and resolved. The mechanism would allow the Chair of the project steering group to work within an agreed procedure to address the strategic issues and ensure that progress is maintained to the satisfaction of both institutions. The

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mechanism would consist of a broad framework of agreed protocols and principles underpinning and supporting the role of the Chair.

**Lesson to be Learned**

- 80 Any major collaboration or merger project should incorporate a Disputes Resolution mechanism within its project management framework.

**Memorandum of Understanding**

- 81 One of the key features of this terminated merger was the absence of any form of documented agreement. The only 'agreement' that has been referred to is the "Hilton Agreement". But, as stated earlier, informal discussions between two governors of each institution cannot possibly constitute an agreement that is binding on the two institutions.
- 82 The closest that the two institutions came to reaching an agreement was in March 2003 with the publication of the JWC's report appraising the benefits and setting out the prima facie reasons for the proposed merger . Developing and agreeing a Memorandum of Understanding (MoU) at this stage would have provided a much stronger basis and commitment to achieving eventual merger. Whilst some issues may have still been unresolved at this stage the MoU would have helped to maintain an agreed position on the key issues.

**Lesson to be Learned**

- 83 A Memorandum of Understanding setting out the agreed position on key issues and principles should be established promptly once governing bodies have concluded that detailed work to progress the proposed merger should be commenced.

## Resolution of Key Issues

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### Introduction

- 84 In the previous section of this report it was concluded that, once the decision to progress the merger discussions was taken, the process adopted for merger was generally sound containing many features of good practice published in relevant guides, but lacking one key element – a mechanism to progress and resolve disputed issues. The termination of the process by a resolution of UWIC's governing body demonstrates that projects can fail despite basically sound processes. The termination of the merger discussions is generally seen as being a lost opportunity and a great loss for the higher education sector in Wales.
- 85 During the course of this review, most governors and staff with whom GAELWa had discussions remained convinced that the 'Big Wins' originally identified remained valid and that, at an appropriate time, the initiative should be revisited within an improved project management framework.
- 86 This section of the report examines the way certain key issues were handled within the process. In particular, the two primary issues:
- a) membership of the University of Wales; and
  - b) leadership of New U.

These issues were identified as key at the very beginning of the process (see paragraph 35).

### Membership of the University of Wales (UoW)

- 87 UoG has taught and research degree-awarding powers. It is a university in its own right, outside of the federal UoW, granting degrees in its own name. UoG considers that its degree awarding powers (DAPs) provide a significant advantage in enabling the University to respond quickly to the changing needs of students particularly in the development of e-learning and in widening participation. DAPs are also seen as an important issue of status for the University and are considered to be a valuable marketing tool.
- 88 In July 2002 the UoW formally invited UoG to become a constituent member, setting out the terms and conditions of membership. One of the key conditions required that any member which possessed its own degree-awarding powers should hold those powers in abeyance for as long as it remained a member of the UoW. Following consideration of the invitation by the UoG governors and a meeting with representatives of the UoW, the Vice Chancellor of UoG replied to the Secretary General of the UoW in December 2002 declining the invitation to join but stating that it would keep the issue under review.
- 89 UWIC is a constituent member of the UoW, possessing its own taught degree-awarding powers, but like all other UoW members, not categorised as a university in its own right. Its own degree awarding powers have been held in abeyance in accordance with UoW conditions of membership whilst its students are awarded degrees conferred by the UoW.

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- 90 The issue of the merged institution's position within the UoW was identified as a key matter at the very first meeting of two governors from each institution in November 2002. The notes of the Hilton Meeting prepared by the UoG Chairman merely record each institution's views with regard to membership of the UoW. The notes record that UWIC considered that there was value in membership but agreed that substantial reform of UoW was needed. The notes state that, at that time, UoG did not see the value in joining. The meeting recognised that this was an issue that needed to be resolved and that a compromise acceptable to both institutions be reached.
- 91 The JWC's March 2003 report contains a recommendation in respect of the merged institution's membership within the UoW. The recommendation states *"New U on creation would join the University of Wales (UoW) for a defined transitional period of three years. During this period it would assess its position in UoW against agreed criteria expressed in advance to UoW prior to joining and phrased in terms of outcomes, with a view to deciding whether at the end of the defined period to stay in (and put its degree-awarding powers in abeyance) or to leave. It would also review its position at any time during the defined period, if it felt that membership of the UoW was inhibiting its development. During the defined transitional period it would exercise its own degree awarding powers for existing students and, in addition, in the early discussions with UoW prior to joining, it will indicate that it seeks to use them for new purposes if it felt that membership of UoW was inhibiting its development."* Both governing bodies at their respective meetings in March 2003 endorsed this recommendation.
- 92 In a joint letter dated 17 April 2003 to the UoW's Pro-Chancellor, the Chairmen of both institutions outlined the proposal that the merged institution should become a member of the UoW. An accompanying paper to the letter set out the broad aims and characteristics of New U and repeated the position agreed by both boards of governors in March 2003 in respect of membership of UoW.
- 93 The letter and the accompanying paper were considered at a meeting of the UoW Vice Chancellors' Board which requested that meetings should be held with representatives of UWIC and UoG to discuss in more detail the issues raised in the joint letter of 17 April. These meetings took place in May and June 2003. The records of these meetings compiled by the Secretary General of UoW record the apparent acceptance by the Vice Chancellor of UoG to New U holding its degree-awarding powers in abeyance and the UWIC Chairman and Vice Chancellor are therefore understood to have believed that this was not an issue. The Vice-Chancellor of UoG does not agree with the Secretary General's recorded interpretation.
- 94 At its meeting on 27 June 2003 the UoW Council resolved to approve the proposed membership of the merged institution within the UoW subject to the previously defined conditions and not in accordance with the position agreed by both governing bodies as set out in the letter of 17 April 2003, in particular the proviso that it must hold its own degree awarding powers in abeyance. The Chairman and Vice Chancellor of UWIC, both of whom are UoW Council members, attended the meeting but, nevertheless, the resolution was carried *nem con* with no abstentions.
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- 95 Strictly the resolution related to New U and not to UWIC, although obviously it would directly affect the activities, staff and students currently at UWIC if the merger had gone ahead. Nevertheless GAELWa is of the opinion that a danger of a conflict of interest existed for the Chairman and Vice Chancellor on this issue, and that, as such, it was unwise for them to participate in this decision. The minutes of the meeting do not record any discussion of a potential conflict of interest. The UWIC Vice Chancellor maintains however, that this issue was appropriately addressed at the meeting and that any decision other than that taken at the meeting would have prevented New U's establishment within the University of Wales on 1 August 2004.
- 96 Responding to the Chairmen of UWIC and UoG on 1 July 2003 to inform them of the UoW Council's position the Secretary General welcomed the proposed application for New U to become a member under the existing conditions of membership. The Secretary General stated that, should UWIC and UoG confirm their intention that the new institution should join UoW, they would need to inform the UoW of this by 24 September 2003 in order that the necessary amendments to the UoW's Charter and Statutes could be submitted to the Privy Council for approval.
- 97 On 22 September 2003, in a letter to the Secretary General of the UoW signed by the Chairmen of both institutions, it was confirmed that the boards of both institutions wished that the new institution be a member of the UoW from the planned merger date of 1 August 2004. The letter acknowledged that UoG would be communicating separately with UoW regarding the issue of holding the degree awarding powers of the new institution in abeyance.
- 98 On 23 September 2003 the Chairman of UoG's governors wrote to the UoW stating that the UoG governors wished to pursue discussion with the UoW on the possible use of the new institution's degree awarding powers in addition to the UoW's own awards. The letter set out the UoG governors' reasons for pursuing this matter.
- 99 Responding to this letter on 26 September 2003, the Secretary General drew attention to the decision taken by the UoW Council on 27 June 2003 and requested UWIC and UoG both to confirm that the membership conditions set out in that meeting were acceptable to them, specifically the condition regarding the holding in abeyance of the merged institution's own degree awarding powers.
- 100 On 1 October 2003 the Chairman of the UWIC governing body provided the confirmation required by the UoW. On 2 October 2003 the Chair of UoG replied to the Secretary General stating that the UoG Board requested that their letter of 23 September seeking continued discussion on the use on degree awarding powers be placed before the forthcoming UoW Academic Board and Council meetings. In the event, no further progress was made on this issue and at the UoW Council meeting on 17 October 2003 it was resolved not to include the amendments required to the UoW Charter and Statutes to accommodate the proposed new institution.
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- 101 The UoW issue of 'a university within a university' came to the fore through other means during the latter part of 2003. Of particular relevance was the desire of University of Wales, Cardiff to use its own degree awarding powers whilst remaining closely associated with the UoW through an appropriate category of membership.
- 102 An eventual agreement was reached in March 2004 whereby the proposed institution created by the merger of University of Wales, Cardiff and the University of Wales College of Medicine would become 'linked' to the UoW allowing it to confer both its own awards and those of the UoW. The template for a solution that could potentially have been acceptable to the governing bodies of both UWIC and UoG in respect of association with the UoW was therefore imminent at the point in December 2003 when the UWIC governing body resolved to terminate the merger initiative.

