

Chief executive's report

Purpose

Board's primary role in relation to this paper:

- A. Set strategy
- B. Set risk appetite
- C. Oversee performance
- D. Understand context

1. This paper provides an update on work undertaken and issues that have arisen since the report to the last board meeting on 4 July 2023, to the extent that they are not covered in other board papers.
2. The paper is structured around the headings and goals of the OfS strategy 2022-2025 and therefore provides a progress report in delivering those goals.¹ In addition, Annex A gives a comprehensive assessment of progress in relation to our eleven strategic goals, informed by data from our key performance measures and other sources, as well as reporting from colleagues responsible for delivery of each goal.

Recommendations

3. The board is invited to:
 - a. Note the updates contained in this paper.
 - b. Note progress towards our strategic goals as set out in Annex A.
 - c. Note the communications update in Annex B.

For further information, please contact [Susan Lapworth](#).

¹ See <https://www.officeforstudents.org.uk/media/1d6ad023-366a-4538-b931-03aa60a78f88/ofs-strategy-2022-final-for-web.pdf>.

Quality and standards

Our strategic goal is:

Students receive a high quality academic experience that improves their knowledge and skills, with increasing numbers receiving excellent provision.

Quality investigations

4. Work continues towards the publication of assessment reports for our investigations of the quality of business and management, and computing courses, at 11 providers. To date we have published two reports.² We would expect to publish further reports over the coming weeks, subject to proper decision making in each case. We would then expect to consider whether any further intervention is appropriate, for example, to require a provider to take action to address any concerns.
5. We think that publication of assessment reports is, in general terms, important. It places impartial information about the quality of particular courses in the public domain for students and it creates incentives for all providers to identify lessons from the reports that could be applied to their own courses. We also consider that the published reports will help providers to better understand the approach we are taking to our regulation of quality and the role of independent academic experts in providing advice.
6. Of the nine assessment reports that have yet to be published, five have been shared with the provider for comment and representations on publication. Four reports are being finalised by assessment teams. Exempt from publication.
7. Exempt from publication.
8. All representations are being carefully considered, and the scale of this activity is likely to affect timelines for final decisions about publication and then consideration of any further regulatory action arising from reports.

Student outcomes

9. We continue to progress our assessments of compliance with condition B3 (student outcomes) for 12 providers, with assessments progressing towards provisional decisions. We anticipate communicating the first provisional decisions to providers over the next few weeks.
10. We plan a further discussion about the prioritisation of student outcome indicators for the 2023 cycle with the Quality Assessment Committee at its September meeting and the committee's advice will inform our decisions. We anticipate publishing our final decisions about the indicators we will prioritise for assessment, and the providers that have been selected for assessment, before the end of the year.

² See <https://officeforstudents.org.uk/news-blog-and-events/press-and-media/ofs-publishes-first-reports-of-quality-assessment-visits/>.

TEF

11. Provisional outcomes for the Teaching Excellence Framework (TEF) were sent to accountable officers on 8 August. Providers were invited to make representations before final ratings were decided. On 13 and 14 September, the TEF panel decided the final ratings for 154 providers that did not make representations and decided the final ratings for 22 providers that had made comments about the factual accuracy of the panel's draft written statement. We expect to publish final TEF ratings for these providers on 28 September, and providers will then be able to promote their ratings in accordance with our guidelines.
12. The TEF outcomes that we plan to publish on 28 September were shared with the board on 21 September, along with a presentation that will be discussed at the meeting.
13. The remaining 52 providers that participated in the TEF made representations about their provisional ratings (or have been granted extensions to make representation). The TEF panel will consider these, and we anticipate final decisions in two to three months, although the timescale may vary for individual cases. We have decided to publish the outcomes for these providers as 'pending' on 28 September.

Our strategic goal is:

Students are rigorously assessed, and the qualifications they are awarded are credible and comparable to those granted previously.

