



Draft minutes of the OfS board meeting, 13 July 2021

Location: by video or telephone conference

Timings: 1330-1700

- Present members: James Wharton (chair)
Martin Coleman
Nicola Dandridge (chief executive)
Gurpreet Dehal
Elizabeth Fagan
Verity Hancock
Kathryn King
Kate Lander
Simon Levine
Martha Longdon
Chris Millward (Director for Fair Access and Participation)
David Palfreyman
Monisha Shah
- Attendees: Hannah Sheehan, Department for Education (DfE) representative
- Apologies: Katja Hall
- Officers: Jean Arnold, Head of Compliance and Student Protection
Camilla Briault, Strategic Business Manager
Ed Davison
Josh Fleming
Paul Huffer, Head of Legal
Susan Lapworth, Director of Regulation
Paula McLeod, Corporate Governance Senior Adviser (clerk)
Richard Puttock, Director of Data, Foresight and Analysis
Conor Ryan, Director of External Relations
Nolan Smith, Director of Resources and Finance
Ben Whitestone, Head of Governance

Chair's welcome

1. In opening the meeting, and welcoming board members and other OfS colleagues the chair advised that Katja Hall had sent her apologies. He also welcomed Camilla Briault, Strategic Business Manager, Jean Arnold, Head of Compliance and Student Protection, and Hannah Sheehan from the Department for Education (DfE). He advised that Rachel Attwood, Head of Human Resources and Organisational Development, will also be joining the meeting for her annual presentation to the board on OfS people (agenda item 8.1).
2. The chair advised the board the process to appoint the new Director for Fair Access and Participation was progressing. Since the last meeting of the board, he had met with a number of stakeholders and vice chancellors and joined the directors' group awayday at the start of the week. He was planning in person visits to some providers in the autumn.
3. The board noted its general duties as set out on the agenda and the need to have regard to these as it considered papers and made decisions.

Approval of May minutes (paper 2.1)

4. The minutes of the board meeting held on 13 May 2021 were approved.

Chief executive's report (paper 3.1)

5. The chief executive presented her paper which provided an update on work undertaken and issues that have arisen since the date of the last regular board meeting on 13 May 2021.
6. The following points were raised:
 - a. The review and reboot of the B conditions and the ongoing work arising from the funding consultations is continuing to put pressure on OfS resources.
 - b. Colleagues were engaging with DfE on the Lifelong Learning Entitlement policy and the Free Speech Bill.
 - c. The outcomes from the National Student Survey will be published on 15 July 2021.
 - d. She updated on the internal EDI target on disability monitoring mentioned in paragraph 24 and noted that this has not yet been fully met.
 - e. Following the announcement of A level results the OfS will be looking for any signs of grade inflation in providers' admissions behaviour. We would act if there was evidence of providers looking to accommodate large numbers which may then impact on quality of provision or the student experience. Some courses are also restricted in terms of numbers or because of the amount of funding available.
 - f. The use of TEF grades in providers' marketing material will be monitored and individual providers contacted if this is seen to be inappropriate.
 - g. Full non-continuation data will not be available until next year but there is currently no evidence of an increase as a result of coronavirus.

7. The board noted the updates contained in the report.
8. Exempt from publication
9. The board agreed that all board members should be set up with an OfS email address to be used for discussion of OfS business. These should also be extended to members of OfS committees.

OfS strategy 2022-25 (paper 4.1)

10. The chief executive introduced a paper summarising the development of the OfS strategy which takes into account the reflections of the board at its previous meeting. She advised that the strategy is structured around the two pillars of quality and standards and equality of opportunity. In inviting further comment from the board, she asked for its views on the email she had circulated from the deputy chair offering a suggestion for the framing of the initial section of the strategy.
11. The following points were made in discussion:
 - a. It was important that strategy did not lose its main focus on protecting the interest of students, but it also needed to better reflect the OfS's role in protecting and advancing wider public interests and its engagement with stakeholders. This should be clearly framed in the opening paragraphs.
 - b. It was noted that the strategy was intended to give high level direction. There was sufficient in-built flexibility in all the areas of focus should these need to adapt as a result of changing circumstances.
 - c. Risk appetite and speed of implementation will be part of the discussions when operationalising the goals set out in the strategy.
 - d. Effective and efficient enforcement should be a strategic goal.
12. In summing up the board's discussions, the chair proposed the strategy should be reframed to recognise the OfS's role in protecting and advancing wider public interests and also include effective enforcement as a strategic goal.
13. The board:
 - a. Were fully supportive of this proposal.
 - b. Noted that there will be further consideration of the strategy at its September meeting at which point a draft strategy will have been published for consultation.

Quality and standards policy (paper 5.1)

14. The Director of Regulation introduced her paper on the OfS's strategic approach to its quality and standards policy. She highlighted that:
 - a. The phase 2 proposals relate to the qualitative aspects of quality, not the B3 conditions and student outcomes.

