



Minutes of the OfS Board meeting, 3 February 2023

Location: Jisc offices, London

Timings: 1300-1430

- Present members:
- James Wharton (chair)
 - John Blake (Director for Fair Access and Participation)
 - Martin Coleman
 - Elizabeth Fagan
 - Katja Hall
 - Verity Hancock
 - Rachel Houchen
 - Kate Lander
 - Susan Lapworth (chief executive)
 - Simon Levine
 - Martyn Oliver
 - Dayo Olukoshi
 - David Palfreyman
 - Caleb Stevens
- Attendees:
- Hannah Sheehan, Department for Education (DfE) representative
- Apologies:
- Michael Spence
- Officers:
- Jean Arnold, Director of Quality
 - Louisa Baker, Head of Governance
 - Ed Davison, Competition and Registration Manager
 - Paul Huffer, Head of Legal
 - Paula McLeod, Corporate Governance Senior Officer (clerk)
 - Conor Ryan, Director of External Relations
 - Nolan Smith, Director of Resources and Finance
 - David Smy, Director of Monitoring and Intervention
 - Mike Spooner, Senior Adviser to the CEO and Chair

Chair's welcome

1. In opening the meeting, the chair thanked members for their contributions to the board planning event which had preceded the board meeting, noting that the discussions over the last two days had covered in detail some of the items on this agenda.
2. He formally welcomed Caleb Stevens to his first board meeting. Caleb's term of office started on 1 February 2023. He also welcomed other board members, OfS staff and Hannah Sheehan from the DfE. He advised that apologies had been received from Michael Spence.
3. The chair noted the progress of the Higher Education (Freedom of Speech) Bill through Parliament and that decisions about the appointment of a Director for Freedom of Speech and Academic Freedom rest with ministers.
4. The chair reported on his recent meetings with Gillian Keegan, Secretary of State for Education, Robert Halfon, Education Minister, and with Julia Kinniburgh, Director General for the Skills Group at DfE.
5. On behalf of the board, the chair congratulated Nolan Smith on his award of an OBE in the King's New Year Honours list.
6. 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)

7. The minutes of the board meeting held on 8 December 2022 were approved.

Chief executive's report (paper 3.1)

8. 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 8 December 2022.
9. The following points were made:
 - a. Exempt from publication.
 - b. A consultation on addressing harassment and sexual misconduct was expected to be finalised shortly. We expect the consultation to propose that each provider should be required to set out the approach it plans to take in respect of harassment and sexual misconduct and to implement that approach in practice. We expect to be clear that a provider should not take steps that prevent it from meeting its legal and regulatory obligations for freedom of speech.
 - c. The Lifelong Learning (Higher Education Fee Limits) Bill has had its first reading in Parliament. It is expected that the government's response to its Lifelong Loan Entitlement consultation will be published shortly and that this will explain the future role for the OfS in this work.
 - d. Exempt from publication.
10. The board noted the updates contained in the report.

Delivering quality assessment functions from 1 April 2023 (paper 4.1)

11. The Director of Quality introduced her paper updating the board on plans for delivering assessments of quality and standards, including for degree awarding powers, from April 2023. She advised that:

- a. Work is underway to recruit additional academic experts as external assessors, focusing on appointing candidates with the skills and experience required to produce work of sufficient quality for the OfS to use with confidence in its regulatory decisions.
- b. Discussions are taking place with sector bodies and mission groups to improve understanding of the OfS's role in relation to quality and standards and the legal framework under which it performs these functions.

12. The following points were made in discussion:

- a. The OfS is recruiting to fill additional internal posts to deliver quality assessment work. **Exempt from publication.**
- b. As there is no national curriculum for higher education courses, assessors are asked to apply their academic judgement to reach a view about the appropriateness of a provider's approach to the matters subject to assessment in the context of the OfS's conditions of registration.
- c. The views of students are taken into account as part of the assessment process as appropriate, for example, in relation to the support they receive during their studies.

