

Chief executive's report

Issue

1. To provide an update on work undertaken and issues that have arisen since the date of the last board meeting on 26 March 2018, to the extent that they are not covered in other board papers.

Recommendations

2. The board is invited to:
 - a. Note the updates contained in the paper
 - b. Agree the amendments suggested to the OfS Scheme of Delegation and the terms of reference for the: Quality assessment committee, Provider risk committee and Risk and audit committee
 - c. Exempt from publication

Further information

3. Available from Nicola Dandridge (nicola.dandridge@officeforstudents.org.uk).

Background

4. Since the last board meeting, the OfS has become fully operational. Our work over the last two months has therefore had a strong organisational focus as the process of building the new organisation has started in earnest. Paper Bd.2018.May.4.1 describes the work on creating the OfS in terms of developing the Business Plan 2018/19, the Transformation Programme, and taking forward the 'phase 2' organisational design.

OfS programme of work

Registration process

5. The process of setting up and managing the registration process continues. To date, over one hundred providers have applied to register and the process of evaluating those applications is underway. The Provider Risk Committee met for the first time on 8 May 2018, and a report to the board is included at paper Bd.2018.May.13.1.
6. An important part of the registration process will involve the Quality Assurance Agency (QAA), as the OfS's Designated Quality Body. The Higher Education and Research Act 2017 (HERA) makes provision for the Designated Quality Body to carry out quality and standards assessment functions, in implementation of the OfS' overall duty to assess quality and standards. In practice, at provider level, this means that the QAA will be required to carry out a review of quality and standards for each new provider seeking registration, as well as providing advice to the OfS in relation to providers seeking degree awarding powers.

7. Exempt from publication

8. Exempt from publication

9. Exempt from publication

Market exit and student protection

10. Exempt from publication

11. We are at the same time working on the development of our future approach to student protection and market exit, to include activity at the provider and sector level, and we anticipate bringing a paper forward for the Board's consideration at the September meeting.

Teaching Excellence and Student Outcomes Framework (TEF)

12. In 2016, the Department for Education commissioned HEFCE to implement the first TEF assessments, according to the Department's specification. HEFCE did so and published the outcomes in June 2017. The 293 providers with provider-level TEF awards are listed at: www.officeforstudents.org.uk/advice-and-guidance/teaching/tef-outcomes
13. Following refinements made by the Department, HEFCE then started the second year of provider-level TEF assessments in October 2017, with 126 providers taking part. Approximately one third of these had not previously participated. The TEF Panel completed its assessments in April 2018 and OfS is due to publish the outcomes in early June 2018. A communications plan is in place to disseminate the updated outcomes.
14. We expect to repeat the TEF process in its current provider-level form for the last time in 2018-19. From 2019-20, we expect TEF to produce ratings at subject-level in order to better inform student choices. Participation having previously been voluntary, it will become an ongoing condition of registration for providers in England.

15. Subject-level TEF will be a much larger-scale process than provider-level TEF, and there are a number of assessment challenges involved in breaking down the data and producing ratings for subjects. We are working with the Department on a two year programme of development and testing. We are managing a pilot exercise, testing two models of subject-level assessment with 50 providers and 7 subject-based panels of academics, students and employer representatives. We and the panels will report findings to the Department by July 2018. In parallel to the pilot, the Department is running a consultation exercise and has commissioned research with students.
16. We expect a further year of piloting in 2018-19. The Department is committed to an independent review of the TEF before final decisions are made about subject-level TEF. We will be proactive in supporting and contributing to this review. As subject-level TEF is developed we anticipate that responsibility for designing and specifying the process will shift from the Department to OfS, which has adopted TEF as the rating scheme under section 25 of the Higher Education and Research Act 2017.

Student engagement

17. Following the discussion at the last board meeting about the OfS' student engagement strategy, the issue was also considered by the Student Panel at its meeting in April. The Panel took the view that the OfS should engage with students so as to better understand the issues that matter to students, to give students confidence in the OfS as the regulator, and to improve student experience and outcomes in a meaningful way. They also took the view that the OfS should encourage providers to engage with students so as to make student engagement the norm. This was predominantly because student engagement is a baseline for registration, and because many providers are not good at engaging students and yet student engagement is important.
18. The feedback from the Panel will inform the development of the student engagement strategy. The aim is to publish it by April 2019 to coincide with the Regulatory Framework coming in to force.
19. In addition to developing our student engagement strategy we are continuing to develop the work of teams where student engagement is already embedded through their work. Some examples include TEF, development of Access and Participation Plans, the development of the National Student Survey, and Learning Gain.