Analysis of degree classifications over time

14. We published a [report](#) on 20 July which analyses graduate attainment rates.³ It uses statistical modelling to assess the extent to which increases and decreases in these rates could be statistically accounted for by changes in the prior attainment of, and distribution of subjects studied by, the graduate populations. The report uses data from academic years 2010-11 to 2021-22.
15. The report shows that the rate of first class degrees has fallen for the first time since 2010-11, indicating progress has been made to unwind the increases seen during the pandemic. However, we remain concerned about the long-run increase in classifications over more than a decade. Our analysis also shows that half of first class degrees awarded to students in 2021-22 cannot be explained by changes in students' prior attainment or choice of subject when compared with students' attainment over a decade ago. There is still, therefore, more work to do here for the sector – to explain the reasons for these patterns and to take action where appropriate to restore public confidence in the credibility of awards. Our revised approach to quality is designed to allow us to intervene where regulatory intelligence suggests that is appropriate.

³ See <https://www.officeforstudents.org.uk/publications/analysis-of-degree-classifications-over-time-changes-in-graduate-attainment-from-2010-11-to-2021-22/>

Credibility of awards investigations

16. We continue to investigate matters relating to the credibility of awards at three providers. Exempt from publication.

Our strategic goal is:

Providers secure free speech within the law for students, staff and visiting speakers.

Implementing new freedom of speech functions

17. We have been working with the Department for Education to plan the implementation of the Higher Education (Freedom of Speech) Act 2023 – ministers need to decide the commencement dates for the various provisions in the new legislation. We have argued successfully for a phased approach to implementation as follows:

Date	Action
1 August 2024	<ul style="list-style-type: none">• The new statutory duties on free speech for universities and colleges, and for relevant students' unions, come into force.• Launch of the new OfS free speech complaints scheme.• The functions of the OfS in relation to the regulation of students' unions come into force.
1 September 2025	<ul style="list-style-type: none">• The new conditions of registration on free speech and academic freedom come into force.• The provisions relating to OfS's monitoring of overseas funding come into force.

18. We have now published this timeline to give greater certainty to providers about our approach over the next two years.⁴ Taking a phased approach means that the initial focus will be on the new free speech complaints scheme, and we plan to consult on that towards the end of 2023, with the scheme proposed to go live in late summer 2024.

19. The complaints that we receive will help us to understand how providers and students' unions are engaging with their new statutory duties on free speech. Those insights will inform the subsequent development of new conditions of registration, which would not come into force until autumn 2025. We would expect to consult on those new conditions towards the end of 2024. In planning this phased implementation, we have been mindful of the need to minimise

⁴ See <https://www.officeforstudents.org.uk/advice-and-guidance/quality-and-standards/freedom-of-speech/changes-to-regulation/>

regulatory burden and of using OfS resource in the most effective way. We do not expect these timings to change, although they may be affected by external factors.

Students' perspectives on freedom of speech

20. The National Student Survey (NSS) 2023 included a new question that asked students in England how free they feel to express their ideas, opinions, and beliefs during their studies. The [NSS 2023 results](#), which we published on 10 August, show that 85.9 per cent of students responded positively to that question.⁵ However, this means that around one in seven students in England said they do not feel free to express their ideas and beliefs and that is a matter of regulatory concern to us.

Freedom of speech case

21. We continue to progress our investigation into free speech matters at the University of Sussex.

Our strategic goal is:

Graduates contribute to local and national prosperity, and the government's 'levelling up' agenda.

Lifelong learning entitlement (LLE)

22. The government is introducing the LLE from the 2025-26 academic year. On 27 July, we published a [call for evidence](#) seeking views about how the OfS could measure student outcomes resulting from modular study.⁶ We are engaging with the sector through the remainder of 2023 about our emerging thinking about these issues. In response to requests from providers for longer consultation windows in complex policy areas, this call for evidence is open for over three months.

