



Interim chief executive's report

Purpose

1. This paper provides an update on work undertaken and issues that have arisen since the last board meeting on 26 May 2022, 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.

Recommendations/Decisions required by the board

3. The board is invited to:
 - a. Note the updates contained in this paper.
 - b. Note the OfS communications overview at Annex A.
 - c. Note the risk report at Annex B.

Further information

4. Available from Susan Lapworth

Quality and standards

Our strategy says:

We will use the data and regulatory intelligence we hold to identify courses and providers that may not satisfy our regulatory requirements for quality. We expect this proactive approach to result in an increase in our investigative and enforcement activity from the first year of the strategy, with courses that do not meet our requirements being improved or closed.

5. Since the last board meeting in May 2022, we have opened investigations focused on aspects of quality in business and management courses at eight providers. These investigations represent the first interventions following implementation on 1 May 2022 of our revised quality conditions:

Condition B1: Academic experience.

Condition B2: Resources, support and student engagement.

Condition B4: Assessment and awards.

6. Exempt from publication.

7. Exempt from publication.

8. Exempt from publication.

9. Exempt from publication.

10. Exempt from publication.

11. Exempt from publication.

12. It is important to remember that being selected for investigation does not mean that we will identify actual regulatory concerns or risks, or reach negative regulatory findings about any provider. We have not named the providers subject to the current investigations but may wish to do so in due course.

13. DfE provided additional funding to support the current programme of investigations and we are recruiting academic experts to undertake visits to providers and additional OfS staff to deliver this work.

Our strategy says:

We will continue to consider the extent to which increases in degree classifications over time can be explained. We will focus investigatory and enforcement activity on cases where significant increases cannot be explained by our data analysis or other evidence.

14. Our analysis of degree attainment was published on 12 May 2022. The report focuses on the extent to which the increase in awards of first and 2:1 degrees can or cannot be explained by observable factors which may affect student attainment. We know that providers' assessment practices changed during the pandemic, for example because they introduced 'no detriment' policies for students. The report finds large increases in unexplained attainment in 2019-20 and many of these changes continued into 2020-21. By 2020-21, the proportion of students awarded first class degrees had more than doubled since 2010-11, reaching 37.9 per cent.
15. Universities UK and Guild HE have announced a commitment on behalf of the sector to wind back the further increase in classifications seen during the pandemic and return to the levels seen in 2018-19. We support this commitment and would expect to begin to see the impact in next summer's classifications.
16. We remain, however, concerned about the long-run increases in classifications since 2010-11 because those increases at sector level and for individual providers risk undermining public confidence in higher education and devaluing the work of students. Our revised condition B4 came into force on 1 May 2022 and imposes requirements on registered providers, including an obligation to ensure that awards granted to students are credible at the point of being granted and when compared to those granted previously. This aspect of the condition was designed to provide a tool to address concerns about the credibility of degree classifications.
17. Exempt from publication.

Our strategy says:

We will continue to be clear that all providers must secure academic freedom and free speech within the law, and that this requires them to take positive actions. In doing so they must give due regard to other legal obligations, such as the public sector equality duty, but these should not prevent action to secure free speech.

18. The government's freedom of speech bill has now progressed to the House of Lords, where debate has attracted significant media coverage. The DfE has launched its recruitment process for the new Director of Freedom of Speech and Academic Freedom.
19. The OfS's role is frequently mentioned in news coverage of the legislation. I was quoted in a Sunday Telegraph article on the 'decolonisation' of the curriculum, as well as in a piece on Advance HE's Athena Swan charter in The Times, after concerns were raised that universities may be adopting policies that could serve to restrict lawful speech.
20. We continue to consider matters connected to freedom of speech and academic freedom at the University of Sussex.

Equality of opportunity

Our strategy says:

We will continue to encourage diversity of provision through our funding streams.

21. We continue to assess applications from providers wishing to be recognised and funded as ‘world-leading’. The specialist provider panel is currently assessing submissions from 44 providers and is seeking additional expert advice to inform its decisions.
22. We expect to notify each provider in July 2022 of the panel’s assessment of whether its submission meets the criteria for the provider to be considered world-leading and the reasons for that assessment:
- a. Where the assessment is that a provider is world-leading for its teaching and education-related activity, this will be a final decision.
 - b. Where the assessment is that a provider is not world-leading for its teaching and education-related activity, this will be a provisional decision and we will invite the provider to make representations before a final decision is made. For such a provider, the representations process may mean that a final decision will be made after July 2022.
23. In July we will publish a short consultation on the approach we propose to take to determining a formula funding allocation for those providers identified as world leading. The consultation will focus on our approach to distributing the £58 million available for 2022-23 and our approach to distributing the £5 million that remains to be allocated for 2021-22.
24. We will not be able to decide our approach to a formula funding method, following consultation, until final decisions of the panel are confirmed for all providers. This may mean that the funding allocations are not confirmed until September 2022. This is later than we had planned but is necessary to ensure that the panel’s final decisions take account of any representations that providers may wish to make. Given the timetable for confirming the funding allocations for 2022-23, we will ensure that any provider confirmed as world-leading in July 2022 will receive an appropriate level of funding from August 2022 to reflect that status. We will adjust payments during the rest of the year to ensure the total paid reflects the final allocation that is confirmed.