### **Leadership and management of the merged institution**

- 103 Again, as with membership of the UoW, the leadership of the merged institution was identified as a key issue early in the merger discussions. An apparent agreement on a possible arrangement emanated from the discussions at the Hilton Meeting. The UoG Chairman's notes of that meeting indicate that the UWIC representatives proposed that the current Vice Chancellor of UoG would become the Vice Chancellor of New U for a year followed by the current Vice Chancellor of UWIC for a period of two or three years prior to proceeding to open competition for the post following this time-limited transitional period. It would clearly be a matter for the incoming governing body of New U to formally appoint the Vice Chancellor, together with other designated senior post holders.
- 104 This proposed arrangement did not proceed to be formally agreed by the JWC or ratified by the respective governing bodies. The minutes and resolutions of the meetings of the respective governing bodies in March 2003 are silent on the matter.
- 105 At its meeting on 14 July 2003, the draft resolutions presented to the UoG governing body include confirmation that the target date of August 2004 for the proposed merger was achievable subject to three matters being addressed to the satisfaction of the board. One of the matters was *".....agreement on senior management for New U."* Following discussion at the meeting, the members agreed that this matter should be clarified and expanded upon. They agreed to add the following text to the resolution. *"Having regard to the advice from PWC through the due diligence work and the letter from the Chair of the Funding Council, (see paragraph 137) the Vice Chancellor/Chief Executive to be appointed through open competition with appropriate outside assessors...."*
- 106 At its meeting on 17 July 2003 the UWIC board received copies of the UoG resolutions and in particular noted the position which had been taken on Level 1 and Level 2 posts. Within its own resolutions the UWIC Board affirmed its recognition that there was a prima facie case for merger with UoG but that one of the matters to be resolved was *".. the board being satisfied that UWIC and the University of Glamorgan had reached agreement on the determination and*
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*assignments of Level 1 and Level 2 staff which reflected the current character and ethos of the respective institutions in the initial period of New U."*

- 107 The two institutions had therefore reached an apparent impasse on this matter and did not have a mechanism or process in place to resolve the issue. Subsequent governing body meetings of both institutions in Autumn 2003 merely repeat the widely differing resolutions of the respective July meetings. The unconfirmed minutes of the final meeting of the JWC on 15 October 2003 records the differing views but does not propose or recommend any way forward.

### **Mutual trust and confidence**

- 108 The achievement of the merger and effective integration of two autonomous institutions should be underpinned by an environment of co-operation, shared understanding and objectives, a willingness to actively pursue appropriate compromises and mutual trust and openness. Whilst GAELWa were informed that such an environment largely existed in the initial stages, by June 2003 there were clear signs that that the relationship between the two institutions was deteriorating.
- 109 Progressively, from June 2003, actions by both institutions contributed to a divergence from the apparent united position that had been reached in March 2003. Examples of actions which were perceived by the other party as contributing to a breakdown in trust and confidence include the following:
- a) at the UoW Council meeting on 27 June 2003 the Chair and Vice Chancellor of UWIC were party to a resolution which was in contrast to the joint letter sent to the UoW on 17 April 2003 on this matter;
  - b) the resolution by the UoG Board on 14 July 2003 to make the appointment of the Vice Chancellor of the merged institution through open competition, conflicting with the framework of principles which had been 'agreed' at the Hilton meeting;
  - c) the publication of a booklet by UoG in July 2003 entitled *New U Update*. The publication was an internal one but contained the logos of both institutions (as had been the practice with all merger publications) and appeared to be a 'Joint' publication. However, the Vice Chancellor of UWIC informed the GAELWa that it was published without his knowledge. It contained a message from the Vice Chancellor of UoG which signalled his acceptance of the UoG Governing Body's position (see para 105) on the leadership of the merged institution in contradiction of the position discussed at the Hilton meeting;
  - d) suspension of the work of officer groups by UWIC Chair on 17 September 2003. Good practice would suggest that such a significant action should have had the backing of the UWIC Board and have been discussed with UoG and at JWC; and
  - e) the merger message composed by the Vice Chancellor of UoG on 24 September 2003 and placed on both the UoG and joint merger web-sites, both of which were managed by the UoG. In the message the Vice

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Chancellor of UoG commented critically on statements allegedly made by the Vice Chancellor of UWIC at a meeting of UWIC senior staff the previous week. The UoG Vice Chancellor did not seek to confirm the accuracy of the reported comments with his opposite number and following protestation from the Chairman of UWIC withdrew the statement and had UoG remove it from the UoG and joint web-site.

- 110 Whilst the above represent some of the more obvious and public events which contributed to the worsening relationship there were many other actions and interpretations of actions which illustrated the extent of the breakdown. In our discussions with governors and senior staff of both institutions other examples of actions, which were deemed to have led to the poor relationship, were quoted. The issues discussed with the GAELWa include;
- a) dissatisfaction regarding the process to choose the name of the institution;
  - b) the precise wording of the public consultation document;
  - c) a memo to selected JMG members in which the Vice-Chancellor of UoG commented that aspects of Business Plan, jointly to submitted to the HEFCW; needed to be improved;
  - d) the legal vehicle to be used to accommodate the merged institution; and
  - e) the absence of discussions regarding academic or administrative structures.
- 111 None of the above matters were considered by those interviewed to be significant enough on their own to have impeded the progress of the merger. However, in combination, they illustrate a situation where two institutions were seemingly progressing towards merger, but lacking in a shared vision and commitment on a number of basic issues.

