



Chief Executive's Report

Issue

1. To update on work undertaken and issues that have arisen since the date of the last board meeting on 3 February 2021, to the extent that they are not covered in other board papers.

Recommendation

2. The board is invited to note the updates contained in this paper.

Further information

3. Available from Nicola Dandridge.

Summary of main activity

4. Shortly after the last board meeting on 3 February 2021, we received further statutory guidance from the Secretary of State. This 8 February 2021 guidance helpfully replaced all previous guidance, dating back to 2018, other than the guidance received since September 2020. This was a wide-ranging letter covering the government's expectations of the OfS in relation to the response to the pandemic; regulation of quality and standards; ensuring fair admissions and equality of opportunity; delivering risk-based regulation and regulatory burden and supporting the implementation of the government's ambition to stimulate greater flexibility of provision across further and higher education. In addition, the letter touched on a number of specific areas, including free speech, funding, antisemitism and international higher education. We will of course have regard to this guidance as we develop our business plan and next strategy and as we take relevant decisions over the coming months.
5. As board members will know, the appointment of Lord Wharton of Yarm has now been finalised by the Secretary of State, following his pre-appointment hearing with the Education Select Committee on 2 February 2021. I am now in regular communication with Lord Wharton and he is beginning to engage with senior staff at the OfS, as well as sector stakeholders.
6. The board will recall that, in recognition of the pressures faced by providers in responding to the latest lockdown, we extended the deadline for responses to our quality and standards consultation until 25 January 2021 and committed to reviewing the response times and publication schedules for other consultation activity. Following further engagement with the sector, we also decided on 17 February to extend the deadlines for responses to our consultation on reportable events, monetary penalties and publication of information until 26 February 2021.
7. Following the various policy publications from the Department for Education on 21 January 2021 (covered in my last report to the board), a further paper was published on 17 February 2021 relating to free speech and academic freedom. The paper included proposals to bring forward legislation that would strengthen the free speech duty in section 43 of the Education (No.2) Act 1986 to include a duty on higher education providers to 'actively promote' free speech; to legislate for a Free Speech and Academic Freedom Champion to be appointed to the OfS's board with a remit to investigate infringements of free speech in higher education and to recommend redress; and to legislate to require the OfS to introduce a new registration condition on free speech and academic freedom. The proposals were widely reported and debated in the media. The statutory guidance to the OfS from 8 February 2021 had already notified the OfS of the intention to publish this policy paper, asking the OfS to work closely with the DfE to deliver the proposals. We are in regular communication with the Department about these proposals and will update the board further as we discuss the details and timings of the activity to follow.
8. The Department for Education and OfQual announced on 25 February 2021 an approach to assessment of A-levels and other level three qualifications based on teacher-assessed grades. We are assessing the impact this approach may have on the 2021-22 admissions cycle, along with our monitoring of applicant behaviour. Initial indications from UCAS are that the number of UK domiciled applicants has increased by 11 per cent, with non-EU international student applications up by 17 per cent and EU student applications down by 38 per cent. This amounts to an overall increase in applications of 8 per cent. While the UCAS figures only apply to full-

time undergraduates, they give us some confidence that, at the sector level, recruitment is likely to be healthy. We are now developing our response to these arrangements and expect our focus to be on re-stating our expectations of providers. These expectations relate both to providers' offer-making behaviours at the point of admission and the way in which providers support students' transition to higher education regarding maintaining commitments in access and participation plans and ensuring that students' experience of higher education meets the requirements of our quality and consumer law conditions.

9. On 9 February 2021 we re-launched our work to tackle harassment and sexual misconduct in higher education. We will be engaging with student and sector representative bodies and other stakeholders to understand how the events of the past year may affect our proposed statement of expectations. Following this engagement, in spring 2021 we will finalise the statement of expectations to provide clarity about the systems, policies and processes we expect universities and colleges to have in place to ensure that they prevent and respond to harassment and sexual misconduct effectively. In addition, we will consider how our regulatory requirements in relation to consumer law can be updated so that we could use our enforcement powers where universities and colleges do not have robust, fair and effective complaints procedures in place.
10. Board members will recall that the OfS adopted the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism in 2018. The Secretary of State's most recent guidance letter asks the OfS to undertake a scoping exercise in relation to the adoption of the definition across the higher education sector, with the expectation that this evidence would influence our regulation of providers. We are currently considering the guidance letter, also taking into account the work that student and sector representative bodies have been conducting in this area. Depending on how we take this work forward, we would aim to present any findings to the board at its meeting in July, with the expectation that the board will be able to consider the findings alongside its annual consideration of the OfS equality objectives and action plan.
11. As the board agreed at the 3 February 2021 meeting, a decision-making group comprising Sir Michael Barber, Kathryn King, Conor Ryan and I will be convening before the board meeting to make a decision relating to the future of the National Student Survey. I will update the board on this group's decision verbally at the meeting.
12. We continue to monitor providers' responses to the pandemic and are planning to publish some examples of how we have responded to concerns in specific anonymised cases. We are also considering further regulatory action in a small number of cases.
13. Exempt from publication
14. The OfS continues to operate on a remote basis predominantly, with our Bristol and London offices available to those staff who need to use them. We continue to support staff who are working from home and have now initiated a 'ways of working' project that will be delivering changes required to our workspaces, technology and policies and processes as we look forward to adapting to a changed working environment post-pandemic.
15. We continue to look into regulatory matters relating to Imperial College that some board members may have seen reported in the media recently.