

Chief Executive's Report

Issue

1. To provide an update on work undertaken and issues that have arisen since the date of the last board meeting on 15 May 2019 to the extent that they are not covered in other board papers.

Recommendations

2. The board is invited to:
- a. Agree the revised approach to noting interests on board papers in paragraph 31
 - b. Agree revisions to the board's scheme of delegation, summarised in Annex A
 - c. Agree the revised Terms of Reference for the Provider Risk Committee in Annex B
 - d. Note the updates contained in this report
 - e. Note the decisions taken under delegated authority at Annex C
 - f. Note the report on strategic risks at Annex E.

Member's interests

3. Any member of the board with a registered interest in a higher education provider as listed here: <https://www.officeforstudents.org.uk/about/who-we-are/our-board-and-committees/> is considered to have an interest in the contents of this paper.

4. It is not considered necessary for these board members to recuse themselves from the discussion of this paper.

Further information

5. Available from Nicola Dandridge (nicola.dandridge@officeforstudents.org.uk).

Introduction

6. The process of assessing providers' applications to the register is now largely complete, with providers now either on the register, or applications going through the process of consideration by the Provider Risk Committee. New applications to the register will of course continue to be received, but this is now becoming part of our business as usual activity.

7. Exempt from publication.

8. Systems and processes for monitoring and intervention are now being established as we start to monitor providers with conditions or other mitigations attached to their registration decisions. We have now concluded our first investigation – into governance failures at De Monfort University. As a consequence of our intervention the university has agreed an extensive action plan to address the shortcomings identified. An oral report will be provided at the board meeting.

9. From 1 August 2019 the OfS will have its full regulatory powers, including its new powers in relation to monetary penalties (referenced in section 15 of the Higher Education and Research Act 2017 (HERA)), monitoring of student transfers (section 38) and the monitoring of financial sustainability (section 68). A consequence of the full powers being available means that the transitional arrangements¹ will no longer be applicable from 1 August 2019. The result of this means we will no longer be responsible for enforcing most requirements that stem from provisions of the Further and Higher Education Act 1992 and the Higher Education Act 2004). The executive team is engaging with Department for Education to ensure mitigations are in place to mitigate any risks following the changes in legislation.

10. On 24 June 2019, we received additional guidance from the Secretary of State, to which we must have regard under section 2 of HERA. This guidance was referenced in the initial guidance received earlier in the year, and we had already planned work in a number of the areas covered including admissions and unconditional offers, essay mills, grade inflation, and apprenticeships.

11. Internally we have now launched our learning and development programme for all OfS staff. This is a significant programme that will roll out over the course of the next year and includes training on different aspects of our role as a regulator and new working methods, targeted at both new recruits and existing staff.

12. Since the date of the last board meeting, we welcomed the new chief executive of the Scottish Funding Council, Karen Watt, on 14 June 2019, to spend a day with us in Bristol, meeting the team. This was followed by a session with the chief executives of the Devolved Administration funding councils on 24 June 2019 to discuss areas of common interest. We will be following this up with a meeting in London in November to discuss shared priorities and effective collaboration. Paul Kett, Director General of Further and Higher Education at the Department for Education, visited the Bristol offices on 17 May 2019 to meet with staff. I spoke at the launch of the Hepi/Advance HE Student Academic Experience Survey on 13 June 2019, and at the launch of The Centre for Transforming Access and Student Outcomes, which is the new 'what works' centre for widening participation and equality for which we are providing start up (previously referred to as the Evidence & Impact Exchange). On 3 June 2019 I presented a paper to an OECD

¹ Pursuant to the Higher Education and Research Act 2017 (Consequential, Transitional, Transitory and Saving Provisions) Regulations 2018

roundtable discussion, along with the CMA, on the role of competition in publicly funded education markets.