### **Provision of information**

- 112 The operation of a governing body is heavily dependent on receiving appropriate briefing and advice in order to inform discussions, decisions and resolutions. The selection of information to be provided to governors inevitably requires judgement, particularly on the part of the Clerk and the Chair, in order to ensure that governors are properly informed to make judgements and decisions but are not inundated with information which they do not need. An examination of the minutes and correspondence relating to the proposed merger was carried out by GAELWa as part of this review.
- 113 There were differences in style between the operation of the two governing bodies. Furthermore, there were a number of areas where information was made available to UoG Governors but not to UWIC Governors. Examples of the difference of approach are given below:
- a) at governing body meetings subsequent to the July 2003 meeting members of the UWIC senior management team, the Vice Chancellor and Principal's board (VCPB) were excluded from special meetings of the board dealing with the proposed merger and from parts of ordinary meetings which dealt with the

- issue. Senior staff do not have a right to attend governing body meetings, however this is an unusual approach in the experience of the GAELWa and meant that senior staff did not have the opportunity to provide their views or respond to governors' queries;
- b) unlike the practice at UoG, the governors at UWIC did not take advantage of the offer of having representatives of PWC at their July 2003 meeting. At this meeting, one of the key documents provided relevant to the discussion on the proposed merger was the PWC report on the financial due diligence exercise. It would have been beneficial for representatives of PWC to have been invited to present their report thus ensuring that governors' attention was drawn to the key issues and providing an opportunity for discussion of any matters which required clarification. UWIC carried out their detailed scrutiny of the report at a meeting of the Audit Committee which was then reported to the Governing Body;
  - c) during the summer 2003 period, the staff unions produced bulletins declaring their support for the proposed merger. These were sent to the Chairmen of both governing bodies. Again, unlike the practice at UoG these documents were not provided to UWIC governors either at or prior to their meetings and consequently the views of the staff expressed through the union bulletins may not have been known to UWIC governors;
  - d) on 26 September 2003, the Chairman of the HEFCW wrote to the Chairman of the UWIC governing body expressing concern about his decision to suspend officer level work on the proposed merger. The Chairman of HEFCW requested that copies of his letter be made available to all the UWIC governors at their meeting. The UWIC Chair did not comply with this request, and thus his fellow governors did not receive this communication. In the opinion of the GAELWa, it is poor practice for HEFCW communications sent to institutions, with a specific request for them to be shared with the governing body, not to be shared;
  - e) at its meeting on 7 October 2003, the UWIC Audit Committee resolved to commission an independent assessment of the risks to UWIC of the proposed merger not going ahead. PWC, UWIC's external auditor was commissioned to undertake the assessment and produced a comprehensive report identifying and evaluating the potential risks. The governing body did not invite a representative of PWC to the 16 December 2003 meeting of the UWIC governing body which received the report. Again it is considered that the opportunity for PWC to formally present their conclusions would have been beneficial for members. The report was however included in the papers for the meeting.

### Lesson to be Learned

- 114 Institutions involved in merger discussions should ensure that governors receive full information upon which to base their decisions. Chairmen and Clerks of merging institutions should give particular consideration to the provision of consistent information to their governing bodies.

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## Funding of the proposed merger

- 115 Adequate funding of the merger project was a significant issue for both institutions. It was agreed from an early stage that the proposed merger needed to be more than just combining the two institutions and early documentation refers to the objective of creating an 'exemplar institution'. Based on initial work undertaken by PWC, exploring the broad concept of the merger, the JWC's March 2003 report indicates the estimated cost of the proposed merger over the first three years to be £25m.
- 116 Following the completion of detailed work on the development of the Business Plan for the merged institution, the investment they believed was required to create the proposed merger had increased to £56.1m over the 6 year period to July 2009. The draft Business Plan submitted to HEFCW was based on the assumption that HEFCW itself would provide £41.1m of the required funding with the remainder being provided by the merged institution. It is understood that, during informal discussions with the Directors of Finance of both institutions, HEFCW officers had indicated that this level of funding was exceptionally high by all available comparators and was unlikely to be available.
- 117 During the period of the development of the Business Plan both institutions were anxious to be assured that adequate funding would be available to take the merger forward and to achieve the objective of being an 'exemplar institution'. In a letter dated 17 June 2003 to the Chairs of both institutions the Minister affirmed the Assembly's commitment to reconfiguration and outlined the Assembly's likely funding availability of £50m for the sector up to 2005-06. This was subsequently reduced to £32 million during the 2003 budget planning round in the light of progress on reconfiguration.
- 118 In September 2003 HEFCW released £226,876 of transitional funding to cover initial costs such as consultancy and due diligence. GAELWa have reviewed the use of the transitional funding allocated and are satisfied that it has been used for the purposes provided. Following the submission of the Business Plan, the HEFCW made a number of attempts to arrange meetings with representatives of the two institutions in order to progress discussion and debate on the draft Business Plan but, such a meeting did not take place. Consequently, no further development of the Business Plan was undertaken and no further funding released.

## HEFCW's Role in the Merger Process

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### HEFCW's powers

- 119 Higher education institutions are autonomous institutions responsible for determining their own mission and strategies. The relationship between HEFCW and institutions is set out in a standard Financial Memorandum which sets out the main conditions and criteria which are attached to the core funding provided by HEFCW. In addition, further conditions and terms are applied to specific funding and these are notified separately to the institutions. Within that framework the powers of HEFCW and indeed the WAG are limited principally to levers that can be achieved through funding initiatives. Whilst the HEFCW seeks to proactively promote WAG policies through funding levers, discussion and facilitation, neither the HEFCW nor the WAG has the power or authority to force institutions to pursue specific strategies or actions. This makes the achievement of the WAG and HEFCW's policies and objectives difficult where there is a lack of commitment to the objectives on the part of individual institutions.
- 120 The main HEFCW role in any potential merger process is to provide advice and guidance to the institutions concerned. It has a particular role where merging institutions intend to draw on HEFCW funds to provide a proportion of the investment required to achieve a merger. In the main this is achieved through input to the development and eventual approval of the Business Plan for the merged institution. The staged development of the Business Plan underpins the release of funding associated with the preliminary and ongoing costs of the merger project. In undertaking this role the HEFCW seeks to ensure that the project and its outcomes fit with its own and the WAG's objectives for the higher education sector in Wales.

