

Minutes of the OfS board meeting – 28 September 2023

Location: Sanctuary Buildings

Timings: 1330 – 1700

Present members: James Wharton (chair)
Arif Ahmed (Director for Freedom of Speech and Academic Freedom)
John Blake (Director for Fair Access and Participation)
Martin Coleman
Elizabeth Fagan
Katja Hall
Rachel Houchen
Susan Lapworth (Chief Executive)
Martyn Oliver
Dayo Olukoshi
David Palfreyman
Caleb Stevens

Attendees: Patrick Curry, Director, HE Quality and Regulation, Department for Education

Apologies: Verity Hancock, Simon Levine, Michael Spence

Officers: Jean Arnold, Deputy Director of Quality
Josh Fleming, Director of Strategy and Delivery
Paul Huffer, Head of Legal
Katherine Jacob, Corporate Governance Senior Officer (clerk)
Sophie McIvor, Head of Communications
Tom McIlwaine, Chief of Staff
Philippa Pickford, Director of Regulation
Graeme Rosenberg, Head of Student Outcomes (item 5)
Rowena Rowley Head of Provider Governance (item 6)
Nolan Smith, Director of Resources and Finance
David Smy, Deputy Director Enabling Regulation
Mike Spooner, Senior Adviser to the CEO and Chair

Item 1 - Chair's welcome

1. The chair welcomed board members, OfS staff and Patrick Curry, Director Higher Education from the Department for Education.
2. Arif Ahmed, the Director for Freedom of Speech and Academic Freedom and new board member was welcomed.

3. New staff members Philippa Pickford, Director of Regulation, and Sophie McIvor, Head of Communications, were welcomed.
4. Martyn Oliver was congratulated on his recent nomination by the Secretary of State for the role of His Majesty's Chief Inspector at Ofsted, to start in January 2024. His appointment to this role would mean that he would step down from the OfS board.
5. The board was reminded that DfE's recruitment of new board members is open.
6. The chair reported on his recent meeting with the Committee of University Chairs.
7. 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.

Item 2 - Approval of minutes of the last meeting

8. The minutes of the board meeting held on 4 July 2023 were approved.

Item 3 - Chief executive's report

9. The chief executive presented a report which provided an update on work undertaken and issues that have arisen since the last board meeting.
10. The following points were highlighted:
 - a. Two quality assessment reports have recently been published, which is an important milestone for our regulatory work. There are no concerns expressed in one of the reports, and in the other there are concerns that relate to the support provided to students. It is anticipated that more quality assessment reports will be published soon.
 - b. The timeline for the implementation of the new free speech functions has been published. The OfS has successfully argued for these to be implemented on a phased basis. Most of the new provisions, including the free speech complaints scheme, are expected to come into force on 1 August 2024, with the remainder on 1 September 2025.
 - c. Teaching Excellence Framework (TEF) outcomes were published today, and are presented and discussed in more detail later in this meeting.
 - d. **Exempt from publication.**
 - e. A report on progress against each strategic goal was provided to support the board to oversee the OfS's performance. The board welcomed the report and requested a more in depth conversation at a later date.

Item 4 - Industry and Regulators Committee report

11. The board was invited to discuss the content of the report and provide a steer about the development of the OfS's response. The chair reported that he and the chief executive had recently met with the chair of the committee, Lord Hollick, and expressed the OfS's intention to engage constructively with the findings.

12. The board made the following comments:
- a. It is important for the board to take responsibility for the OfS's formal response to the committee, and to fully engage in any longer term response.
 - b. The tone and content of the initial response from the chief executive on the OfS website and in the sector press was welcomed.
 - c. The report provides an opportunity to assess whether adjustments to the implementation of the OfS's strategy would be appropriate, and for the board to reflect on the impact it wants to have for students and to shape prioritisation to that end.
13. It was agreed that the board will be involved in developing and approving the formal response to the committee in the short-term. In the medium to longer term, the board would welcome further discussion about its priorities and any actions prompted by the report.

Item 5 - Teaching Excellence Framework

14. The Head of Student Outcomes joined the meeting to present this item.
15. The majority of final Teaching Excellence Framework (TEF) outcomes were published today. Where providers have made representations about their provisional outcomes, these are shown as pending.
16. 228 providers took part, which represents 97 per cent of undergraduate students across the sector.
17. Publication of TEF outcomes means that our reforms to the regulation of quality have now been fully implemented.
18. The TEF outcomes demonstrate that there is excellence across the sector, in all regions of the country and in all categories of provider. However, students from different backgrounds are accessing excellent teaching in different proportions. The pattern of outcomes will be considered further when all awards have been finalised, and this may reinforce our work to identify risks to equality of opportunity for some students.
19. We plan to publish summaries of the panel statements and the submissions from providers and their students in November.
20. Students will be able to see the TEF outcomes for individual providers on the UCAS and Discover Uni websites, and providers may promote their outcomes in accordance with our guidance.
21. The following comments and clarifications were made:
- a. TEF is an excellent way to recognise the world class education in England and is a good example of the OfS acting in the interests of students. It is an opportunity to raise the profile of the OfS's work among students.