23. We continue to consider how we might develop our regulation to respond to any changes in the delivery of higher education courses prompted by the LLE. We expect to consult on the creation of a third registration category to offer an alternative route to registration for smaller providers and those that wish to access a more limited range of benefits from registration. This consultation will also consider how we could deliver a transition for providers with students likely to be directly affected by the government's decision to remove access to Advanced Learner Loans for higher education courses from 2025. **Exempt from publication.**

Funding to address skills needs

24. We are developing a new degree apprenticeships fund that will provide up to £40 million over the next two years to support the growth of degree apprenticeships across England. We expect this fund to accelerate the activities of registered providers, leading to new standards and more starters at providers currently offering degree apprenticeships. We also expect to see more

⁵ See <https://www.officeforstudents.org.uk/data-and-analysis/national-student-survey-data/>

⁶ See <https://www.officeforstudents.org.uk/publications/positive-outcomes-for-students-studying-on-a-modular-basis/>

registered providers offering degree apprenticeships. We plan to publish guidance about this competition at the end of September.

25. We are working closely with the Department for Health and Social Care, NHS England and the Department for Education to support the implementation of the NHS's Long Term Workforce plan. We expect to receive increased funding over the coming decade which government will ask to us to use to fund additional places in medicine, dentistry and allied health professions at registered providers. This will represent a significant increase in the OfS's activity in this area and we are engaged with government about how this can be appropriately resourced and delivered.

Equality of opportunity

Our strategic goal is:

Students' access, success and progression are not limited by their background, location or characteristics

Access and participation plans

26. We are currently assessing 36 'wave 1' access and participation plans which will apply from the 2024-25 academic year onwards. These 36 providers have voluntarily submitted new plans in this wave as part of a phased approach to enable us to test our new guidance.
27. We are evaluating the impact of our reforms on an ongoing basis and expect to receive early insights from contractors Shift Learning shortly to inform our approach to 'wave 2', including any refinements we may wish to consider to maximise our impact in this area. Most relevant providers will need to submit a new plan in wave 2.
28. We are considering the progress providers have made against their existing access and participation plans, where relevant, as we assess new plans.

Our strategic goal is:

Prospective students can choose from a diverse range of courses and providers at any stage of their life, with a wide range of flexible and innovative opportunities.

Registration

29. Six providers have been registered since the last board meeting. **Exempt from publication.** We have imposed specific ongoing conditions of registration for two of these providers relating to quality and standards.

30. We continue to use our updated registration guidance, published in October 2022, to manage our efforts effectively by closing incomplete and poor quality applications at an early stage.⁷ We have closed one such application since 1 July and two providers have withdrawn applications following engagement.
31. Overall, we have reduced the total number of open registration cases from 50 in March 2023 to 40 by 22 August. This includes the registration of 12 providers between 1 April and 22 August. There are now 425 providers on the Register, which is the highest the number has ever been as, currently, the rate of new registrations is outstripping the rate of deregistrations and mergers.

Arrangements for initial condition B7 quality assessment visits

32. On 28 July, we published Regulatory advice 23.⁸ This provides operational guidance on the OfS's approach to quality assessment visits carried out for providers seeking registration. This is one of the activities we have taken on following the removal of designation from the Quality Assurance Agency (QAA). The guidance provides information about the members of an assessment team and their roles, what a visit will involve, and arrangements for assessment reports.

Degree awarding powers

33. We have authorised degree awarding powers (DAPs) for three providers since the board's last meeting. We have authorised New DAPs for Taught awards for one provider, and Full DAPs for Taught awards on a time-limited basis for one provider. In addition, we have approved a variation to a provider's existing DAPs authorisation to reflect updated course titles offered by the provider.
34. On 27 July, we published new operational guidance for providers applying for New DAPs as a new annex to existing guidance.⁹ This is another of the activities we have taken on following the removal of designation from the QAA. The guidance includes information on how the OfS will draw on the judgements of academic experts in relevant fields of study, and on advice from our independent Quality Assessment Committee.

External quality assurance of endpoint assessments for apprenticeships

35. We have secured funding from the Department for Education to develop our approach to the external quality assurance of endpoint assessments (EQA) for integrated higher and degree apprenticeships of registered providers. We expect to publish guidance on the assessment process next month. We have recruited a first group of 40 expert assessors and expect to appoint, train and deploy our first assessment teams over the coming weeks.