### Reconfiguration and Collaboration Fund

- 121 As explained in paragraph 18, the Reconfiguration and Collaboration Fund was established specifically to support projects and initiatives which addressed the aims expressed in the WAG strategy document, 'Reaching Higher' published in March 2002.
- 122 Following consideration by HEFCW's Reconfiguration and Collaboration Panel, the Council at its meeting in November 2002 approved the allocation of an initial £250,000 for UWIC and UoG. The letter to the two institutions notifying them of the Council's decision stated that it was prepared to offer funding "*..for an options appraisal covering merger and other forms of association.*"
- 123 In practice, as set out in paragraphs 69-71, little or no robust evaluation of options other than full merger had been undertaken by the institutions at this stage. Work commissioned from PWC in January 2003 focused entirely on the merger of the two institutions and, even at this early stage, assumed a merger date of August 2004. Since the primary purpose of the funding allocation was to cover the costs of a comprehensive options appraisal, the HEFCW should have ensured that this had been undertaken prior to progressing discussions on the proposed merger itself.

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### Lesson to be Learned

124 When funds are provided for a specific activity in a merger process, such as an options appraisal, the HEFCW should ensure that evidence of completion of the activity is obtained.

125 The process documented by HEFCW for the progressing of reconfiguration and collaboration funding proposals indicates a two stage iterative process for proposed mergers. The initial stages of the HEFCW involvement is treated as a 'minor proposal' with HEFCW officers responsible for scrutinising proposals and, provided that they satisfy any conditions set by Council, arranging for the release of the funding allocated by Council. If a decision is made by the respective governing bodies to proceed with merger then this would be categorised as a 'major proposal'.

126 The documented process for progressing major proposals involve a far more robust element of scrutiny and challenge than for minor proposals and provide for the establishment of an Executive Group to analyse and evaluate proposals. The Group's conclusions would then proceed through the Chief Executive, the Council's Reconfiguration and Collaboration Panel and eventually the Council itself for a final decision of funding support. The finalised Business Plan approved by Council would then need to be submitted to the WAG for consideration and approval in order to release the agreed funding.

127 In the case of the UWIC and UoG proposed merger, HEFCW were effectively treating the project as a 'minor proposal' evidenced by the fact that an Executive Group had not been established and did not meet. In reality the two institutions had progressed to the 'major proposal' stage, largely driven by the ambitious target date of August 2004 for merger. This resulted in the intended scrutiny by the Council's Executive Group not being undertaken even though the project had progressed substantially beyond its initial stages. The GAELWa were informed that the issue of transition from a minor to a major proposal was blurred by confusion over the status of the draft Business Plan submitted by the institutions. HEFCW treated this as an initial draft for discussion, whereas the two institutions were expecting formal feedback on the document.

### Lesson to be Learned

128 The HEFCW should ensure that it follows its appropriate documented procedures with respect to minor and major reconfiguration and collaboration proposals.

129 Under delegated authority provided by the Council, HEFCW's former Chief Executive authorised the release of £226,876 of funding in September 2003. By this time, substantial time and resources had been committed by both institutions

to the project, including the completion of the draft Business Plan for the merged institution. The draft Business Plan together with a supplementary document entitled the "Vision Paper" provided the basis for the release of this funding. Overall the draft Business Plan included a total funding requirement of £56.1m, £41.1m being shown as the funding required from HEFCW.

- 130 On 17 September 2003 the Director of Higher Education provided initial feedback to both institutions on the draft Business Plan indicating that the issues would be further discussed at a meeting proposed for 30 September (see paragraph 133). The feedback comments included reference to key issues that remained unresolved and also an indication of additional information that would be required prior to the Business Plan being submitted to the Council for consideration. No comment or reference was made regarding officers' view of the expected HEFCW funding of £41.1m, although it is understood that during informal discussions with the Directors of Finance of both institutions HEFCW officers had indicated that this level of funding was exceptionally high by all available comparators and was unlikely to be available.
- 131 Given the overall funding likely to be available to the sector for reconfiguration of some £50m over 4 years, and the competing demands for this funding, it is considered that the institutions should have been provided with a clear commitment at an early stage as to when they could expect to be informed of the funding that would be made available, particularly since this was likely to be significantly less than that on which the draft Business Plan was based. This would avoid unproductive use of time and resources on a Business Plan based on unrealistic sources and levels of funding.

#### **Lesson to be Learned**

- 132 The HEFCW should seek to inform institutions at an early stage of the timescales for providing information on the levels of HEFCW funding to be invested to progress a merger.
- 133 Following the resolution by the governing bodies of UWIC and UoG in March 2003 to work towards the objective of achieving merger in August 2004, the key role of HEFCW was the approval of the Business Plan and the determination of the funding support which it would allocate. It initially indicated that the Business Plan, following evaluation by HEFCW officers and consideration by the Reconfiguration and Collaboration Panel, would be submitted to Council at its September 2003 meeting. However, despite a number of attempts to find a suitable date, meetings between HEFCW and institutional officers were not held to achieve this, and in his letter of 17 September 2003 the Director of Higher Education informed both Vice Chancellors that consideration of the Business Plan by Council would not be feasible until its December 2003 meeting. Both Vice Chancellors expressed their concern at this delay and the impact that this might have on achieving merger by August 2004.

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### **Lesson to be Learned**

- 134 The HEFCW should develop project plans with key milestones for its own involvement in merger processes. These should set out key dependencies and should be shared with merging institutions to enable them to plan to deliver relevant information and meet HEFCW deadlines to allow due process within the HEFCW to proceed on a timely basis.

### **Communication with the Institutions**

- 135 The view, jointly expressed by the Vice Chancellors of both institutions in March 2003, that there was a strong case for the proposed merger was enthusiastically received and supported by HEFCW senior staff and Council members. The creation of a large post-1992 institution in Wales was viewed to be a major step forward in order to remain competitive in the UK and international higher education arena. This view is also understood by the GAELWa to be shared by WAG colleagues and at ministerial level.
- 136 During the period June to December 2003, HEFCW, mainly through the involvement of its Chairman and senior officers, corresponded and met with representatives of both institutions and the UoW, attempting to ensure that the achievement of a merger was proceeding. The Chair of HEFCW, stating that he was determined to assist in whatever way he could, had offered his attendance at governing body meetings of both institutions if the respective governors deemed that to be necessary or helpful.
- 137 By early June 2003 senior officers and the Chairman of HEFCW had become concerned that inadequate progress was being made and that significant differences were developing in the position of the two institutions on fundamental issues. Following a meeting with the Vice Chancellors and Chairmen of the two institutions on 6 June 2003, in a letter dated 27 June 2003, the Chairman of HEFCW wrote to the Chairmen of both institutions expressing his concern about their apparent inability to resolve their differences on key issues. He went on to say that the Council would use its existing powers to ensure that the proposed merger was achieved and would advise the Minister if those powers proved to be inadequate. The meeting on the 6 June was clearly a pivotal event although no formal record was made of the discussions. The respective Chairs' and Vice-Chancellors' recollection of the content of the discussions varies significantly.
- 138 The Chairman of UoG responded welcoming the HEFCW Chairman's letter and a copy of the letter was provided to governors at their meeting on 14 Jul 2003. The Chairman of UWIC did not respond, but the letter was included in the papers for the UWIC board meeting on 17 July 2003. Additionally, at that meeting the Chairman tabled copies of legal advice that had been sought by him on the content of the letter from the Chairman of the HEFCW. The UWIC Chairman's

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concerns are understood to relate to the powers of the HEFCW and the Minister to intervene in a merger process by two autonomous institutions.