- b. The specific proposals, which are supported by government, will allow us to regulate effectively on quality and standards in a way that we have not been able to do previously as it shifts the focus from self-regulation of processes to looking at whether the course is of sufficient quality.
 - c. The wider sector may see this change as undermining institutional autonomy. The proposals are clear this is about risk-based regulation which is proportionate to our level of intervention. The focus will be on those providers demonstrating poor performance in quality and standards.
 - d. This strengthened approach is important as other stakeholders have an expectation the HE sector will be effectively regulated.
 - e. Any litigation arising from this approach will helpfully test the limits of the OfS's powers.
15. In expressing its full support for the proposals, the board made the following points in discussion:
- a. As well as continued engagement with sector groups, an effective strategic communications plan will be required to accompany the consultation. This should reach wider stakeholder groups, including the general public, and set out the benefits of the robust regulatory approach being proposed by the OfS.
 - b. The OfS can have an impact on sector behaviour by stating its intention to act and use its powers. This encourages compliance from good providers who will wish to disassociate themselves from those not conforming or seeking to exploit loopholes.
 - c. It would be helpful to engage with potential students at an early stage to ensure they are making decisions in an informed way.
 - d. Some early examples of the OfS effectively applying its regulatory powers will reinforce its message on quality and standards. An appropriate risk appetite will need to be agreed by the board with the necessary resources available to identify and take cases forward.
 - e. Setting out explicit regulatory requirements will provide clarity on the detailed information providers need to make available as part of the registration process.
16. The board:
- a. Fully supported the strategic policy approach on quality and standards set out in paragraph 11a of the board paper and agreed that the phase 2 consultation should be issued on that basis.
 - b. Noted that case studies demonstrating compliant and non-compliant behaviour would be provided to the board at its planning event in September.

Strategic priorities grant: recurrent, capital and specialist funding (paper 6.1)

17. The Director of Resources and Finance introduced his paper and gave a supplementary presentation to provide the board with:

- a. An update on the outcomes of our consultation on recurrent funding, which has informed allocations for academic year 2021-22.
- b. An update on the outcomes of our consultation on capital funding and our plans for a formula allocation alongside a bidding exercise to inform funding for financial year 2021-22.
- c. An overview of the proposed approach for reviewing the eligibility of providers to access the targeted funding allocation for world leading specialist providers and plans to consult on this over the summer.

18. Exempt from publication

19. The board noted the update.

20. In providing an overview of the proposed approach for reviewing the targeted allocation for world-leading specialist providers, the director advised that this was last considered by HEFCE in 2015-16. In learning lessons from that review, he advised it will be important to define the criteria around 'specialism'. He was proposing an expert panel be established to establish the eligibility criteria and carry out the assessments.

21. The following points were made in discussion:

a. Exempt from publication

b. Exempt from publication

c. Exempt from publication

d. Exempt from publication

22. The board noted the proposed approach to the consultation.

Annual review of equality objectives and action plan (paper 7.1)

23. The Director for Access and Participation introduced the annual report on the OfS's equality and diversity objectives and update on the action plan. He advised that this is the board's opportunity to hold the organisation to account on our external work as a regulator and internal work as an employer. The approach to EDI is also critical to the development of the OfS strategy.

24. In commending the director for producing such an excellent report, the following points were made in discussion:

- a. The report highlights the broad spectrum of work under the EDI banner. Cultural developments keep adding to the list of what is seen as important. As a result, some prioritisation of this agenda may be required.
- b. The director confirmed that the OfS is being asked to do more in this space but remains focused on outcomes. Any activities must be within our powers and also align with our work on quality and standards and equality of opportunity.

- c. If the OfS is to reduce disparities and strengthen progress for the lowest progression groups as suggested in the independent report of the Commission on Race and Ethnic Disparities, then the government will need to strengthen regulations to enable us to do this.

25. The board:

- a. Noted the legal context for this work, based on OfS's compliance with the general Public Sector Equality Duty (PSED) and specific duties of the Equality Act 2010, which relate to people with protected characteristics, as well as duties and functions in the Higher Education and Research Act (HERA), which refer to students from groups which are under-represented in higher education
- b. Noted the developments since the 2019-20 report, including the continued impact of the coronavirus pandemic, the content of government guidance, issues raised by students and other issues in the public domain.
- c. Noted the update on work across the OfS contributing to our equality and diversity objectives and suggested no changes were required prior to publication.
- d. Noted the equality and diversity data published in June 2021 on OfS staff and students in English higher education.
- e. Noted that it had agreed its equality objectives in July 2018 with a four-year duration, and its involvement in reviewing and publishing a new set of objectives and associated actions in summer 2022.

