



Draft minutes of the OfS Board meeting, 3 February 2022

Location: by video or telephone conference

Timings: 13.30-17.00

- Present members:
- James Wharton (chair)
 - John Blake (Director for Fair Access and Participation)
 - Martin Coleman
 - Nicola Dandridge (chief executive)
 - Katja Hall
 - Verity Hancock
 - Kathryn King
 - Kate Lander
 - Simon Levine
 - Martha Longdon
 - David Palfreyman
 - Monisha Shah
- Attendees:
- Jack Thomlinson, Department for Education (DfE) representative
- Apologies:
- Elizabeth Fagan
- Officers:
- Louisa Baker, Head of Governance
 - Ed Davison
 - Josh Fleming, Head of Strategy and Evaluation (for items 4.1 & 4.2)
 - Sarah Howls, Head of Access and Participation
 - 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
 - Nolan Smith, Director of Resources and Finance
 - David Smy, Head of Compliance and Student Protection
 - Mike Spooner

Chair's welcome

1. In opening the meeting, the chair welcomed members and noted that Elizabeth Fagan had sent her apologies. He welcomed John Blake, the new Director for Fair Access and Participation, to his first meeting and Jack Thomlinson, Deputy Director Higher Education Quality and Regulation at the Department for Education (DfE) who was attending on behalf of Hannah Sheehan. He also welcomed OfS colleagues, Sarah Howls, Head of Access and Participation, David Smy, Head of Compliance and Student Protection, Louisa Baker, Head of Governance and Mike Spooner, Senior Adviser and Assistant to the Chair and Chief Executive.
2. The chair updated the board on the meetings and discussions he had undertaken since the last meeting. He advised that formal confirmation of member appointments and reappointments is expected soon.
3. The board noted its general duties as set out on the agenda and the need to have regard to these and other relevant considerations as it considered papers and made decisions.

Approval of December minutes (paper 2.1)

4. The minutes of the board meeting held on 2 December 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 2 December 2021.
6. The following points were raised:
 - a. The three consultations on student outcomes and teaching excellence were published on 20 January 2022 and have been generally well received.
 - b. The National Audit Office's report on its study into 'Regulating the financial sustainability of higher education providers in England' is due to be published by the end of February. The chief executive will be appearing at a Public Accounts Committee hearing on 21 March 2022 to give evidence in relation to the findings.
 - c. Questions were asked by the board about the extent of in-person teaching. In general, it was explained that providers appear largely to have reverted to in-person teaching – though some are retaining or developing elements of on-line provision, for instance in relation to lectures and in response to student feedback or where there is a pedagogic benefit in doing so. However, in some cases there are accounts of different practice at department or course level where some students appear to be receiving very little in-person teaching. **Exempt from publication.**
7. The board noted the updates contained in the report.
8. On behalf of the Minister and Permanent Secretary, the DfE representative passed on their thanks for the enormous amount of work done by the OfS on the student outcomes, teaching excellence and data indicator consultations. This new approach in their view will enable the OfS to take the required action on quality and provide join up with the TEF. **Exempt from publication.**
9. He also gave an update to the board on the government's "levelling up" white paper, in which education is a key part. He advised that:

- a. There is a strong link between the Skills for Jobs white paper and widening participation, with a focus on driving the reform agenda in FE. A Future Skills Unit will be created within the DfE which will link with the sector and future HE provision.
- b. The HE section of the white paper is quite strategic. It recognises the importance of access and participation and the opportunities created by the Lifelong Loan Entitlement, and encourages HE and FE to work together to address cold spots.

10. Exempt from publication.

11. Exempt from publication.

12. Exempt from publication.

13. The QAC will consider the triennial review of the DQB at its March meeting and recommendations will come to the board in March.

OfS strategy 2022-25 (paper 4.1)

14. The chief executive and the Head of Strategy and Evaluation updated the board on the current development status of the OfS strategy 2022-2025. They noted that the comments to date have been largely supportive of the proposals, with the main themes raised covered in the board paper. This was the last opportunity for the board to discuss the strategy before final decision and publication and to provide any further steers.