Strategic objective – participation

13. Following consultation during 2018, board decisions in December and publication of new guidance in February 2019, we received 43 submissions for 2020-21 Access and Participation plans from providers with early application dates (generally those providers with medical schools). We expect most other providers to submit new plans at the beginning of July. The plans are now being assessed, with initial checks and the first round of feedback provided by mid-June. In addition to briefing events for all providers, those providers with enhanced monitoring status in relation to condition A1 were invited to participate in workshops on self-assessment, setting targets and evaluation. In addition, individual meetings have been taking place with those providers at highest risk in relation to future approval and renewal of their plans.
14. The 2019-20 OfS business plan references the OfS commissioning research and undertaking sector-wide engagement to improve support for students with disabilities. This is one element of the OfS's duty under HERA section 35 to promote good practice in relation to access and participation, which is framed within the business plan as facilitating greater and better use of evaluation, evidence and effective practice. This will initially be taken forward through a research study assessing progress across the sector towards inclusive support for disabled students. The second part will involve commissioning a further phase of work from the Disabled Students Sector Leadership Group, which was set up by DfE to advise on sector practice following changes to the Disabled Students Allowance from 2016-17. In doing so, we will re-constitute the group so that it can update its recommendations to reflect changing practice and the increasing diversity of regulated providers, and also engage with providers on their take-up. This approach was announced by the Minister for Universities in his contribution to the Higher Education Festival on 27 June 2019.
15. New schemes to improve access at the University of Oxford were well covered in the media, with articles in BBC News and the Financial Times reflecting the OfS's contribution. I wrote a short piece for The Times to argue that widening participation should not come at the price of student continuation and outcomes. The piece was linked to a news story in The Times on non-continuation rates.
16. The NHS published its Interim NHS People Plan on 3 June 2019. The Plan includes ambitions to increase nursing and allied health undergraduate numbers through the provision of additional clinical placement capacity, and to improve retention of both students and NHS staff. We have worked closely with colleagues at NHS England, Health Education England and the Department of Health and Social Care to help inform aspects of the plan relating to students in health professions. The Plan also signals a possible further expansion of undergraduate medical student places, building on the 1500 additional places created from 2018-19, subject to the outcome of the Spending Review.

Strategic objective – experience

17. On 5 June 2019, we announced the outcomes of our £6 million mental health challenge competition. Funding has been awarded to 10 large-scale projects with co-funding from project partners of £8.5 million. The 10 projects in total involve nearly 70 different universities, colleges and other organisations – including NHS, police and charities, and the intention is to maximise the benefits of the projects for all students and providers across the entire sector. The competition was reported by The Times and The Independent, and I did an interview for a Channel 4 News piece on student mental health, following the publication of the HEPI/Advance HE Student Academic Experience Survey showing an increase in the rate of students reporting anxiety.

18. The Prime Minister's legacy proposals in relation to mental health support services announced on 17 June 2019 included a £1 million investment from the Department of Health and Social Care to the OfS, to deliver a second tranche of challenge competition funding for digital and innovative proposals that drive improvements in mental health support and early intervention for higher education students. The aim is to launch the programme by the end of the year. The timing of this second call will also mean that a wider range of providers will be eligible to apply, including independent providers for example, as the funding will be open to all providers registered in the Approved (fee cap) category and so eligible for public grant.

19. On 12 June 2019, we published an independent evaluation of the impact of 108 projects involving 84 universities and colleges who had been awarded a total of £4.4 million (by HEFCE) to tackle sexual violence, harassment and hate crime on campus. The evaluation showed that good progress has been made but that there is more to be done, and concluded with a series of recommendations to providers, the OfS and other sector bodies and government. We hosted an event to launch the evaluation as well as the repository of outputs from the project to enable the outcomes of the work to be shared and used across the sector. This work is also reflected in the equality, diversity and inclusivity annual report being considered by the board at this meeting. A third round of funded projects (totalling just under £500,000) focusing on tackling religious-based hate crime on campus are still underway and due to complete in 2020.

20. We continue to develop our response to market exit, identified by the Risk and Audit Committee as a priority in terms of strategic risks, and as discussed at its last meeting on 10 May 2019. On 7 June 2019, we hosted a round table with sector partners mapping out roles and responsibilities in the event of market exit. We have also involved the Student Panel in these discussions, and their response has been useful in shaping and developing our response. Directly leading from these discussions, the panel will now be moving on to informing and shaping our work to improve student protection plans.