Engagement and external affairs

20. Since the last board meeting, I have given evidence to the Public Accounts Committee on the Higher Education Market, and to the APPG on Skills. I gave plenary and key note addresses at the Committee of University Chairs, the AHUA Spring Conference, the QAA/Student Engagement Partnership, Conservatoires UK, the Landex annual conference (land-based providers) and the AdvanceHE BME leadership summit. I have visited QAHE, Harper Adams University, and Wolverhampton Student Union.
21. The OfS continues to command significant media attention – from both the mainstream and trade press. Since we last met, we have secured coverage of the OfS' messages across a range of media. Highlights include a Telegraph front page article on the use of contextual information in admissions which gave prominence to the OfS' role and functions and comments about the need to narrow the BME attainment gap, which secured significant coverage online, on Radio 2 and a range of local radio stations. As I write, we are awaiting publication by the Evening Standard of a major interview with Michael, and have a number of other high profile opportunities to explore. In all of our communications, we will seek to

set out the key tenets of our strategy in order to increase understanding of our role and our objectives.

22. Simply for information, we were informed last week by the DfE that they have just responded to FOI requests from two BBC journalists regarding the OfS board appointment process. The information that is being released refers to your appointments, and you are each therefore named in the FOI responses. However, there is nothing particularly new in the responses that is not already in the public domain so it seems unlikely there will be another media story. I am informed that DfE have followed all necessary processes in considering the information they hold and redacting/exempting where necessary, and that the final set of information has been cleared by the Secretary of State.

OfS governance and committees

The board committees

23. The OfS Risk and audit committee met for the first time on 30 April 2018, followed by the Provider risk committee on 8 May 2018. Reports of these meetings are included with board papers. The Quality assessment committee will hold its first meeting in mid-July, subject to timely recruitment of independent members.
24. We have begun the process of recruitment of independent members for all three committees. The Remuneration and nominations committee approved both the process and the information pack for applicants which included the person specification for each committee. Print and online advertisements were placed in The Times Public Appointments section on 11 May and in The Guardian on 15 May 2018. We also publicised the opportunities through the OfS Twitter feed and through a news item on the OfS website. The closing date for applications is 29 May 2018.
25. Three interview panels, each chaired by the relevant committee chair, will take place in June and July. The Remuneration and nomination committee has a role in considering the suitability of those put forward by the interview panel and oversees whether the recruitment process has been conducted in a fair way in accordance with the agreed process. Once satisfied, the Committee will make recommendations to the OfS chair who has the role of formally making appointments. It is intended that the recruitment process for Quality assessment committee members will conclude before that of the other two committees because of the need to have independent members in place in time for its first meeting in July.

Amendment to the Scheme of Delegation

26. The Secretary of State may ask the OfS for advice relating to the designation of a further education institution where a merger is planned between a higher education and further education institution. The board is asked to delegate the provision of this advice to the chief executive.
27. The Secretary of State may ask the OfS for advice relating to the conversion of a further education corporation to a higher education corporation. Again, the board is asked to delegate the provision of this advice to the chief executive.

Amendment to the Quality assessment committee terms of reference

28. The terms of reference of the Quality assessment committee previously agreed by the board currently provide:

'The Committee shall be appointed by the OfS board. The chair of QAC must be a non-executive member of the OfS board. QAC shall consist of no less than five members and include:

- *Two non-executive members of the OfS board (including the QAC chair).*
- *A majority of individuals who appear to the OfS to have experience of providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider.*
- *A majority of individuals who are not members of the OfS board.'*

29. It is proposed that the Quality assessment committee should have three non-executive members of the OfS board, so that it is consistent with the other committees of the board. The board is therefore asked to agree that membership be extended to "up to three non-executive members of the OfS board" (instead of two). To ensure compliance with the requirement in the Higher Education and Research Act 2017 that the majority of members on the committee be independent, there would need to be four independent members to maintain their majority. The Committee would therefore need to consist of "up to seven members overall and no less than five members".

Minor amendments to Terms of Reference for the Provider risk committee, Quality assessment committee, and Risk and audit committee

30. We have recently set out a process for the recruitment of independent members to these three committees whereby the chair of the OfS board has responsibility to formally appoint members based on the recommendation of the remuneration and nominations committee. Currently the terms of reference for the Provider risk, Quality assessment and Risk and audit committees all state that members, including the chair of the committee, are appointed 'by the board'. We propose to update the terms of reference to reflect the stated process which makes it clear the final decision rests with the OfS chair.

Actions taken under delegated authority since last meeting

31. See attached report in annex A.

Forward look

Accounts Direction

32. At the board meeting in January 2018, there was a discussion about how the OfS should respond in the Regulatory Framework to the issue of vice chancellor pay. That discussion was reflected in the terms of the Framework published on 28 February 2018. In the Framework, it was stated that the OfS would provide more detail of how its requirements in relation to vice chancellor and senior pay in its annual accounts direction.

33. The OfS will be publishing its accounts direction in June, and will circulate a copy to OfS board members in advance.

Board away day

34. Planning is in the initial stages for the board away day in September. The event will be held at a venue close to the Bristol area and will run from lunchtime on 25 September 2018 until the lunchtime the following day. The board meeting will then take place in the afternoon of 26 September 2018. Final timings and location will be confirmed to you in due course.

35. The away day will provide an opportunity for the board to reflect on the effectiveness of its work to date and to consider its future priorities. We welcome input from board members on how the agenda could be shaped further.
36. Business to be determined at future board meetings is as set out in Annex B.