- 139 The Chairman of the HEFCW sent a further letter on 26 September 2003 to the Chairman of UWIC expressing concern at the Chairman of UWIC's decision to suspend officer work on the project and referring again to the key issues surrounding the proposed merger. The HEFCW Chairman asked the UWIC Chairman to share this letter with his governing body at their meeting on 29 September 2003. This was not done.
- 140 In a letter on 6 October 2003 to the Chairman of UWIC, the Chairman of HEFCW again expressed concerns regarding the progress of the proposed merger and his discontent with specific actions by the UWIC Chairman, contending that such actions demonstrated that the UWIC Chairman was opposed to the merger. The strong tone of the letter culminates with the HEFCW Chairman inviting the UWIC Chair to consider his position. The UWIC Chairman responded on 28 October 2003 questioning the appropriateness of the tone, content and purpose of the HEFCW Chairman's letter.
- 141 In the light of the UWIC Chairman's failure to provide copies to his governors of the letter of 26 September, the HEFCW Chairman arranged to obtain the e-mail addresses of the UWIC governors and to provide copies of the letters of 26 September and 6 October directly to them.
- 142 The HEFCW Chairman informed the GAELWa that his intention in corresponding in strong terms with the UWIC Chairman was to progress the process to achieve the 'big wins' that had been identified. A number of UWIC governors have indicated that the effect of the HEFCW Chairman's interventions was in fact counter productive.

#### **Lesson to be Learned**

- 143 The likely impact and reaction of individual institutions should be carefully assessed when HEFCW considers intervention in seeking to ensure that major projects such as institutional mergers are achieved.

## Terms of Reference for GAELWa Review

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### Introduction

- 1 GAELWa is responsible for providing the Chief Executive with independent assurance on the adequacy, reliability and effectiveness of control arrangements, financial and otherwise within HEFCW, and within the institutions funded by HEFCW (Audit Code of Practice, paragraphs 7.3 and 7.6). This is largely achieved through the completion of audit assignments in accordance with the programme of work set out in the GAELWa Annual Plan that is approved by the Chief Executive and Audit and Risk Committee of the Council, together with special reviews set up from time to time. This special review is being undertaken at the request of the HEFCW's Chairman and Interim Chief Executive following the delays encountered in the progress of merger discussions.

### Objectives

- 2 The review will be conducted in accordance with the provisions of Government Internal Audit Standards and will include an overview of the governance and management procedures relating to the merger process. This basic approach will be supplemented, as necessary, with other appropriate techniques. The review will not seek to question decisions legitimately made by the Institutions' Governing Bodies or the HEFCW but will consider whether adequate and appropriate information was made available to enable reasoned and informed decisions to be taken. The objective of the review will be to evaluate the adequacy of the systems and activities within the HEFCW and the two institutions and will include an assessment of:
  - a) the achievement of corporate and management aims and objectives;
  - b) compliance with established policies, procedures, regulations and recognised good practice;
  - c) the safeguarding and proper application of the £227k funding support provided from the HEFCWs Reconfiguration and Collaboration Fund;
  - d) the factors which led to the lack of progress and how they might be avoided in future;
  - e) the integrity and reliability of information; and
  - f) the economical and efficient use of resources, financial and otherwise.

Where appropriate, recommendations will be made on practical improvements that can be made to strengthen controls and procedures.

### Scope

- 3 The review will cover the duration of the initiative from its inception to its termination and will include:
  - a) a review of minutes and papers submitted to and discussed by both institutions' governing bodies and relevant sub-committees;
  - b) a review of the minutes and papers of the Joint Working Committee, the Joint Management Group, the Joint Directorate (and, if relevant, selected feeder groups) established by the two institutions;

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- c) a review of minutes and papers submitted to and discussed by the HEFCW;
  - d) a review of correspondence relevant to the merger sent to or received by the two institutions, the UoW, the HEFCW and the Welsh Assembly Government, including notes relating to any formal or informal meetings and discussions;
  - e) discussion with key personnel including the institutions' Chief Executives, Chairs, Governors, Secretaries to Governing Bodies, other relevant senior managers, and selected other interested individuals and organisations;
  - f) discussion with key HEFCW personnel including the Chief Executive, the Chair and members of Council, Chair of the Reconfiguration Panel, the Clerk to the Council and relevant senior managers; and
  - g) a review of other relevant documentation.

### **Reporting Protocol**

- 4 Following the completion of fieldwork, oral feedback will be provided to the Chief Executives and Chairs of the two institutions and the HEFCW. A working draft report will be produced within 20 working days of completion of fieldwork for discussion. Extracts of the report containing reference to particular individuals will be provided to the respective individuals for comment. Comments received will be incorporated as appropriate and relevant extracts of a final draft issued to the three Chief Executives for consideration and comment. The final report reflecting all comments received will then be formally issued to the Accounting Officer of the HEFCW. The HEFCW will subsequently determine any wider distribution of the report and its findings<sup>1</sup>.
- 5 The report will contain an audit opinion on the adequacy of controls in operation and, where necessary, a Management Implementation Plan addressing any weaknesses highlighted.

### **Time Scales**

- 6 The date of the review has been discussed with the Interim Chief Executive of HEFCW and start dates for the fieldwork are being agreed with the institutions. The gathering of background information commenced on the 8 January 2004. It is anticipated that completion of the fieldwork will be affected by the availability of individuals, particularly governors, for meetings with GAELWa staff.

It is not anticipated that there will be any significant disruption to the work of the institutions or the HEFCW and every effort will be made to ensure this is the case.

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<sup>1</sup> This protocol was agreed with the Accounting Officers of UoG, UWIC and the HEFCW in advance but in practice UoG issued the report, in confidence, to its Governing Body prior to finalisation.

## Extracts From Key Reports

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### HEFCW Review – *The Scope for Institutional Mergers at the Higher Educational Level* – September 1999

- 1 In a January 1999 letter from the then Welsh Office to the HEFCW the Secretary of State stated that he wished the Council to encourage higher education institutions (HEIs) to work more closely with a range of potential partners. Further, the letter invited the Council to identify the scope of institutional mergers at higher education (HE) level and make proposals to the National Assembly for Wales by the end of September 1999.
  