Strategic objective – outcomes

21. The OfS continues to develop its approach to challenge grade inflation and ensure consistent standards. We continue to support two projects on this area: the external examiners' project being undertaken by AdvanceHE, initiated by HEFCE with continuing funding from the OfS; and the Degree Classification Statement of Intent being led by the UK Standing Committee for Quality Assessment (UKSCQA). We welcomed a statement of intent from the UKSCQA, and the OfS's response was mentioned in articles in The Times and Daily Mail. Taken together, these initiatives offer providers a set of resources which they can use to demonstrate that they meet the OfS's regulatory requirements regarding academic standards, set out in its B conditions. We

published data and analysis on grade inflation in December 2018 and will publish further data in July 2019. We are developing our use of this data to strengthen the sector's response to grade inflation with a view to ensuring public confidence in the value of awards.

22. We have started discussions with the other UK higher education regulators and sector representative bodies about plans to develop a programme of sector-level activities to address concerns in relation to academic integrity, including essay mills, which present a threat to the standards of awards. It has been agreed that that ownership of this work should sit with UKSCQA, and that the focus of the initiative will be on sector-level activities to avoid a clash with our provider-level regulatory responsibilities. At a provider level, the conditions of registration provide a mechanism to sanction providers that do not ensure that qualifications awarded to students hold their value.

23. As set out in the Apprenticeship Accountability Statement December 2018, the OfS has been working with the DfE to develop an approach for the assessment of quality in providers that are delivering apprenticeships at levels 6 and 7, but which are not registered with the OfS. The DfE has asked the OfS to conduct quality assessments at a small number of providers that currently offer substantial volumes of levels 6 and 7 apprenticeship provision which does not lead to either a full bachelors' or masters' degree. As part of the exercise, we will carry out quality reviews for the four largest – and therefore 'higher-risk' providers – to assess the providers against the OfS conditions of registration that relate to quality of provision, as set out in Regulatory Framework, to support the development of the new method, and to begin to benchmark quality in the unregistered part of the higher education sector. The reviews are scheduled to take place between September and October 2019. Detailed outcomes of the quality assessment reviews undertaken as part of the project will not be published, but will form the basis of recommendations to the Department about future reviews of apprenticeship provision in unregistered providers. At the end of the project we will evaluate the process with the participants through a 'lessons learned' exercise.

24. On 10 June 2019, the Department for Culture, Media and Sport announced £13.5 million funding for programme development and scholarships for Artificial Intelligence and digital skills conversion courses at masters' level (<https://www.gov.uk/government/news/185-million-to-boost-diversity-in-ai-tech-roles-and-innovation-in-online-training-for-adults>). This investment is intended to build on the findings of the evaluation of the Engineering and Computing Conversion Course programme, which we published in April. The evaluation report demonstrated the viability of conversion courses in this area at masters' level, due to the scope for graduates in non-cognate disciplines to develop the necessary foundation and specialist skills during the short period of a masters', and an imperative from employers to secure a rapid increase in the number and diversity of graduates with these skills. DCMS would like OfS to run the new programme, so we are engaged in initial discussions about the timing, resourcing and approach to this.

Strategic objective – efficient and effective

25. From 1 August 2019, when the OfS’s regulatory framework will become fully operational, our administrative operating costs will mainly be funded from registration fees charged to providers registered by the OfS. In June we wrote to all registered providers with guidance on how the OfS will apply the registration fee regulations, and what providers need to do in order to ensure that their fees are paid on time and in full.

26. We will normally expect annual registration fees to be paid in a single payment to make the process as cost effective as possible. However, we provided the option to pay registration fees by equal quarterly instalments, collected by direct debit. All providers were required to respond to inform us how they intended to pay the registration fees. As at 24 June the position was:

	Number of Providers		Estimated fee income (AY19/20)	
Annual Direct Debit due 1 August	50	13%	5,005,500	19%
Quarterly Direct Debit	115	31%	7,476,450	28%
Annual BACS due 1 August	152	41%	11,293,500	43%
No formal response	56	15%	2,485,850	9%
Total on Register	373		26,261,300	

27. We are actively chasing the 56 providers who have not yet responded. If we fail to get a response by the end of June, we intend to issue a formal F3 notice which requires a registered provider to provide the OfS with such information as we require. Subject to all of the currently registered providers paying their fees, we are on track to receive the income forecast for this financial year.