⁷ See <https://www.officeforstudents.org.uk/publications/regulatory-advice-3-registration-of-english-higher-education-providers-with-the-ofs/>

⁸ See <https://www.officeforstudents.org.uk/publications/regulatory-advice-23-arrangements-for-initial-condition-b7-quality-assessment-visits/>

⁹ See <https://www.officeforstudents.org.uk/publications/regulatory-advice-12-how-to-apply-for-degree-awarding-powers/>

Consultation on the inclusion of higher technical qualifications in outcomes measures

36. We are currently consulting on a proposal to separate higher technical qualifications from other Level 4 and 5 qualifications in our student outcomes measures.¹⁰ This would allow us, the higher education sector, and the government, to assess how far these new qualifications are delivering positive outcomes for students, employers and taxpayers. Our consultation opened on 27 July and will close on 9 November – providing 19 weeks for providers and others to respond.

Higher education short course trial

37. We have allocated £2 million of funding across 22 providers for the higher education short course (HESC) trial. This funding was to be used between December 2021 and March 2022. We commissioned an external evaluation of the HESC trial, with data collected in July 2023 showing that ten providers launched short courses, with 125 student registrations. 41 students took out a loan from the Student Loans Company (SLC) to undertake a trial course, with a further 11 Study Support Bursaries allocated. We expect to publish the evaluation in the autumn.¹¹

38. Trial courses can continue to be delivered until the end of the 2024-25 academic year. The DfE will engage with providers to collect data on student applications and registrations, and with the SLC on the take up of loans.

Allocation of OfS funding for 2023-24

39. OfS funding allocations for the 2023-24 academic year were published on 7 July.¹² We are distributing £1.44 billion, consisting of £1.41 billion in recurrent grants to eligible providers and £32 million for national facilities and regulatory initiatives.

40. Funding allocations totalling £1.34 billion were made to 343 providers registered in the Approved (fee cap) category. The remaining £68 million includes:

- a. £16 million to support the growth of Level 6 degree apprenticeships.
- b. £16 million to support the growth of Level 4 and 5 qualifications, including higher technical qualifications (HTQs).
- c. £5 million for an emerging priorities fund.
- d. £1 million in transitional funding for specialist providers.
- e. £30 million for Uni Connect.

¹⁰ See <https://www.officeforstudents.org.uk/publications/consultation-on-the-inclusion-of-higher-technical-qualifications-in-office-for-students-student-outcome-measures/>

¹¹ See <https://www.gov.uk/government/news/new-bursaries-to-help-learners-to-upskill-and-retrain>

¹² See <https://www.officeforstudents.org.uk/publications/recurrent-funding-for-2023-24/>

Our strategic goal is:

Providers act to prevent harassment and sexual misconduct and respond effectively if incidents do occur.

Harassment and sexual misconduct

41. We continue to progress our analysis of responses to our consultation on tackling harassment and sexual misconduct and the development of our policy response.
42. We are developing a pilot prevalence survey to understand the extent of sexual misconduct in the higher education sector and learn more about the contexts in which incidents occur.¹³ Fieldwork for the pilot survey is due to commence at the end of September and is expected to run until November.
43. At the time of writing, 13 providers have confirmed their participation in the pilot survey, covering a total student population of over 170,000. We expect to receive initial results from the pilot towards the end of the year and these will inform the development of our policy response to the consultation.
44. Exempt from publication.

Our strategic goal is:

Providers encourage and support an environment conducive to the good mental health and wellbeing that students need to succeed in their higher education.

Student mental health

45. The OfS is a member of the newly established Higher Education Mental Health Implementation Taskforce, chaired by the HE Student Support Champion, Professor Edward Peck.¹⁴ The taskforce has been asked to deliver: better early identification of students at risk through predictive data analytics for engagement and wellbeing monitoring; a University Student Commitment on communicating with students sensitively and compassionately; a national review of university suicides; and ways in which good practice can be adopted and implemented consistently by higher education providers.
46. We continue to fund the Student Space platform, in partnership with HEFCW. The latest usage statistics provided in July show that the number of unique visitors to the site is now more than 455,000 since its launch in 2020, with around 420 daily visitors accessing its content.