15. The following points were raised in discussion:

- a. Ensuring equality of opportunity and quality are not in tension will continue to be important. The board will be kept up to date on how this plays out in practice.
- b. Exempt from publication..
- c. Responses have been mainly from providers, as expected. There was less engagement from students or employers.
- d. There has been support for the OfS taking a risk-based approach. This was perceived as concentrating burden in certain providers and reducing it in others.
- e. As well as being clear about the OfS's regulatory activity which is often necessarily focused on problems in the sector, the strategy should also be clear about the sector's success.
- f. The student engagement strategy is being refreshed and will be published following the publication of the strategy for the organisation.

16. The board:

- a. Noted the emerging themes and suggested responses.
- b. Agreed, including as an exception to any matters which are normally reserved to the full board under the published scheme of delegation, the following delegations to the chair, deputy chair, chief executive and director of regulation (or by as many of them as have capacity in the event of ill-health) to:
 - i. Consider the responses made to the consultation on the OfS strategy and related addition to the regulatory framework.
 - ii. Make final decisions on the strategy and the related addition to the regulatory framework.

Strategy – enforcement prioritisation (paper 4.2)

17. The Director of Regulation and the Head of Head of Strategy and Evaluation presented a discussion paper on an emerging enforcement strategy for the OfS which had been

developed following previous conversations at the last board planning event. The views of the board were sought on an approach the OfS might take in prioritising its enforcement activity. They advised that:

- a. The enforcement strategy links to the overall OfS strategy and will feed into the business plan.
- b. The focus of this paper is on prioritisation. A further paper on other aspects of the strategy, including process and governance, will come back to a future meeting. This will be informed by the board's agreed risk appetite and include information about how enforcement activity will be funded.
- c. The views of the board were being sought on what should be the areas of focus and how this relates to the OfS's work on quality and standards.

18. Exempt from publication.

19. The board:

- a. Recognised the complexity of this work.
- b. Agreed to consider the issue again when the strategy is further developed and with clearer plans of how it will be operationalised.

Access and participation strategy (paper 5.1)

20. The Director for Fair Access and Participation (DFAP) introduced his paper outlining the OfS's new and continuing work on access and participation, having regard to new statutory guidance from ministers and other additional considerations relating to access and participation. He also set out his key aspirations for his time as DFAP which were:

- a. Actively expanding school-university partnerships to include a strategic commitment to raising attainment for disadvantaged pupils and increasing the capacity of such young people to access and succeed in HE.
- b. To align appropriate aspects of the APP process with the quality and standards agenda and infrastructure such that, alongside APPs' admissions and engagement impacts, it is seen as a viable tool of improving outcomes for learners from underrepresented groups.
- c. Significantly expanding the evidence base on access and participation including more and higher-quality published evaluations of both successful and unsuccessful interventions.

21. He advised that his initial plan for this work is in three stages:

- a. Targeted risk-based monitoring of 2020/21 progress on current APPs.
- b. Strong expectations of voluntary variation requests from providers to their current APPs to collate and expand action on the three areas above for action from September 2023.
- c. New APPs to be negotiated across 2023, for implementation from September 2024.

This will provide time to engage in discussion with providers and also give an indication of current work and the capacity across the sector, leading on to the work that still needs to be done.

22. In recognising the good work that has been done in such a short period of time to set out the high-level objectives and timings, the following points were raised in discussion:

- a. Access and participation plans need to address the view that taking students from disadvantaged backgrounds would automatically affect a provider's outcomes. A working group has already been established to bring APP and quality regulation processes into alignment.

- b. Good programmes which seek to raise attainment in schools are already in place. Providers can link into these in a way that best suits them or develop their own groups to work with schools. Although capacity may be a challenge for them, FECs already have experience of supporting learners and bringing them through education so will be important in this work.
- c. Improving the participation of students from disadvantaged groups will not be achieved through one-off events. Sustained engagement is required and the development of individual relationships, especially with people already at university who resemble the people being targeted.
- d. Progress has been made with APPs. They have made a tangible difference and providers have engaged. Exempt from publication. There should also be clarity on monitoring outcomes.
- e. That a further paper will be brought to the next meeting of the Board, outlining plans to operationalise the strategy.