28. The last Risk and Audit Committee meeting on 10 May 2019 considered a number of issues including the OfS’s work on market exit, and its response to cyber-security – particularly work to address the recommendations arising from the recent internal audit review of cyber-security. Significant steps have been taken to address threats to cyber-security, with dedicated resource being allocated and further work being undertaken. The OfS’s new external auditors, KPMG, will include progress on cyber-security as part of their internal audit plan for 2019-20. It is intended to invite a presentation from the National Cyber Security Centre to the November board meeting.

29. In order to ensure effective governance and oversight of the OfS’s programmes of work, the OfS’s PMO function is developing robust systems of reporting and risk assessment, that will inform effective evaluation through a quarterly review system, as well as the development of future

business plans. The chair of the Risk and Audit Committee contributed to the executive team's Q4 review (Q4 for 2018/19), and a member of the Committee, Suzanne McCarthy, joined the Q4 meeting and contributed to the evaluation. This quarterly review process will also capture the OfS's response to risk, and through that process report back to the Risk and Audit Committee.

30. The board are invited to note the report on strategic risks at **Annex E**.

31. Along with a broader review of how we present and format our board papers, we propose that we should remove the 'members' interests' section on the cover page of board papers. Instead, board members will be asked at the start of meetings whether they have any interests that they need to declare in relation to any part(s) of the meeting, in addition to those listed on our register of interests. It is proposed that this change will simplify board papers, preventing repetition of information already in the public domain while also strengthening the onus on board members to declare interests during meetings. The board is invited to agree this approach.

Proposed revisions to the scheme of delegation

32. In March 2019 the OfS board considered revisions to the scheme of delegation. It was noted that there would be a need for further revision of the scheme at the July board meeting. In some cases it is proposed that the changes apply from 3 July 2019: in other cases it is proposed the amendment applies from 1 August 2019. Annex A sets out the proposed new or amended wording.

Provider Risk Committee terms of reference

33. The Provider Risk Committee's terms of reference were drafted in March 2018 with a minor revision in July 2018. The OfS's scheme of delegation underwent considerable change during the first year of operations and is in its sixth iteration. Detail was added to the scheme of delegation about monitoring and intervention arrangements and decision making on university title and degree awarding powers. It has become necessary for the PRC's terms of reference to be updated so that they outline the areas where the PRC has responsibilities and authority, referencing the OfS scheme of delegation for the detail of PRC's delegated authorities. This is the approach taken in the proposed terms of reference at **Annex B**, discussed with the Provider Risk Committee on 21 June 2019.

Media and communications

34. At the time of writing, the OfS has 9,775 followers on Twitter, a number which continues to grow steadily. In terms of the website, we are seeing an average of 214,219 page views a month so far this year. The most popular section of the site remains advice and guidance (with 37 per cent of total traffic), followed by data and analysis (18 per cent), publications (13 per cent) and news and blog (9 per cent). A summary of OfS print coverage is available at **Annex F**.

Annex A: Amendments and additions to the scheme of delegation

1. In March 2019 the OfS board considered proposed revisions to the scheme of delegation. It was noted that there would be a need for further revision of the scheme at the July board meeting.

2. In some cases it is proposed that the changes apply from 3 July 2019: in other cases it is proposed that the amendment applies from 1 August 2019 (following full implementation of the regulatory framework).

Sub-delegations

3. Part 1 paragraph 6 of the scheme of delegation concerns sub-delegation arrangements:

“A member, officer or committee/group to whom a power, duty or function is delegated by the board may nominate or authorise an officer of the OfS to exercise that power, duty or function, provided that the nomination or authorisation is in writing and the officer directly reports to or is responsible to the member, officer or committee in question”.

4. Wording to replace the current Part 1 paragraph 6 is proposed below in red which strengthens the arrangements for a new category of Specific Functions. Subject to the conditions set out, each OfS board member and member of staff at pay band 10 or above, is treated as having a form of delegated authority for any Specific Function which can be activated from time to time. It is proposed that this amendment would apply from 3 July 2019.