- 2 The Council reported its review to the National Assembly in September 1999 and the report was formally published in November 1999. The following selected comments from the report are relevant to the UWIC/UoG proposed merger:-
  - *“The Council is aware that the sector in Wales is characterised by the small average size of its institutions”* (Para 4)
  - *“Undoubtedly a bottom-up initiative is the desirable starting point for any merger. Unfortunately such initiatives are not common except when institutions find themselves in trouble. That is not the best time for merger. It is better that buoyant institutions merge.”* (Para11)
  - *“Until relatively recently institutional resistance to merger has been paralleled by a lack of enthusiasm for any significant level of contribution.”* (Para 12)
  - *“Some academics will question the idea of a merger agenda. Heads of institutions and governing bodies are likely to be even more questioning. The preservation of institutional autonomy and current officer and management roles are significant and natural instincts. However, the preservation of autonomy can bring significant costs with it. For several Welsh HEIs this could mean increasingly limited capacity to adapt with vigour to the new challenges. The need is for larger, more vibrant and versatile institutions equipped to occupy major positions in the hierarchy of HE institutions in the UK and beyond.”* (Para 16)
  - *“However, this raises major issues as to the extent to which pressure should be brought on institutions to integrate and merge, of how prescriptive this should be in top-down terms, and whether some individual institutions’ position is such that they should be ring-fenced in one way or another.”* (Para 17)
  - *“The University of Glamorgan is unique in Wales in being the only unitary university. As such it has demonstrated considerable flexibility and versatility. It has played a major role in developing HE in FE initiatives and its Associate College Programme is in some ways the backbone of the FE/HE partnership profile in Wales. The Council does not feel that Glamorgan should be shielded from merger; on the contrary it believes it should grow through merger, but it does feel that in any merger its independent university position must be protected. The Council believes that it would be wrong for the University of Wales to be the only degree-awarding body in Wales. The Council also believes that then unique versatility and flexibility of the University of Glamorgan within Wales must be protected. At the same time it is encouraged by the strengthening links between Glamorgan and the institutions of the University of Wales, and hope to see an increase in collaborative activity ”* (Para 32)

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- *“...the Council believes there is a case for seeing some five or six, general, multi-mission institutions in Wales as an aim. ....However, mergers will require a will and a drive both on the part of the National Assembly itself and on the part of individual institutions in identifying appropriate partners.”*  
(Para 35)

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## **Education and Lifelong Learning Committee report – Policy Review of Higher Education - January 2002**

- 3 Chapter 9 of the Committee's report is entitled Size and shape and includes specific reference to the need for collaboration and/or merger. The following selected comments from the report are again relevant to the UWIC/UoG proposed merger:-
- *“Achieving critical mass in an institution relates to achievement both in teaching and research. The committee notes that no individual teaching-led institution in Wales is of comparable size to the big HEIs in England. We were told that even if all teaching led HEIs in Wales were to merge, the resulting institution would still be only similar in size to the large metropolitan universities in England.”* (Para 9.6)
  - *“We learnt that even HEIs of considerable size and reputation in England were proposing merger as a means of maintaining their competitive edge.”* (Para 9.7)
  - *“The Committee doubts that the HE sector in Wales, in its current form is sustainable.”* (Para 9.9)
  - *“The committee appreciates that forced merger is unpopular with HEIs. Institutions wish to preserve their distinctive character. We also acknowledge that there are as many disadvantages as advantages in merger – especially if the merger is forced”* (Para 9.12)
  - *“Merger in some circumstances be an attractive and effective option.”* (Para 9.15)
  - *“Several respondents considered that internal competition in the HE sector in Wales was unproductive and wasteful of resources. They told the committee that there ere benefits to be gained through collaboration to achieve economies of scale and to reduce duplication.”* (Para 9.22)
- 4 Recommendation 5 addressed to the HEFCW contains 5 sections. Section 2 states that HEFCW should *“facilitate a teaching led cluster based on the University Of Glamorgan, UWIC and UWCN..... This should also be with a view to possible merger.”*

## **Welsh Assembly Government report – Reaching Higher – A Strategy for the higher education sector in Wales - March 2002**

- 5 The strategy builds on the framework established in the Assembly's 2001 document entitled *“The Learning Country”* and also draws on the consultation and evidence gathering the Education and Lifelong Learning Committee undertook in producing its *“Policy Review of Higher Education”*. Within Paragraph 8 the strategy states that *“The sector carries administration costs above the norm – perhaps as much as 4% higher then the average of the other HEI sectors in the UK. Basic administrative functions could be handled far less expensively in collaborations. Large institutions spend a smaller proportion of total income on staff and premises than smaller ones.”*
- 6 Further comments which are relevant to the UWIC and UoG proposed merger are as follows:-

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- *“The sector cannot achieve what we expect of it without a radically new approach to the development of collaboration and co-operation across Wales.” (Para 15)*
  - *“Re-configuration and collaboration must be at the heart of the strategy for HE in Wales. (Para 18)*
  - *“We want to see administrative, functional and subject based collaboration. We believe that this can be achieved – notably by strong leadership from governors – without threatening either the overall diversity of missions across Wales or suitable coverage in provision. We reject the parochial model for the future of HE.” (Para 20)*
  - *“However, we are clear that change is essential and we look to the sector to achieve real, not token results.” (Para 22)*
  - *“The drive towards reconfiguration will allow institutions to focus on all aspects of their performance, including pressing management issues. There is plainly room to improve management practice and expertise, giving it the same attention as is given to academic excellence.” (Para 35)*
  - *“Provided the sector plays its part to achieve success through reconfiguration and collaboration, we should be prepared to assist through increasing funding streams in support of knowledge exploitation.” (Para 43)*

7 Under the section of the strategy entitled *Outcomes* the document outlines the results which the Assembly requires of the HE sector in Wales. It states that funding will be tied to these outcomes and one of the targets is expressed as *“Reconfiguration to achieve critical mass sufficient to reduce overhead costs for the HE sector as a whole to better the England and Wales average by 2005, and to the lowest quartile by 2010.”*

## Chronology of Events

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Chronology of key events in the now terminated project involving the proposed merger of the University of Wales Institute, Cardiff and the University of Glamorgan

<b>October 2002</b>	Both institutions submit Reconfiguration and Collaboration proposals to HEFCW. Neither submission contains any proposals on strategic initiatives with each other.
<b>November 2002</b>	Minister for Education and Lifelong Learning (E & LL) visits both institutions to receive presentations on Reconfiguration and Collaboration proposals. Expresses view to both institutions that they should revisit their proposals and develop more strategic initiatives that responded to the aims in <i>Reaching Higher</i> on the restructuring of the sector.
<b>November 2002</b>	Chair of UWIC contacts Chair of UoG to suggest meeting to explore options for closer strategic collaboration.
<b>19 November 2002</b>	2 governors from each institution, including the respective chairs, meet at the Hilton Hotel, Cardiff. Broad agreement on requirement for merger and initial identification of the key issues to be resolved.
<b>5 December 2002</b>	Joint announcement that both institutions had agreed to establish a joint committee to consider the benefits and feasibility of merger
<b>17 December 2002</b>	1 <sup>st</sup> meeting of Joint Working Committee. Agrees on structure of sub-groups to be established to progress the merger initiative
<b>January – February 2003</b>	JWC, assisted by PwC and the work of the supporting groups undertake work to prepare feasibility study and report.
<b>March 2003</b>	UWIC Governing body meeting on 6 March. UoG meeting on 10 March. Agreement at both meetings to an identical set of resolutions confirming their conclusions that there was a <i>prima facie</i> case for merger. A target date for merger of 1 <sup>st</sup> August 2004 was given and an agreed position of the merged institution's membership of the University of Wales was expressed. Joint press statement issued on 11 March.
<b>13 March 2003</b>	Joint letter from the two VCs to the HEFCW Chief Executive stating that there was a strong case for merger.
<b>15 April 2003</b>	PwC appointed as project manager.
<b>17 April 2003</b>	Joint letter from the Chairs of the two Governing Bodies to UoW submitting a formal proposal regarding the merged institution's membership, with stated conditions, of the UoW from August 2004.
<b>2 May 2003</b>	17 April joint letter from the Chairs of the two Governing Bodies considered by the UoW Vice-Chancellors' Board.
<b>May and June 2003</b>	UWIC and UoG Vice-Chancellors meet with UoW representatives to discuss membership conditions for New U within the UoW.
<b>6 June 2003</b>	Meeting between Chair of HEFCW, the Chairs of both institutions and officers of the three organisations to discuss