Report on use of delegated decision making Up to 16 May 2018

Finalising the regulatory framework

1. At its meeting on 29 January 2018, the OfS board delegated its authority to the chair, deputy chair and chief executive to finalise the regulatory framework for publication, including having regard to any directions issued by the Secretary of State under section 77 or section 2(3).
 - On 25 February 2018, the chair confirmed he was satisfied that OfS had had regard to this guidance in its work to finalise the regulatory framework and, on this basis, gave his approval to the document being published.
 - On 25 February 2018, the deputy chair confirmed he was satisfied that OfS had had regard to this guidance in its work to finalise the regulatory framework and, on this basis, gave his approval to the document being published.
 - On 27 February 2018, the chief executive confirmed she was satisfied that OfS had had regard to this guidance in its work to finalise the regulatory framework and, on this basis, gave her approval to the document being published.
2. Having received these confirmations, the regulatory framework document was published on 28 February 2018.

Delegation of decisions in transition period

3. At its meeting on 26 March 2018, the OfS board approved its revised Scheme of Delegation to take effect from 1 April 2018. Paragraph 5 of the Scheme states that *“A member, officer or committee to whom a power, duty or function is delegated by the board may nominate or authorise an officer of the OfS to exercise that power, duty or function, provided that the nomination or authorisation is in writing and the officer directly reports to or is responsible to the member, officer or committee in question.”*
4. On this basis, on 30 April 2018, the chief executive delegated her authority to the director, competition and the register, for the following functions:
 - To provide specific course designation advice for the DfE, including:
 - Assessment of applications from new providers
 - Assessment of information from existing providers for new locations, annual returns and change of circumstances where there are material issues and/or unmet course designation criteria
 - Assessment of representations following DfE minded to reject/refuse decisions
 - Assessment of additional information where it has changed the material issues and/or unmet course designation criteria previously reported to DfE.
 - To undertake operation of gateways activity under the ‘old’ regulatory arrangements, including:
 - Degree awarding powers financial sustainability advice for applications received before 31 March 2018
 - Advice for HEIs is based on the most recent AAR; advice for APs is based on the most recent SCD assessment. Advice for FECs is provided by the ESFA and does not require the Group’s assessment.
5. And to the Head of transition period regulation team for the following function:

- Under the specific course designation system, assessment of additional information from existing providers for new locations, annual returns and change of circumstances where there are no material issues and no unmet course designation criteria.

Funding 2018-19

6. Under the scheme of delegation, programme budgets are agreed by the OfS board, normally on an academic year basis (with the exception of capital funding). The programme budget refers to the grant paid to the OfS that is available for distribution to providers of higher education and other organisations in order to achieve the OfS's strategic objectives. The OfS board will agree funding principles. The board delegates to the chief executive the authority to agree the specific allocations to providers or to funded organisations from within these programme budgets and following any agreed funding principles.
7. At its meeting on 26 March 2018, the board agreed the recurrent budgets for academic year 2018-19 and capital budgets for financial year 2018-19 and the approach to their distribution as set out in the paper 'Funding overview and budgets for April 2018 to July 2019'. The board also delegated authority to the chief executive to agree the approach to, and allocations of, funding for certain programme areas of shared interest where we are working collaboratively with UKRI – including for the £47 million of knowledge exchange funding that comes from the OfS teaching grant budget, but is being administered by Research England.
8. On 30 April 2018, the chief executive agreed the allocations to providers of recurrent grant for academic year 2018-19 and of formula capital grant for financial year 2018-19. These allocations were issued to providers in confidence on 9 May and published on 11 May (see the news item at <https://www.officeforstudents.org.uk/news-blog-and-events/news-and-blog/office-for-students-to-allocate-15-billion-for-higher-education-in-england-for-2018-19/> and details about the allocations at <https://www.officeforstudents.org.uk/advice-and-guidance/funding-for-providers/annual-funding/>).
9. On 10 April 2018, the chief executive agreed the approach to the distribution of OfS knowledge exchange funding through Research England for academic year 2018-19. Research England issued a letter to providers on 12 April 2018 (<http://re.ukri.org/news-events-publications/publications/funding-for-higher-education-institutions-for-2018-19/>) setting out the approach to distributing a total of £210 million for knowledge exchange, of which the OfS's £47 million is a part. Research England also issued its allocations to providers in confidence on 9 May and published them on 15 May (<http://re.ukri.org/news-events-publications/news/research-england-institution-level-allocations-announcement-for-2018-19/>)

Future board business

26 July 2018

OfS approach to student information, advice and guidance
Revised equality and diversity objectives
Draft data strategy
Addressing the decline in mature students
Report from the Quality assessment committee
Report from the Provider risk committee
Oral report from the Risk and audit committee

25/26 September 2018

Learning gain
Future T funding and OfS
Student contracts
Degree awarding powers
Report from the Provider risk committee
Horizon scanning (likely to be a discussion topic at the board off-site)

27 November 2018

Funding strategy and plans
Validation
Report from the Provider risk committee