The scheme of delegation deals with the temporary delegation of certain functions. For this purpose, the following provisions apply in respect of the delegation of one or more functions which are expressly covered by this scheme of delegation (excluding functions that are treated as operational matters and functions that are reserved to the DFAP) and each such function is hereafter referred to as “Specific Function”:

- (a) Subject to the conditions set out in (b), each OfS board member and member of staff at pay band 10 or above is treated as having a form of delegated authority for any Specific Function which can be activated from time to time;
- (b) The conditions are that:
 - (i) The OfS board member or member of staff with delegated authority for the relevant Specific Function has given written authorisation (in any form or medium) to another OfS board member or member of staff at pay band 10 or above to exercise that function on a specific occasion or on a time-limited basis; and
 - (ii) The OfS board member or member of staff at pay band 10 or above who is the subject of the written authorisation complies with any conditions set out in that written authorisation.

Advice on university college and university title applications under the old system and on Degree Awarding Powers under the old system

5. The regulatory implementation from 1 August 2019 requires some minor changes to wording for two sections which relied on transitional arrangements. The wording changes will allow for dealing with residual issues. In the current scheme of delegation (Part 2) these are paragraphs 47 and 54 respectively.

The OfS's advice on university college and university title applications under the old system

~~For applications received before or on 31 March 2019, Approval of giving advice and information in response to a request from~~ provided to the Secretary of State in respect of the creation of a university or the use of university or university college title (in connection with powers that continue to be exercisable by the Privy Council) is delegated to the chief executive or Director of Competition and Registration.

The OfS's advice on DAPs under the old system

~~For applications received before or on 31 March 2018, Approval of giving advice and information in response to a request from~~ provided to the Secretary of State in respect of the awarding of DAPs (in connection with powers that continue to be exercisable by the Privy Council) is delegated to the chief executive or Director of Competition and Registration.

Specific course designation

6. During the transition period to 1 August 2019, the DfE regulated providers in accordance with the criteria and conditions of specific course designation, and the OfS provided advice to the DfE about providers' compliance.

7. The OfS has recently been given limited powers by the DfE to designate specific courses for student loan purposes (for example, in cases where a provider has not been registered, in order to protect students to help them to complete their course of study).

8. The DfE retains powers to designate courses for student loan purposes. Proposed new wording makes provision for delegation of responsibility of providing advice to the chief executive in the event that DfE seek advice from the OfS on course designation under the DfE's retained powers.

9. It is proposed that these Specific course designation amendments would apply from 3 July 2019. The following wording would replace that in the existing paragraph 55 of the scheme of delegation.

55A. Subject to the conditions set out in paragraph 55B, the following persons have delegated authority to exercise powers, under or by virtue of section 62 of HERA and/or paragraph 15 of schedule 1 to HERA, to compel a person to provide information:

- (a) The Director of Teaching Excellence and Student Experience ("Relevant Director"); and
- (b) Any member of staff at pay band 7 or above ("relevant member of staff").

55B. The conditions are:

- (a) The powers are only used for the following purposes in relation to Specific Course Designation:
 - (i) for assessing an application made by a person for Specific Course Designation to be granted by the OfS;
 - (ii) for assessing compliance with a condition that applies to, or making any other assessment in connection with, Specific Course Designation which has been granted by the OfS.
- (b) The Relevant Director has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant powers (which may be on a specific occasion or on a time-limited or enduring basis).
- (c) The Relevant Director is satisfied that the relevant member of staff has appropriate skills and experience.
- (d) The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the Relevant Director.
- (e) The Relevant Director and relevant member of staff obtains and has regard to legal advice.
- (f) The Relevant Director and relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

55C. For the purposes of paragraphs 55A and 55B, “Specific Course Designation” means any functions under or by virtue of section 22 of the Teaching and Higher Education Act 1998 that have been delegated to the OfS by the Secretary of State pursuant to section 23 of that Act.

55D. Approval of giving advice and information in response to a request from provided to the Secretary of State in respect of DfE retained powers to designate courses for student support is delegated to the chief executive.

Terms and conditions of funding

10. The ‘Terms and conditions of funding’ section (paragraphs 59 - 61) can be simplified due to full implementation of condition G2 from 1 August 2019 which states that: “The provider must comply with any terms and conditions attached to financial support receive from the OfS or UKRI under sections 41(11) and/or 94(2) of HERA.” A breach of such terms and conditions will be a breach of this condition of registration”. This amendment would apply from 1 August 2019.