23. The DFAP advised:

- a. The OfS is working with Uni Connect partnerships to encourage more attainment raising in the schools system.
- b. Our guidance is likely to encourage providers to be broad and innovative in their work but, over time, will seek to focus on what works and ensure this is robustly evaluated.
- c. That the OfS needs to advise providers how it will conduct monitoring and that we expect to see tangible impact.

24. The board:

- a. Noted those aspects of the OfS's access and participation work it intends to continue as well as those areas where it believes there is scope for improvement, and the suggested changes to its approach as a result.
- b. Noted the expectation that providers will seek voluntary variations to their current APPs to ensure action can be undertaken from September 2023 on issues of strategic school engagement, participation relating to student outcomes, and non-traditional pathways and modes of study, as well as in generating executive summaries to their APP's.
- c. Noted the anticipated changes to the APP cycle from 2024 and the expectation of amendments to Regulatory Notice 1 following consultation later this year.
- d. Noted the influence of ministers' guidance letter of November 2021 and of other considerations in shaping the OfS's access and participation work.
- e. Offered views, which will help inform the OfS's approach to future guidance on access and participation plans and the ongoing work of the new DFAP
- f. Noted that a further iteration of the strategy on access and participation, taking account of its comments, will return to the board at the next meeting.

Intervention in cases of potential fraud (paper 6.1)

25. The Director of Regulation introduced a discussion on issues relating to cases of potential fraud at registered providers and how the OfS might address these. Exempt from publication.

26. Exempt from publication.

27. Exempt from publication.

OfS response to coronavirus (paper 7.1)

28. The chief executive introduced her paper updating the board on the OfS's response to the COVID-19 pandemic, noting that the subject of in-person teaching covered in the paper had been considered earlier in the meeting.

29. It was noted that:

- a. Wellbeing is a key issue for the OfS internally and external resource had been brought in to support staff during the pandemic.
- b. Staff have been supported to work flexibly where they have been affected by school closures, etc. This approach will continue as necessary.
- c. A system of hybrid working is being piloted in both the Bristol and London offices.
- d. The DfE has established a group including arms-length bodies to share good practice and learning as we move out of the pandemic. The OfS is engaged in this group.

30. The board noted the update.

Finance report (paper 8.1)

31. The Director of Resources and Finance updated the board on the financial position of the OfS for the nine-month period ended 31 December 2021 and forecast expenditure for the full financial year (to 31 March 2022).

32. The board received the report.

Oral Report from the Provider Risk Committee

33. The chair of the Provider Risk Committee presented his report to the board on the outcomes of its most recent meeting held on 24 January 2022. Exempt from publication.

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

Report from the Quality Assessment Committee (paper 10.1)

35. The chair of the Quality Assessment Committee presented his report to the board on the outcomes of its most recent meeting held on 9 December 2021.

36. Exempt from publication.

Report from the Risk and Audit Committee (paper 11.1)

37. The chair of the Risk and Audit Committee presented her report to the board on the outcomes of its most recent meeting held on 8 December 2021.

38. She advised that, at the request of the board, the committee has continued to monitor progress with the Data Futures programme and that this had been on track at the time of the meeting. The Director of Data, Foresight and Analysis confirmed this remained the case with no material changes since that date.

39. The chair of the committee noted that individual risks were the usual focus of the committee. At its next meeting it would consider the risk assessment process at a more strategic level. This will inform a review of the OfS's strategic risks, risk tolerance and appetite to ensure alignment with the new strategic plan. This will be discussed by the board at its May meeting.

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

Report from the Remuneration and Nominations Committee

41. The board received the report from the Remuneration and Nominations Committee on the outcomes of its most recent meeting held on 17 November 2021 which had been reported orally at the last board meeting

Closing remarks

42. The chair thanked members for their attendance and participation.

43. He reminded members that the next meeting of the board will be held on 24 March 2022. It is hoped that this will be held in person.

The meeting closed at 15.45.