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	the progress of the project and specifically the development of the Business Plan.
<b>11 June 2003</b>	Letter from Chair of UoG to Chair of HEFCW, reflecting on 6 <sup>th</sup> June meeting, confirming UoG's commitment to achieving a successful merger but highlighting a number of key issues that remained to be resolved.
<b>17 June 2003</b>	Letter from Minister for E & LL to the Chairs of UWIC and UoG expressing the Assembly's commitment on funding to support reconfiguration within HE sector.
<b>27 June 2003</b>	Letter from Chair of HEFCW to Chairs of UWIC and UoG urging care regarding the abandonment of UoG's degree awarding powers and advising on HEFCW's view that, ideally, the VC of the merged institution should be appointed after open competition.
<b>27 June 2003</b>	UoW Council meeting. Council resolve to welcome the application for the merged institution's membership of the UoW, on condition, as with every other higher education institution with UoW membership, that the merged institution's own degree awarding powers be held in abeyance other than for the students already enrolled on UoG degree schemes.
<b>30 June 2003</b>	JWC meeting fails to agree on a common set of resolutions to be put to the July meetings of the respective Boards but agrees to mutual exchange of proposed resolutions prior to July Board meetings.
<b>1 July 2003</b>	Secretary General writes to the Chairs of both institutions informing them of the resolutions of the UoW Council meeting held on 27 June 2003.
<b>14 &amp; 17 July 2003</b>	Meetings of the UoG and UWIC Boards respectively. Significant differences in the respective resolutions particularly with regard to membership of the UoW and the appointment of the VC of the merged institution.
<b>31 July 2003</b>	Draft Business Plan for the merged institution submitted to HEFCW.
<b>28 August 2003</b>	Public Consultation document issued on the proposal to create a new university through the proposed merger of UWIC and UoG.
<b>3 September 2003</b>	Supplementary "Vision Paper" in support of transitional funding submitted to HEFCW.
<b>17 September 2003</b>	UWIC Chair suspends work of all groups other than JWC after meeting with UoG Deputy chair and conferring with UWIC's JWC members.
<b>22 September 2003</b>	Joint letter from institutions' Chairs to Secretary General of UoW confirming that the boards of both institutions wished the institution to be a member of the UoW from the planned merger date of August 2004.
<b>23 September 2003</b>	Letter from Chair of UoG to UoW stating that UoG wished to pursue further discussions on the possible use of new

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	institution's own degree awarding powers.
<b>26 September 2003</b>	Letter from UoW to Chair of UoG (copied to Chair of UWIC) requesting confirmation from UoG that the membership conditions stipulated at the 27 June meeting of the UoW Council were acceptable to both institutions.
<b>26 September 2003</b>	Letter from HEFCW Chair to UWIC Chair (copied to UoG Chair) expressing concern at UWIC Chair's decision to suspend officer work on the merger project.
<b>29 September 2003</b>	Meeting of UWIC Board reaffirms the resolutions of its 17 July 2003 meeting and proposes that a meeting of the JWC be arranged to discuss the differences between the two institutions and the loss of trust and confidence occasioned by the actions of the UoG.
<b>1 October 2003</b>	Meeting of UoG Board reaffirms its resolutions of 14 July 2003 meeting and confirmed its willingness to progress the proposed merger with conviction and enthusiasm.
<b>1 October 2003</b>	Letter from UWIC Chair to Secretary General of UoW confirming UWIC's acceptance of membership conditions stipulated by UoW on 27 June 2003.
<b>2 October 2003</b>	Letter from Chair of UoG to UoW Secretary General indicating that UoG looked forward to constructive discussion regarding the UoW's conditions of membership.
<b>6 October 2003</b>	Letter from Chair of HEFCW to Chair of UWIC expressing concerns about his actions particularly referring to the UWIC Chair's failure to ensure that a copy of the HEFCW letter of 26 September was not made available to the UWIC governors at their meeting on 29 September. The HEFCW Chair invites the UWIC Chair to consider his position.
<b>6 October 2003</b>	Letter from Chair of HEFCW to Senior Vice-Chancellor of UoW expressing dismay at the positions taken by the UoW, particularly referring to the University's role in the proposed merger between UWIC and UoG and more generally in respect of the UoW's future role.
<b>10 October 2003</b>	Letter from Senior Vice-Chancellor of UoW to Chair of HEFCW responding to the HEFCW Chair's letter of 6 October strongly disagreeing with the HEFCW Chair's views.
<b>15 October 2003</b>	Final meeting of JWC. Great deal of disagreement. Failure to reach agreement on finalising of minutes.
<b>17 October 2003</b>	UoW Council meeting resolves not to include name of proposed merged institution (Cardiff Metropolitan University) in the necessary amendments to its Charter and Statutes.
<b>21 October 2003</b>	UWIC Board meeting resolves to make a further attempt to identify common ground and take the merger discussions forward on the basis of signed Heads of Agreement and protocols. The minutes refer to the deterioration in trust and confidence between the two institutions at JWC and Vice Chancellor level.

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- 28 October 2003** Letter from Chair of UWIC to HEFCW Chair responding to HEFCW letter of 6 October. The UWIC Chair invites the HEFCW Chair to consider whether the tone, content and purpose of the 6 October letter were appropriate.
- 3 November 2003 –  
3 December 2003** Exchange of correspondence between HEFCW Chair and Chairs of UWIC and Glamorgan suggesting the establishment of an advisory body including three members independent of the two institutions, including an independent chair. UoG Chair informs HEFCW on 12 November that they accept the HEFCW proposal for an advisory body. UWIC Chair informs HEFCW that he considers that there were significant omissions and imbalances in the HEFCW proposal and that the issue would be considered at the UWIC Board meeting scheduled for 16 December 2003.
- 7 November 2003** Letter from Chair of HEFCW to Minister for E and LL seeking endorsement of a view that in the absence of the unequivocal agreed position by the governing bodies of merging institutions about which existing head should lead the new institution, then the post should be put to open competition.
- 10 November 2003** UoG Board meeting formally agrees to accept HEFCW proposal to establish an advisory body and nominates two of its members as representatives on the body.
- 15 November 2003** Minister for E and LL responds to Chair of HEFCW's letter of 7 November supporting his views.
- 12 December 2003** Letter from HEFCW Chief Executive to Chairs of UWIC and UoG informing them that HEFCW had decided to ask its Audit Service to conduct a review of the factors which had led to the lack of progress on the proposed merger and how they might be avoided in future.
- 16 December 2003** UWIC Board meeting resolves to terminate merger project.