Removal of financial commitment approval (paragraphs 62-63).

11. These paragraphs can be removed in the scheme from 1 August 2019 due to the full implementation of the regulatory framework.

Monetary penalties

12. On 1 August 2019 all of the OfS’s powers under HERA will be in force. This includes the enforcement power to impose a monetary penalty if it appears to the OfS that there is or has been a breach of an ongoing condition of registration.

13. Secondary legislation is in place to ensure that these penalties must not exceed the higher of:

- (a) 2% of the “qualifying income” of the registered higher education provider on whom the penalty is to be imposed; or
- (b) £500,000.

14. It also lists a number of matters to which the OfS must have regard in reaching a decision to impose a monetary penalty.

15. Exempt from publication.

16. The proposed additions to the scheme of delegation from 1 August 2019 for decisions on breaches of conditions and the imposition of monetary penalties allow for the board to retain an interest in significant decisions that may warrant the imposition of substantial monetary penalties, with delegation from the board of less significant decisions as follows:

- a decision that there is or has been a breach of an ongoing condition, delegated to the PRC, the chief executive, or the Director of Competition and Registration.
- the approval of a ‘monetary penalty framework’, retained by the board [exempt from publication].
- a decision to impose a monetary penalty for specified breaches under the monetary penalty framework, delegated to the chief executive or the Director of Competition and Registration.
- a decision to impose a monetary penalty that falls outside of the monetary penalty framework and the level of this penalty, retained by the board or delegated to the PRC.

17. The following wording is intended to replace that in the current paragraphs 29-33 (and in the following Table 1) in the scheme of delegation. Additions are shown in red. The paragraph numbering in brackets corresponds to numbering in the current scheme of delegation.

(29) The relevant team will assess all evidence and make recommendations on the following matters for each registered provider:

- a. whether the provider remains eligible for registration (that is, whether the provider is a provider of higher education in England).
- b. whether the provider continues to satisfy each of its ongoing conditions of registration, **or whether there is or has been a breach of an ongoing condition of registration.**
- c. the risk of a future breach of each ongoing condition of registration.
- d. actions (if any) that are necessary to mitigate areas of increased risk of a future breach.
- e. actions (if any) that are necessary to rectify any breach and/or to mitigate the impact of any breach.
- f. **where the recommendation is that there is or has been a breach, whether to impose a monetary penalty and the amount of that penalty.**
- g. **where the recommendation is that there is or has been a breach, whether suspension or deregistration is necessary.**

(30) Any decision for a case set out below may be referred to a more senior authority (a more senior authority may be the Director of Competition and Registration, chief executive, the PRC, or the board), in which case the more senior authority will make a decision in that case.

(31) Where a decision about **the imposition of a monetary penalty**, suspension or deregistration is listed to be taken by the board or by the PRC in the table below titled: 'Decision about changes to risk category, **breaches**, and consequent regulatory action', a 'gateway decision' will be taken by the chair, the chair of the PRC, the chief executive and the Director of Competition and Registration to determine whether the decision for an individual provider should be taken by the board or by the PRC.

The board will approve a 'monetary penalty framework' which sets out the circumstances in which a monetary penalty may be imposed by the chief executive or the Director of Competition and Registration. An approved monetary penalty framework will specify a maximum value for a monetary penalty imposed under the framework.

(32) Where a decision to deregister a provider **or impose a monetary penalty** is taken by the board or by the PRC: a majority of the members of the board or the PRC will not take part in reaching a proposed decision, but will then rejoin the decision-making process as any representations from the provider are considered and a final decision is reached.

Subject to the conditions in paragraph 33 below, any member of staff at pay band 8 or above ('relevant member of staff') has delegated authority to exercise the following types of function or power in connection with any matter relating to monitoring, intervention and sanctions ('relevant functions'):