- b. Where a final outcome of 'requires improvement' is given, the OfS will consider any concerns expressed by the TEF panel, alongside other regulatory intelligence about the provider. Exempt from publication.
- c. The labels for the ratings will be considered as part of the overall evaluation of the exercise.
- d. It would be important to explain the relationship between TEF ratings and the outcomes of quality assessment activity for some providers because the scope of these regulatory activities could be different. For example, TEF relates to all undergraduate courses, whereas quality assessments could be focused on a single subject area for all levels of study.
- e. Different types of student submissions were received, including written, video and podcast submissions. However, the type of submission does not appear to correlate to the outcome.
- f. The team and the panel are working as fast as possible to review representations from providers in relation to provisional decisions.
- g. Although the TEF exercise may be challenging for smaller providers with less resource available for compiling a submission, providers of all types have been rated Gold.
- h. The introduction of TEF has resulted in providers' resources being focused on teaching.
- i. The OfS should continue to monitor how providers are promoting their TEF ratings to ensure they are not misleading students, taking robust action where appropriate.
- j. Exempt from publication.
- k. Where eligible providers chose not to take part in TEF, the OfS's publications will state this clearly.

22. The board welcomed the publication of the 2023 TEF outcomes.

23. The Head of Student Outcomes left the meeting.

Item 5 - Protecting public funding

24. The Head of Provider Governance joined the meeting.

25. The Director of Regulation updated the board on the OfS's work with the Student Loans Company (SLC) and the Department for Education (DfE) on activities in relation to the protection of the public funding distributed by the SLC. Exempt from publication.

26. Exempt from publication.

27. Exempt from publication.

28. Exempt from publication.

29. The Head of Provider Governance left the meeting.

Item 6 - Scheme of delegation – Freedom of speech functions

30. The chief executive presented this paper and the Director for Freedom of Speech and Academic Freedom also commented on the proposals. The paper recommended that the scheme of delegation remains fit for purpose in the context of the OfS's new freedom of speech functions, but that the main proposed amendments would be helpful for consistency in decision making and other proposed changes would be sensible for clarificatory and transparency reasons. The board was nevertheless asked to consider, in the context of the new OfS freedom of speech functions, whether or not other existing provisions in the scheme of delegation are fit for purpose and therefore whether any other amendments to the scheme of delegation were required.
31. The board:
- a. Welcomed the information provided about the proposed changes to the scheme of delegation.
 - b. Decided to make all of the proposed amendments with effect on and from 1 October 2023.
 - c. Decided that other existing provisions in the scheme of delegation continue to be fit for purpose and that no further changes to the scheme of delegation are required in respect of the new freedom of speech functions.

Item 7 - Risk report

32. The risk report was presented by the Director of Strategy and Delivery.

33. Exempt from publication.

34. Exempt from publication.

35. Exempt from publication.

36. Exempt from publication.

Item 8 - Finance report

37. The board was updated on the financial position of the OfS at the end of period five (31 August 2023).

38. The board noted:

- a. Exempt from publication.
- b. The update regarding registration fees for the next academic year.

39. The board received the finance report.

Item 9 - Report from the student panel

40. The report was presented by the chair of the student panel. He summarised the recent meeting of the student panel, which included:
- a. A discussion on student submissions and engagement with the TEF exercise, and consideration of how the process could be further developed to improve the quality of submissions.
 - b. Ongoing discussions about student engagement, including consideration of the current structure of the panel and its role, responsibilities and boundaries, to ensure that it can work effectively within its remit.
 - c. A discussion of the recent House of Lords Industry and Regulators Committee inquiry, in particular the issues raised around student engagement. The panel discussed the OfS's expectation that recommendations in relation to student engagement will form a significant part of the Committee's report, and would need to be considered as part of the planned work to reshape the student panel.
 - d. A discussion on the implementation of the new freedom of speech functions.
41. The chair of the panel commented that the work to reshape the panel is going well and that the panel is grateful to the OfS student engagement team for its support.
42. The board received the report from the student panel.

Item 10 – Report from the Quality Assessment Committee

43. The report was presented by Dayo Olukoshi, since the chair of the committee had sent apologies. He reported that the committee had discussed:
- a. The prioritisation categories for condition B3 for assessments in 2023-24, and suggested that priority should be given to providers with performance furthest from numerical thresholds and with the largest number of students, with a focus on subcontractual provision.
 - b. The TEF outcomes, and in particular that it is important to ensure that communications are clear about the dual aspect of ratings (student experience and outcomes).
 - c. The ongoing quality investigations and the publication of the first two assessment reports relating to business and management courses.
 - d. The new role of the committee in relation to advising on applications for degree awarding powers (DAPs).
44. The board received the report from the Quality Assessment Committee.

Item 11 – Report from the Provider Risk Committee

45. A report from the Provider Risk Committee was included with the papers.

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

Item 12 – Report from the Risk and Audit Committee

47. The report was presented by the chair of the committee. She reported that the recent meeting of the committee had focused on:

- a. The report from the House of Lords Industry and Regulators Committee and associated risks.
- b. Exempt from publication.
- c. A discussion of the people risk and the upcoming People strategy, exempt from publication.
- d. The risks relating to Jisc's delivery of Data Futures.

48. Exempt from publication.

49. Exempt from publication.

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

Item 13 - Closing remarks

51. The chair thanked members and staff for their contributions to the meeting.

52. The board was reminded of arrangements for the next meeting, which will be on 12 December on Teams.

53. Martyn Oliver and David Palfreyman left the meeting due to conflicts of interests in relation to the following restricted items.