

EXPLANATORY MEMORANDUM: COLEG SIR GÂR FURTHER EDUCATION CORPORATION (DISSOLUTION) ORDER AND COLEG SIR GAR LIMITED (DESIGNATED INSTITUTIONS IN FURTHER EDUCATION) ORDER 2013.

This Explanatory Memorandum has been prepared by The Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

MINISTER'S DECLARATION

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Coleg Sir Gâr Further Education Corporation (Dissolution) Order and Coleg Sir Gar Limited (Designated Institutions in Further Education) Order 2013. I am satisfied that the benefits outweigh any costs.

Huw Lewis

Huw Lewis AM
Minister for Education and Skills

DATE: 3 July 2013

1. DESCRIPTION

This Order provides for the dissolution of Coleg Sir Gâr Further Education Corporation and the Designation of Coleg Sir Gar Limited as a FE Institute and the transfer of its property, rights, and liabilities to University of Wales Trinity St David, with effect from 1 August 2013.

2. MATTERS OF SPECIAL INTEREST TO THE CONSTITUTIONAL AND LEGISLATIVE AFFAIRS COMMITTEE

There are no matters of special interest which the Minister wishes to bring to the attention of the Committee.

3. LEGISLATIVE BACKGROUND

This Order is made under Sections 27C and 28 of the Further and Higher Education Act 1992 (as amended by the Education Act 2011).

The functions of the Secretary of State under section 28 of the Further and Higher Education Act 1992 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30(1) and 30(2) (a) of Schedule 11 to the Government of Wales Act 2006 (c.32).

This Order is subject to annulment (negative resolution procedure).

4. PURPOSE AND INTENDED EFFECT OF THE LEGISLATION

The dissolution of Coleg Sir Gâr Corporation and the transfer of its property, rights and liabilities to University of Wales Trinity St David is an innovative dual sector merger which is intended to strengthen and secure the provision of facilities for post-16 education and training to benefit the learners, employers, community and economy of the South West Wales region.

The Order implements a proposal received from the Coleg Sir Gâr Corporate Board to merge functions. This approach enables Coleg Sir Gar Limited (and any other colleges which join University of Wales Trinity St David) to retain their own brand. They will also operate as distinct organisations with their own Principal and Board, business plan, staff and students. Along side, they will be able to confer benefits from being part of a larger organisation in terms of shared services and access to finance.

Coleg Sir Gâr has been consulted and University of Wales Trinity St David is content with the transfer. The dissolution and transfer will come into effect on August 1 2013. Both colleges are fully prepared for the merger.

5. CONSULTATION

Coleg Sir Gâr Corporation has been consulted in accordance with section 27(7) of the Further and Higher Education Act 1992 and the transfer of property, rights and liabilities is made with the consent of University of Wales Trinity St David as required by section 27(2) of the Further and Higher Education Act 1992.

The colleges have consulted widely with both internal and external stakeholders and the proposals to merge have been broadly welcomed. DfES officials have considered summaries of the consultation responses.

6. REGULATORY IMPACT ASSESSMENT

This Order has no impact on the statutory duties (sections 77 – 79 Government of Wales Act 2006) and does not impose any additional burdens upon the statutory partners (sections 73 – 75 GOWA 2006).

Options

Various options have been considered and rejected prior to the decision made by the parties to dissolve the Corporation of Coleg Sir Gâr and merge operations with University of Wales Trinity St David.

The following options were considered as part of the process and an assessment made of the advantages and disadvantages that would occur for both the learners and the partner Colleges against each of the options:

1. Status Quo- remain as an independent FE institution
2. Further integration with the local authority education department
3. Association/Merger with other Further Education College
4. Association/Merger with two other Further Education Colleges
5. Association/Merger with Higher Education Institution

DTZ consultants were appointed by Coleg Sir Gâr to undertake an independent assessment of the business case for all future options. Their report recommends that merger with Higher Education Institution would be beneficial to learners, the economy, employers, the community, staff and to both institutions.

It also included a report from Eversheds, on behalf of DTZ, on the legal options for merger/association. On the 5 July 2012 the Strategic Outline Case for merger between Coleg Sir Gâr and the University of Wales Trinity St David was endorsed by the College's Board.

The Strategic Outline Case identified a group structure as the best option for merger. This would involve the dissolution of the corporation of Coleg Sir Gâr with its assets, liabilities and property being transferred to a subsidiary company (Coleg Sir Gar Ltd) of University of Wales Trinity St David with the Coleg Sir Gâr brand being retained. The particular legal structure proposed would involve the creation (by University of Wales Trinity St David) of a subsidiary company operating with a board of directors.

This group structure would enable the continued monitoring and accountability arrangements involving the Welsh Government and the financial support for FE to flow through the subsidiary company.

Benefits

The key objectives / benefits that Coleg Sir Gâr and University of Wales Trinity St David are seeking to achieve:

Key Objectives / Benefits	
Strategic	<ol style="list-style-type: none"> 1. An integrated vocational education system that drives learner progression and achievement 2. An education system that facilitates strategic curriculum planning to address regional economic priorities and employer needs 3. Expansion of more local, flexible and part-time HE opportunities 4. Step change in Welsh medium provision for FE learners
Economic	<ol style="list-style-type: none"> 5. Greater capacity to work with employers and meet training needs from FE to HE 6. Alignment of education / skills delivery with emerging Swansea Bay City Region Economic strategy 7. Efficiency savings so more resources can be used on the frontline
Commercial	<ol style="list-style-type: none"> 8. Joint estate planning to improve facilities for FE learners and to extend FE reach 9. Income growth and diversification
Financial	<ol style="list-style-type: none"> 10. Securing the long term financial sustainability of Coleg Sir Gâr 11. Improved access to finance for investment
Management	<ol style="list-style-type: none"> 12. An assured future for the FE mission of Coleg Sir Gâr within University of Wales Trinity St David

Costs

The dissolution will bring the process to date to a satisfactory conclusion and provide a sound basis upon which to take the merged Institution forward in a way that optimises the efficient and effective delivery of FE provision in south west Wales.

The action will serve to safeguard public funds by the application of robust, proven systems, and provide a mechanism to amalgamate best practice in current governance and management systems.

Competition Assessment

This Order will have no impact on the costs of business, charities or the voluntary sector.

Consultation

Covered above in paragraph 5.

Post implementation review

The merger process is subject to ongoing review procedures which will be monitored and followed with a comprehensive report 18 months after the date of dissolution order.

Summary

This Order is necessary to dissolve Coleg Sir Gâr Further Education Corporation and transfer its property, rights, and liabilities to University of Wales Trinity St David with effect from the 1 August 2013. The action set out in this Order will benefit the learners, communities and businesses of the south west Wales area.