- a. To compel the production of documents and information in accordance with any registration condition or statutory provision (excluding section 61 of HERA).
 - b. To impose, or amend, a specific condition of registration.
 - c. To determine that there is or has been a breach of an ongoing condition of registration.
 - d. To impose a monetary penalty and determine the amount of that penalty.
 - e. To disclose information externally in accordance with section 63 of HERA.
 - f. To assist, in the manner described in paragraph 4(4) of schedule 5 to HERA, authorised persons with the exercise of powers under a search warrant obtained under section 61 of HERA.
 - g. To do anything which is calculated to facilitate, or is conducive or incidental to paragraph 33 a. to f.
- (33) The conditions are that:
- a. The relevant functions are only being exercised in relation to a matter for which the chief executive or Director of Competition and Registration has delegated authority for, in accordance with the table below titled: 'Decision about changes to risk category and consequent regulatory action'.
 - b. The chief executive or Director of Competition and Registration has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant functions (which may be on a specific occasion or on a time-limited or enduring basis).
 - c. The chief executive or Director of Competition and Registration is satisfied that the relevant member of staff has appropriate skills and experience.
 - d. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the chief executive or Director of Competition and Registration.
 - e. The relevant member of staff obtains and has regard to legal advice.
 - f. The relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

Decision about changes to risk category, breaches, and consequent regulatory action

Table 1

Change to risk category	Direction of travel	New risk category recommended	Regulatory action recommended (to include addition, amendment or removal of an action)	Delegated authority
No	↔	Any	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Director of Competition and Registration
No	↔	Any (all conditions except D and E2 if the risk category is red for one of these two conditions)	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	Chief executive
No	↔	Conditions D and E2 if the risk category is red for one of these two conditions	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	PRC
Yes	↓	Green, Yellow (all conditions) Amber (all conditions except B3, C3, D, E2)	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Director of Competition and Registration
Yes	↓	Amber (conditions B3, C3, D, E2)	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Chief executive
Yes	↑	Yellow (all conditions)	<ul style="list-style-type: none"> No action required Formal communication 	Director of Competition and Registration

		Amber (all conditions except B3, C3, D, E2)	<ul style="list-style-type: none"> Enhanced monitoring 	
Yes	↑	Amber (conditions B3, C3, D, E2) Red (all conditions)	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Chief executive
Yes	Any	Any (all conditions except D and E2 if the risk category is red for one of these two conditions)	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	Chief executive
Yes	Any	Conditions D and E2 if the risk category is red for one of these two conditions	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	PRC
Yes	N/A	Breach	<p>No action required</p> <p>Formal communication</p> <p>Enhanced monitoring</p> <p>Imposition of a monetary penalty (including the amount of a penalty) for a breach under an approved monetary penalty framework</p>	Director of Competition and Registration
Yes	N/A	Breach	<p>Specific condition</p> <p>Imposition of a monetary penalty (including the amount of a penalty) for a breach under an approved monetary penalty framework</p>	Chief executive

Yes	N/A	Breach	Imposition of a monetary penalty	The board or the PRC, with a 'gateway decision'.
Yes	N/A	Breach	Suspension of registration under sections 16 and 17 of HERA	The board or the PRC, with a 'gateway decision'. In urgent cases, the group taking the 'gateway decision' may also reach the final decision about suspension for an individual provider.
Yes	N/A	Breach	Deregistration under sections 18-20 of HERA	The board or the PRC, with a 'gateway decision'.
Yes	N/A	Breach of conditions C3, D and E2	Initiation of interventions to prevent disorderly exit	The group taking the 'gateway decision' for deregistration.

Annex B:

Office for Students Provider Risk Committee: terms of reference

Purpose

1. The board of the Office for Students (OfS) has established a Provider Risk Committee (PRC) as a committee of the board to oversee and make decisions in relation to the registration and regulation of individual English higher education providers. The PRC also acts in an advisory capacity to the board as described in the scheme of delegation.

Responsibilities/authority

2. The PRC has decision-making powers as set out in the OfS's scheme of delegation in relation to the following decisions:

- a. applications from providers to register with the OfS including, where judged necessary, the imposition of one or more specific conditions of registration where the recommendation is that:
 - the provider is not eligible for registration; or
 - the provider does not satisfy the initial conditions of registration; or
 - the risk category for two or more conditions is red or the risk category for condition D (financial viability and sustainability) or E2 (management and governance) is red.
- b. applications from providers to register with the OfS including, where judged necessary, the imposition of one or more specific conditions of registration.
- c. whether a registered provider continues to satisfy each of its ongoing conditions of registration, or whether there is or has been a breach.
- d. the risk of a future breach of each ongoing condition of registration and any actions that are necessary to mitigate areas of increased risk of a breach.
- e. actions that are necessary to rectify any breach and/or to mitigate the impact of any breach.
- f. whether a formal sanction is necessary.
- g. decisions about the authorisation, variation and revocation of degree awarding powers (DAPs).
- h. decisions about authorisation or revocation of permission to use 'university' in a provider's title.