¹³ See <https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/prevent-and-address-harassment-and-sexual-misconduct/survey-of-sexual-misconduct/>

¹⁴ See <https://www.gov.uk/government/groups/higher-education-mental-health-implementation-taskforce>

Enabling regulation

Our strategic goal is:

Providers are financially viable and sustainable and have effective governance arrangements.

Financial sustainability

47. We continue to assess information from providers' 2022 annual financial returns in line with our published approach.¹⁵ 254 out of 255 providers have made submissions. At the time of writing, 121 providers were identified through our triage process for a more detailed assessment. The outcome of these assessments as at 21 September are: 54 pending/in progress, 40 with no material financial issues, and 27 with engagement advised.
48. We continue to assess financial risk, currently focusing on the impact of patterns in UCAS data.
49. We continue to extend our engagement with providers on financial sustainability and risk. This month we are hosting a further four roundtable events with finance directors from providers of different types to discuss the financial risks facing the sector.

Exempt from publication

Exempt from publication.

Protecting public funding

50. We continue to focus our activities to protect public funding towards those providers we consider to be exposed to the most risk – currently including, but not exclusively, those using delivery partners to teach large numbers of students, those where we consider there are risks relating to the quality of the data submitted to the OfS and the SLC which is used for funding decisions, and those providers with students studying on Diploma of Education and Teaching courses. We are taking a robust approach to following up regulatory intelligence we receive which suggests public funding may be at risk of being paid out inappropriately, and where this is the case, we expect providers to engage with the information we share with them, investigate, and put in place appropriate mitigations to address any issues.
51. In addition, we are completing audits of the data submitted to the OfS by five registered providers. Where these reports conclude that poor quality data has been submitted, we will be working with the SLC to ensure that any tuition fee funding paid out inappropriately is reclaimed from the provider. We will also consider whether any further regulatory action may be appropriate, including any recalculation of funding paid to the provider by the OfS.

¹⁵ See <https://www.officeforstudents.org.uk/advice-and-guidance/regulation/how-we-regulate-financial-sustainability-within-higher-education/>

52. The National Audit Office (NAO) has been commissioned to produce a report on ‘SLC funding at franchised providers’, with findings due for publication in early 2024, and we will address these alongside the recommendations of the GIAA audit which was completed earlier this year.
53. A paper setting out our approach to protecting public funding is included with the board papers for this meeting.

Our strategic goal is:

Students receive the academic experience they were promised by their provider and their interests as consumers are protected before, during and after their studies.

Marking and assessment boycott

54. As of 6 September, the University and College Union (UCU) has called off its marking and assessment boycott which had been in place since April, affecting approximately 120 providers in England.
55. Since June we have been contacted by approximately 40 providers in relation to the boycott, exempt from publication. We continue to engage with these providers. We have also received 25 relevant notifications from third parties about these issues and are considering these in the normal way.
56. Although the boycott has ended, we will continue to monitor the impact on students’ ability to continue and progress from their studies. We have also noted the announcement of further strike action by UCU in late September, and the intention to ballot members on renewing its mandate for further industrial action this academic year.

Outcomes of the National Student Survey (NSS)

57. We published the results of the 2023 NSS on 10 August.¹⁶ This followed consultation on our approach to publishing NSS data and publication of our final decisions on the same day.¹⁷
58. This year’s survey saw a 71.5 per cent overall response rate from students, up from 68.6 per cent in 2022. This represents 339,000 responses across the UK. Collection and publication of NSS outcomes is an important part of our regulatory approach: the data helps prospective students to choose what and where to study, and it provides important information to inform our regulation of quality across the sector. Providers also value the data and use it to review and improve their courses.

¹⁶ See <https://www.officeforstudents.org.uk/data-and-analysis/national-student-survey-data/>

¹⁷ See <https://www.officeforstudents.org.uk/publications/consultation-on-the-approach-to-publication-of-the-nss-analysis-of-responses-and-decisions/>

Partnership with National Trading Standards

59. We have previously briefed the board on four cases that we had referred to Trading Standards. Exempt from publication.
- a. Exempt from publication.
 - b. Exempt from publication.
 - c. Exempt from publication.
60. Exempt from publication.
61. We have identified further potential cases for referral to Trading Standards, with concerns including misleading advertising by essay mills, the misuse of university title and inaccurate references to holding degree awarding powers.