Update on OfS people (paper 8.1)

26. The Head of Human Resources and Organisational Development at OfS gave a presentation on people-related demographics for the organisation covering the period April 2020 to March 2021. She also gave an update on progress against EDI targets. She highlighted:

- a. Workforce data for the organisation and for each of the directorates and the employee profile across the pay bands. She noted that OfS staff have a median age of 39 which is lower than that in the Civil Service (46 years). 67% of the staff are female. An EDI target has been set with the aim of creating a better gender balance through an increase in the appointment of men.
- b. Staff movement during the year noting that more work is being done to improve the collection of exit data from people leaving the OfS.
- c. There has been a 7% reduction in the gender pay gap since last year. We will continue to address this through targeted pay awards wherever possible and through recruitment although this is difficult as there is currently limited churn in the system.
- d. 9% of staff have declared they are from a minority ethnic background. This year the OfS met its EDI target of making 20% of its appointments to people from BAME backgrounds. The actual figure was 27%. Although the EDI target relating to appointing people from BAME backgrounds to jobs at pay band 10 and above has not been fully achieved, it was noted that it would have been met with one more appointment at this level.

- e. The three-year rolling period EDI target relating to the appointment of women to posts at pay band 11 and above has been met on an interim basis. This was at 69% for the period 1/4/19 to 31/3/21.
- f. An action plan is in place which focuses on improving staff diversity. Progress against all EDI targets is kept under constant review.
- g. The 2021 people survey reported higher engagement scores than in 2020 although in most cases these were below the scores for the Civil Service overall. An action plan is now in place to address the themes arising from the survey.
- h. As a result of coronavirus, the focus this year has been on on-line learning and the OfS Essentials programme has enabled learning for all staff in key business areas.
- i. Coronavirus has not resulted in an increase in sickness levels. The impact has been in the reduction in capacity as a result of supporting staff with caring responsibilities during the early stages of the pandemic. The focus now is on supporting employees as they return to the office. This may result in an increase in casework for the HR team.

27. In responding to the questions raised by members, the Head of Human Resources and Organisational Development advised that:

- a. A framework has been developed for returning to the office. This is based on 60% of time homeworking with 40% in the office and will apply to the majority of staff. This will be an evolutionary process and a ways of working project is continuing to look at wider requirements and investment.
- b. Coronavirus may have impacted on how staff view their pay and reward and this may reflect the positive scores in the people survey. The organisation has also supported staff during difficult circumstances.
- c. Priorities for the HR team this year will be embedding both the new competency framework and the model of hybrid working. There will be an on-going focus on delivering career opportunities for staff and providing learning to enable them to develop transferable skills.

28. The board thanked the Head of Human Resources and Organisational Development for her presentation and for the opportunity this provided for informed engagement with the staff at OfS.

Finance report (paper 9.1)

29. The Director of Finance and Resources introduced a paper updating the board on the financial position of the OfS for the two-month period ended 31 May 2021 and forecast expenditure for the full financial year (to 31 March 2020).

30. Exempt from publication

31. Exempt from publication

32. Exempt from publication

33. The board received the report.

Report from the Provider Risk Committee (paper 10.1)

34. The chair of the Provide Risk Committee presented his report updating the board on recent meetings of the committee and other business it had carried out.

35. Exempt from publication

a. Exempt from publication

b. Exempt from publication

36. Exempt from publication

37. The board received the report from the Provider Risk Committee.

Report from the Quality Assessment Committee (paper 11.1)

38. The chair of the Quality Assessment Committee presented his report to the board on the outcomes of its most recent meeting held on 20 May 2021.

39. He reported that:

- a. The committee had considered the quality and standards consultation and confirmed the need to align this with other work such as the TEF.
- b. Concern around essay mills had been discussed and he noted that the OfS has now issued a blog on this. Further work around essay mills will be taken forward with the student panel.

40. Exempt from publication

a. Exempt from publication

b. Exempt from publication

c. Exempt from publication

d. Exempt from publication

41. The board received the report from the Quality Assessment Committee

Report from the Risk and Audit Committee (paper 12.1)

42. The chair of the Risk and Audit Committee updated the board on the outcomes of its most recent meeting held on 21 May 2021. The paper also included the committee's annual report to the board for 2020-21. She advised that:

- a. The Data Futures programme is progressing, but this is slower than planned. The project is within budget and there will be no additional costs as a result of any delays.

- b. The committee is continuing with its programme of 'deep dives' and will look at the management of strategic risks and sustainability at future meetings.

43. The board received the report from the Risk and Audit Committee.

Report from the Remuneration and Nominations Committee (13.1)

44. The board met in closed session to discuss the outcomes of the committee's recent meeting held on 9 June 2021.

Closing remarks

45. The chair thanked the board for their thoughtful contributions and reminded members that the next meeting is scheduled for 23 September 2021 when it is hoped that the board will be able to meet in person.

The meeting closed at 1612.