Our strategy says:

Our access and participation regime will focus on equality of opportunity and good student outcomes, and will continue to be integrated with our regulation of quality and standards.

25. In partnership with the Department for Digital, Culture, Media and Sport and the Office for Artificial Intelligence, we announced 2,000 new scholarships to boost students’ digital skills. The scholarships aim to increase the participation of groups that are underrepresented in the AI and data science industries and are each worth £10,00 for artificial intelligence and data science postgraduate conversion courses. Recruitment targets have been significantly exceeded, with 3,859 students enrolled since the programme began.

Enabling regulation

Our strategy says:

We will continue to monitor the financial viability and sustainability of providers to ensure we identify any provider likely to face financial difficulties and can intervene if necessary to protect the interests of students.

26. On 15 June the Public Accounts Committee published a report into financial sustainability of higher education in England. The report is based on the committee's evidence session with Nicola and DfE colleagues following the National Audit Office's report on financial sustainability earlier this year. We are working closely with the DfE to respond to the recommendations made by the committee.
27. The board has the opportunity to discuss our approach to monitoring the financial sustainability of providers, and our learning from the recent market exit of ALRA, as a substantive item on the board's agenda today.

Our strategy says:

We will maintain our dialogue with providers about the impact of our regulation, testing that the benefits to students and taxpayers continue to outweigh the burden to providers. We will also challenge providers to take purposeful steps to dismantle internal bureaucracy that has accreted over time and is not needed to comply with our regulatory requirements.

28. Discussions with stakeholders have suggested that there is a perception in the sector that the OfS expects governing bodies to spend a disproportionate amount of time receiving assurances and signing off routine regulatory returns to ensure they are complying with our conditions of registration. This issue was the focus of two recent events I attended: a roundtable meeting in February with Secretaries from the Russell Group; and a webinar on 23 May 2022 for members of the Association of Heads of University Administration (AHUA). At both events, I made some observations about the way in which providers can seek to reduce their own internal regulatory burden, and reiterated some of these messages in a sector-facing [blog](#).
29. Subsequently, we have engaged closely with a provider reviewing its governance arrangements to support it to consider adopting less burdensome approaches. Through these discussions the provider has identified an opportunity to refresh its scheme of delegation in a way that will free up its governing body to focus on strategic issues with confidence that compliance with the OfS's requirements is being appropriately managed. We will continue to encourage other providers to make similar changes.
30. Following a debate on the issue at the Higher Education Policy Institute's (HEPI) annual conference, I wrote for [HEPI's blog](#) on the OfS's relationship with ministers, setting out five mechanisms through which ministers can lawfully influence the OfS's work.

Efficient and effective OfS

31. On 8 June 2022 we published our annual report and accounts for 2020-21. The report covers the OfS's third year of operation, and our progress in delivering our regulatory objectives.
32. The DfE is taking forward post-legislative scrutiny of the Higher Education and Research Act (2017). We are engaging closely with DfE colleagues and expect the report to be submitted to the Education Select Committee in late September.
33. On 26 May 2022, we opened a consultation seeking views on the suitability of Jisc to be the designated data body. The consultation closed on 27 June and we received 23 responses. We will make decisions over the summer about the recommendation we wish to make to the Secretary of State about the designation of Jisc.
34. HESA and Jisc continue to deliver the Data Futures programme. There are no significant new issues with programme delivery or escalated risks. We have received a plan from HESA for the remainder of the programme and are working with our internal auditors to gain assurance over the credibility of the plan.
35. The regular risk report is attached at Annex B of this paper, for the board's information. This report reflects our new strategic risks, as discussed at the last meeting. **Exempt from publication.**
36. In addition, the board should also note that we are completing work to set out the mitigating actions for the strategic risks and will provide a more detailed update for the RAC and board in September. **Exempt from publication.**
37. We plan to undertake risk horizon scanning during the quarterly review process (undertaken by the directors and CEO) to identify likely future risks and associated mitigating actions. **Exempt from publication.**
38. We have run a successful campaign on social media and through our engagement with providers and student representatives to recruit for new members of our student panel. Colleagues are currently sifting the 298 applications we have received, ahead of interviews later in the summer.
39. **Exempt from publication.**
40. Following allegations of antisemitism between March and April of this year at the NUS we have temporarily suspended formal engagement with the NUS while an independent investigation is conducted. We will consider whether it is appropriate to resume our normal engagement once the independent investigation concludes and the NUS sets out any steps it intends to take as a result.