Our strategic goal is:

The OfS minimises the regulatory burden it places on providers, while ensuring action is effective in meeting its goals and regulatory objectives.

Engagement with providers

62. We have completed our pilot programme of visits to providers as part of our plan to refresh how we engage with those we regulate. The pilot included visits to 17 providers by senior staff and colleagues from across the organisation. We evaluated the pilot and found that nearly three quarters of 24 survey respondents thought that the visit had improved their understanding of the OfS and what we do.
63. I published [a blog](#) in September which sets out next steps in this area.¹⁸ This included a commitment to completing a further programme of visits across the 2023-24 academic year. We are making some improvements based on our evaluation of the pilot, including increasing the time for student engagement.
64. I hosted our second online briefing for accountable officers in September, providing an update on our work and early sight of our planned timeline for the introduction of our new freedom of speech functions.
65. On 18 September, we delivered our first in-person event for accountable officers who are new in post. The purpose of this session was to introduce the OfS, explain how we regulate and provide accountable officers with an opportunity to engage with senior OfS staff. New accountable officers are also being offered an introductory call with their named senior contact in the regulation team.

¹⁸ See <https://www.officeforstudents.org.uk/news-blog-and-events/blog/our-refreshed-engagement-with-providers-where-are-we-now/>

Consultation timings

66. We have been mindful of feedback from registered providers about the time it takes to respond to some of our consultations. In our recent consultation on HTQs and our call for evidence on LLE, we have planned for consultation windows of three months or more to allow providers to engage with these complex policy issues. We have also included concise executive summaries in these documents to help providers and others understand our proposals and the reasons for them.

Efficient and effective OfS

67. Since the last board meeting we have been joined by two new directors. Philippa Pickford joined the OfS as Director of Regulation on 17 July 2023. Arif Ahmed joined the OfS as Director for Freedom of Speech and Academic Freedom on 14 August 2023.

68. Philippa and Arif, along with Josh Fleming, hosted a successful session at the Universities UK annual conference on 7 September 2023.

69. Sophie McIvor has now started as our new Head of Communications. Sophie joins us from the Alan Turing Institute, the UK's national centre for data science and artificial intelligence, where she was director of communications and engagement.

70. We are continuing to embed the structural changes we made through our change programme. In particular, we have engaged a group of staff as 'change champions' to provide feedback about our approach to organisational change.

71. Recruitment into senior roles in the Regulation Directorate is continuing at pace, with a number of senior appointments made and further recruitment underway.

New assessment and investigation fee regulations

72. New regulations relating to assessment fees came into force on 7 August.¹⁹ These regulations enable the OfS to charge fees for pre- and post-registration quality and standards assessments and for assessments relating to DAPs. We published guidance on our approach to calculating these fees on 15 August.²⁰

73. We also published guidance on 20 July on our approach to implementing the new regulations relating to investigation fees which came into force on 8 December 2022.²¹ These regulations enable the OfS to charge fees for conducting investigations at registered providers, where certain regulatory actions are taken as a result of an investigation.

¹⁹ See <https://www.legislation.gov.uk/ukxi/2023/801/made>

²⁰ See <https://www.officeforstudents.org.uk/publications/payment-of-fees-for-quality-and-standards-assessments/>

²¹ See <https://www.officeforstudents.org.uk/publications/payment-of-fees-for-investigations/> and <https://www.legislation.gov.uk/ukxi/2022/1191/introduction/made>

Data Transformation Programme

74. In July directors agreed proposals to refresh our data transformation programme, as part of our digital strategy. The programme will harness the benefits and opportunities of a modern, cloud-based technology solution to collect, manage, use and share data to inform decision making and support our regulatory approach.
75. Over the next 18 months the data transformation programme will represent a significant investment of OfS resource. We are mobilising the programme in a way that recognises the organisation's people – their skills and experience – and priorities to deliver organisational change to processes, culture and delivery.