**Terms of Reference JWC, JMG and JD**

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**Terms of reference of the Joint Working Committee (JWC)**

**Name** – The Joint Working Committee (JWC)

**Purpose** – in the light of the Welsh Assembly Government's strategy for HE, to consider the feasibility of a merger of the two HEIs.– This will include considering the scope for such a merger and making recommendations on the key aspects of merger including governance, management arrangements, staff restructuring, estates rationalisation, the likely costs, and timescale and reporting to the council/board of the two HEIs on its work and proposals.

**Authority** – the JWC shall not have any delegated authority to commit any of the HEIs but shall have the right, in consultation with the vice chancellor or other appointed persons in each HEI, to communicate and meet with, individually or in groups, all members of the staff, the governors and the students (by the officers from time to time of the respective students unions) and such other stakeholders as it considers appropriate, in order to facilitate its discussions. The JWC shall give publicity as it thinks appropriate to its discussions after consultation with the vice-chancellors of the two HEIs. The JWC shall as quickly as possible prepare and implement a joint plan of the HEIs for communication with the staffs of the HEIs on matters covered by the remit of the JWC. No HEI shall be bound by any decision of the JWC if more than one of its members on the JWC has disagreed with the decision. Should the JWC identify any matter it considers to be of fundamental importance and on which it cannot reach agreement ('a potential deal breaker') it shall report the matter to the respective council/board as soon as possible for guidance.

**Membership** – the respective council/board of the two HEIs shall appoint the following members to the JWC –

UoG – its chairman and deputy chairman, one other lay (independent) governor and the vice chancellor

UWIC – its chairman and deputy chairman, one other lay (independent) governor and the vice-chancellor

The chairmen of UoG and of UWIC shall be its joint chairmen. The joint secretaries to the committee will be the clerks to the governors of UoG and UWIC.

**Operation** – the JWC shall meet as often as necessary and shall decide which of the vice chancellors shall have responsibility for day-to-day management of each aspect of its work. It shall form a management group consisting of the vice chancellor/principal of each HEI and their deputies to coordinate that day to day work and shall provide for the chairmanship of that group.

**Timescale** – the JWC shall so organise its affairs that it is able to provide an initial report to the respective council/board before the end of February 2003 on the feasibility and cost of merger and the potential deal breakers and further reports as necessary in the light of the initial report.

**Withdrawal** –either HEI may by two weeks notice in writing to the chairman of the others (sent c/o the vice-chancellor of the other HEI) withdraw from the JWC with effect from the expiry of the notice.

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**Continuity of the existing operations of the HEIs** – it shall be a principle of the proposed arrangements that provision shall be made and continued for the efficient continuance of the operations of the HEIs during the existence of the JWC.

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## **Terms of Reference of the Joint Management Group (JMG)**

JMG is a steering group for the UWIC-UG merger. It has been established by the Joint Working Committee (JWC) of governors and reports directly to the JWC. JMG will meet frequently and be chaired jointly by the VC of UG and the VC of UWIC.

Its terms of reference are

- to approve major plans relating to the merger.
- to authorise deviations from agreed plans.
- to sign off each stage of the project plan as complete.
- to ensure resources are committed.
- to resolve or arbitrate any conflicts within the project.
- to ensure the merger is achieved at the requisite level of quality.
- to act as the voice of the merger to the outside world.
- to authorise key publicity communiqués.
- to ensure that the requisite level of expertise is available to ensure the merger process.
- to act as the sole change authority for the merger project in terms of nature and scope.
- to ensure risk analysis is undertaken and risk management enacted in relation to the merger.

## **Membership**

The Vice Chancellors and Deputies of both institutions

Clerk:

UoG University Secretary and Clerk to the Board of Governors

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## **Terms of Reference of the Joint Directorate (JD)**

Joint Directorate is a group established by the Joint Management Group (JMG). Its prime purpose is to ensure that the merger of the two institutions of UWIC and UG is progressed effectively, and that the best interests of the New U are anticipated, planned for and achieved through the merger process.

Its terms of reference are

- Develop a first draft strategic plan for New U for consideration by JWC and the Boards of Governors.
- Initiate, produce and receive papers, reports and material as appropriate relating to the setting up of New U.
- advise the Joint Management Group on any significant issues relating to the merger or risks to the merger process.
- envisage the New U and to act as an excellent and efficient communication mechanism on merger issues to the wider communities of UWIC and UG.
- assist in the process of setting future directions and plans for New U.
- lead and chair groups of UWIC and/or UG staff as part of the implementation phases of the project.
- engage in and promulgate team working practices in the interests of a successful merger.
- embrace the principles of openness and transparency in order to secure a successful merger.

## **Membership**

The Vice Chancellors and the senior management teams of both institutions

### Clerk:

Executive Officer to the UOG Vice Chancellors Office

## Summary of Lessons to be Learned

Paragraph Reference	Lesson to be Learned
42	Key 'issues to overcome', or deal breakers, should be identified at an early stage and the positions of the respective Governing Bodies formally recorded together with the agreed mechanism for resolving the issue. This should form the basis of a Memorandum of Understanding between the institutions.
47	Comprehensive minutes of key meetings should be maintained when working towards a merger, including the nature of the discussions, any agreement reached and forward action points.
72	Prior to engaging in costly and resource intensive merger processes, governing bodies should ensure that a robust and comprehensive options appraisal has been undertaken and that the most beneficial option is pursued.
75	Realistic target dates should be set for the achievement of mergers, allowing adequate time for key elements to be effectively completed including, where appropriate, interaction with external agencies and any substantial periods when key staff or governors may be unavailable.
76	A firm target date for merger should not be set or announced until the decision to merge is formally made by the merging institutions' governing bodies.
78	As an early feature of the exploration of a major collaborative arrangement, particularly merger, an independent individual respected and trusted by all parties should be appointed to Chair or facilitate the project steering group.
80	Any major collaboration or merger project should incorporate a Disputes Resolution mechanism within its project management framework.
83	A Memorandum of Understanding setting out the agreed position on key issues and principles should be established promptly once governing bodies have concluded that detailed work to progress the merger should be commenced.
114	Institutions involved in merger discussions should ensure that governors receive full information upon which to base their decisions. Chairmen and Clerks of merging institutions should give particular consideration to the provision of consistent information to their governing bodies.
124	When funds are provided for a specific activity in a merger process, such as an options appraisal, the HEFCW should ensure that evidence of completion of the activity is obtained.
128	The HEFCW should ensure that it follows its appropriate documented procedures with respect to minor and major reconfiguration and collaboration proposals.

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<b>Paragraph Reference</b>	<b>Lesson to be Learned</b>
132	The HEFCW should seek to inform institutions at an early stage of the timescales for providing information on the levels of HEFCW funding to be invested to progress a merger.
134	The HEFCW should develop project plans with key milestones for its own involvement in merger processes. These should set out key dependencies and should be shared with merging institutions to enable them to plan to deliver relevant information and meet HEFCW deadlines to allow due process within the HEFCW to proceed on a timely basis.
143	The likely impact and reaction of individual institutions should be carefully assessed when HEFCW considers intervention in seeking to ensure that major projects such as institutional mergers are achieved.