3. The chair of the PRC has specific authorities which are described in the scheme of delegation, such as participating in "gateway decisions" about whether some decisions in relation to individual providers should be taken by the board or the PRC.

Membership

4. The members of the PRC, including its chair, are appointed by the OfS chair. Members will have a mix of skills and experience to provide a range of expertise to cover the activities of the OfS.
5. Members are normally appointed for a period of three years. Re-appointment for up to three further years is subject to satisfactory appraisal by the PRC chair and approval by the OfS chair.
6. The chair of the PRC must be a non-executive member of the OfS board, but not be the OfS chair to ensure the independence of the PRC.
7. The PRC will consist of:
 - Up to three non-executive members of the OfS board (including the PRC chair)
 - Up to four independent members (i.e. between 0 and 4).
8. The validity of any proceedings of the committee shall not be affected by a vacancy among the members or by any defect in the appointment of a member. The quorum necessary for the transaction of the business of the committee shall be two members, including at least one member of the OfS board.
9. The PRC may co-opt additional members for a period not exceeding a year to provide specialist skills, knowledge and experience.
10. A register of declared interests for all members of the PRC is published on the OfS website. If it is deemed that a member has an actual or perceived conflict of interest, then any relevant paper(s) may be withheld, and/or the member asked to leave the meeting for the duration of the discussion at the discretion of the chair. If the conflict of interests is considered to be significant or likely to be long-term, then the member may be asked to step down from the PRC.
11. All members of the PRC are legally indemnified against negligence by the Department for Education.

Meetings

12. The PRC will meet at least four times a year. However, the chair of the PRC may convene additional meetings as they deem necessary.
13. Meetings may be held by correspondence and/or via video or teleconferencing. In the absence of the PRC chair, the meeting will be chaired by another member that is also a member of the OfS board.
14. While only members have a right to attend, meetings of the PRC will normally be attended by the OfS chief executive as an observer, the Director of Competition and Registration and the secretary to the committee.
15. The PRC may also require any other officials of the OfS to attend to assist it with its discussions on any matter.

Reporting

16. The PRC will formally report in writing to meetings of the OfS board. This will be complemented where appropriate by an oral report from the PRC chair at the board meeting.

17. PRC meetings shall be minuted and draft minutes circulated to members.

18. At appropriate points in its work cycle, the PRC or the Director of Competition and Registration will provide the board with a detailed update on its work.

19. The terms of reference for the PRC will be reviewed at appropriate intervals. The OfS board will be asked to approve any changes to the terms of reference.

Annex C - Report on use of delegated decision making

1 May to 7 June 2019

Challenge Competitions

1. The chief executive has now approved funding for the first two Challenge Competitions as follows:

Industrial Strategy and skills - support for local graduates

Funding of £5,854,673 approved for 16 projects on 11 March 2019.

2. Further information on the grants awarded is available here:
<https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/no-place-like-home/>

Achieving a step change in mental health outcomes for all students

Funding of £5,958,463 approved for 10 projects on 14 May 2019.

3. Further information on the grants awarded is available here:
<https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/innovation-partnership-and-data-can-help-improve-student-mental-health-in-new-14m-drive/>
4. All funding approvals for our Challenge Competitions will be reported to the board periodically.

Annex D – Future board business

September 2019

CEO report
Q1 Finance report
Next stage of the IAG strategy
Student welfare and safeguarding – update on OfS' role
Report from the student panel
Report from the September Risk and Audit Committee
Report from the Provider Risk Committee

November 2019

CEO report
Q2 Finance report
Students' contracts
Review of the OfS strategy
OfS student engagement strategy
Intervention strategy
Report from the student panel
Report from the Provider Risk Committee

January 2020

CEO report
Validation arrangements
Report from the December 2019 Risk and Audit Committee
Challenge competitions annual report