13. The board:

- a. Thanked the director for the update and asked her to pass on thanks to the team for significant progress in delivering a key strategic priority.
- b. Noted the paper.

Freedom of speech and academic freedom (paper 5.1)

14. The Director of Monitoring and Intervention introduced his paper updating the board on the progress of the Higher Education (Freedom of Speech) Bill through Parliament and the key implications for the OfS. He advised that the Bill would place two new duties on the OfS:

- a. An overarching duty "to promote the importance of freedom of speech within the law, and academic freedom...".
- b. Two new general duties to have regard to the need "to promote the importance of freedom of speech" and "protect the academic freedom of academic staff" as the OfS performs its functions.

15. In providing further information about the implications of the Bill for the OfS, the director noted that in its current form:

- a. It would require the OfS to impose initial and ongoing conditions of registration to ensure providers are complying with new freedom of speech requirements. The OfS would expect to consult on these new conditions.
- b. The OfS would be required to operate a complaints system through which individuals can raise a complaint if they consider that a provider has not complied with its free speech duties.
- c. Students' unions would be brought into the OfS's remit for the first time.
- d. The OfS would have obligations in relation to potential risks relating to providers' income from overseas sources.
- e. Although the House of Lords had removed the proposed legal tort providing for civil claims against providers and student unions, it is possible that that the Government will seek to re-insert this when the Bill returns to the Commons.
- f. The timetable for the OfS's work will be determined by the progress of the Bill and the date it receives Royal Assent. It is expected that a detailed project plan will be available by April 2023 with consultation beginning later in 2023.

16. The following points were made in discussion:

- a. Exempt from publication.
- b. We continue to consider the implications of some aspects of the Bill, particularly the potential new duties that would fall to the OfS.

17. The board:

- a. Thanked the director for the update.
- b. Noted the paper.

Finance report (paper 6.1)

18. The Director of Resources and Finance introduced his paper updating the board on the financial position of the OfS for the seven-month period ended 31 December 2022 and forecast expenditure for the full financial year (to 31 March 2023). Exempt from publication.

19. The board received the report.

Report from the Provider Risk Committee (paper 7.1)

20. The chair of the Provider Risk Committee presented his written report to the board from the committee's 28 November 2022 meeting. He had provided an oral report on these issues at the board meeting on 8 December 2022. He advised that the committee had:

- a. Exempt from publication.
- b. Exempt from publication.

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

Report from the Quality Assessment Committee (paper 8.1)

22. The chair of the Quality Assessment Committee presented his written report to the board on its most recent meeting held on 12 December 2022, noting that the issues the committee had considered had already been discussed in more detail at the preceding board planning event.

Report from the Risk and Audit Committee (paper 9.1)

23. The chair of the Risk and Audit Committee presented her written report to the board on its most recent meeting held on 7 December 2022. She had provided an oral report on the outcomes at the board meeting on 8 December 2022. She noted that at its next meeting in February 2023 the committee would be considering the outcomes of an internal audit of the OfS's risk management process and an updated assurance map.

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

Student panel update (paper 10.1)

25. The new chair of the panel, Caleb Stevens, had been able to attend his first meeting last week and reflected on its discussions. He advised that he planned to re-focus the panel in the coming months to enable it to better support the work of the OfS. Some new members would be recruited to the panel for September 2023.

26. The board received the report from the student panel.

Closing remarks

27. The chair thanked members and the executive team for their contributions both at the board and at the preceding planning event. He reminded members that the next meeting of the board would be held on 30 March 2023 by Teams.

28. He advised that a questionnaire would shortly be made available to members on Diligent relating to this year's review of board effectiveness. He encouraged members to complete this as soon as possible.

29. The chair recorded the thanks of the board to Ed Davison, who was attending his last meeting, for his contributions over the last few years, particularly for his early work in establishing the OfS alongside Michael Barber and Nicola Dandridge.

The meeting closed at 1400.