

Chief Executive's Report

Issue

1. To update provide an update on work undertaken and issues that have arisen since the date of the last board meeting on 28 January 2020, to the extent that they are not covered in other board papers.

Recommendations

2. The board is invited to:
 - Approve changes to the scheme of delegation proposed in Annex D
 - Note the updates contained in this paper.

Further information

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

Summary of main activity

4. As anticipated, there was a government reshuffle on 13 February 2020. As part of the reshuffle it was confirmed that Gavin Williamson would remain in his role as Secretary of State for Education and that Michelle Donelan would take up the role of Minister of State for Universities, replacing Chris Skidmore. One notable change is that this ministerial role no longer includes the science, research and innovation portfolio and so no longer sits across BEIS and the DfE as it has done previously. This increases the need for us to maintain effective relationships with UKRI and Research England, as we no longer sit under the oversight of one minister. Michelle Donelan was previously a Government Whip and a Parliamentary Under Secretary of State at the DfE, covering the maternity leave of Kemi Badenoch. She is the MP for Chippenham in Wiltshire. We have had an introductory telephone call and then on 4 March 2020 a constructive and positive meeting.
5. Exempt from publication.
6. We continue to monitor the impact of industrial action by members of the University and College Union at a number of registered providers. We have clearly set out our expectations that providers must continue to comply with our conditions of registration during the period of action and we have collaborated with the Office for the Independent Adjudicator for Higher Education to ensure that students and their representative bodies have accurate information and guidance on their rights. The impact of the strikes and providers' steps to mitigate any disruption will become clear over the coming weeks, as we monitor direct notifications and the prevalence of student complaints at providers.
7. We are now commencing our annual assessment of the financial health of higher education providers. Annex A provides an initial analysis of the most recent financial data returns.
8. In terms of ongoing litigation, we still await the publication of the judgement in the Bloomsbury judicial review litigation following the February hearings in the High Court. An oral update will be provided to the board. Exempt from publication.
9. As discussed at our last meeting, we published our Admissions Review consultation document on 27 February 2020. The launch was successful and widely covered, featuring on the front page of [The Times](#) and [Daily Telegraph](#), and reported across the [BBC](#), [i News](#), [Daily Mail](#), [The Sun](#), [Independent](#), [Research Professional](#), [Times Higher Education](#), [Schools Week](#) and [University Business](#). The Times ran an editorial calling for the introduction of post-qualification offers.
10. Now that the majority of the initial registration process is complete, we are taking the opportunity to review our relations with the sector. We believe that we have clearly established ourselves as an effective and independent regulator, and that has required a re-positioning in our relations with the sector as the OfS has set itself up as a regulator and not a funder. This re-positioning was necessary, albeit not always comfortable. However, we accept that there are areas where we can make our relations smoother and easier to navigate from a provider-perspective. We are currently therefore initiating work that will:
 - Review regulatory burden, looking at whether there are areas where we can lighten our expectations on providers and avoid any duplication with other regulators, in a way that does not undermine our regulatory objectives. As part of this we will be focusing particularly on the impact of our work on small providers and further education colleges;
 - Review the style and tone of our communications, aiming to make them simpler and more straightforward, but without compromising our legal responsibilities. This will

include ensuring wherever possible that letters and emails come from a named individual within the OfS as opposed to generic directorate names;

- Set up a series of regional events where we will listen to providers to enable their perspectives to inform how we take forward our regulatory responsibilities;
 - Revise publications that we know have caused confusion, in particular our guidance on reportable events.
11. We will be communicating this package of work externally to providers later this month, as a way of signalling that we will respond to the concerns and complaints that we have received where we can.
 12. We have been responding rapidly to the Covid-19 epidemic both in terms of our regulatory functions and the OfS's own internal operations. A note in Annex B summarises the work being undertaken. Responding effectively to the threats that the virus poses is already absorbing a considerable amount of OfS capacity, and that will only increase. The board should therefore be aware that this will impact on our ability to deliver all our planned programmes of work to the timescales previously indicated.
 13. The board may like to note two reports, published since the last board meeting. On 27 February 2020 Natalie Day, Professor Chris Husbands and Lord Kerslake published a report for the Higher Education Policy Institute: '[Making Universities Matter](#)'. Earlier in the month, on 23 February 2020, Lucian Hudson and Iain Mansfield (now a special advisor to the Secretary of State for Education) published a report for the Policy Exchange '[Universities at the Crossroads](#)'.

Strategic objective – participation

14. We reported at our last board meeting on our analysis of access and participation plans. This analysis maps out the aggregate impact of the work that providers are doing in relation to their five year plans. The analysis was well covered by both national and sector media, with a number of commentators reflecting positively on the considerable and welcome ambition in this area. In print and online, the story was covered by the [BBC](#), [Daily Mail](#), [Financial Times](#), [Times](#), [Guardian](#), [Telegraph](#), [Independent](#), [i News](#), [TES](#), [Times Higher Education](#), [Wonkhe](#) and [Research Professional](#). Michael Barber wrote a piece for [The Times Red Box](#), while Chris Millward was interviewed on the Today Programme on BBC Radio 4. To coincide with the publication of the report, a parliamentary reception to mark the launch of UniConnect was well attended by MPs and Peers from across different parties and both Houses of Parliament, as well as many of the UniConnect hubs. It was particularly inspiring to hear first-hand from applicants and students on their aspirations for higher education.
15. The Disabled Students' Commission (DSC) was announced by the government in June 2019. Professor Geoff Layer, who was previously Chair of the Disabled Students Sector Leadership Group (DSSLG), was appointed DSC Chair and the government has asked Professor Layer to work with the OfS to establish the Commission. The OfS's commissioner is Chris Millward, Director for Fair Access and Participation. We have appointed Advance HE to host the Commission, with the following people appointed as DSC Commissioners:
 - Sean Cullen, Disability Officer, Brunel University – Student Voice Commissioner
 - Susan Daniels, CEO, National Deaf Children's Society – General Commissioner

- Professor Sarah Greer, Deputy Vice Chancellor and Provost, University of Worcester – General Commissioner
 - Patrick Johnson, Head of Equality and Diversity, University of Manchester – General Commissioner
 - Professor Deborah Johnston, Pro-Director (Learning and Teaching) and Professor of Development Economics at SOAS, University of London – General Commissioner
 - Piers Wilkinson, NUS Disabled Students' Officer – Student Voice Commissioner
- Dr Sam Parrett, CEO and Group Principal of London South East Colleges, has been appointed as a further education consultant to the Commission. Full terms of reference can be found [here](#).

16. On 6 January 2020 we launched the 2020 NSS survey, which included the first stage of a programme of pilots to survey of students on courses of one year in length. A consultation on plans for the second stage of piloting to include all undergraduate students will be launched in March 2020. On 19 February 2020, we published an Insight briefing – '[Consistency, controversy and change](#)' - analysing fifteen years of the NSS and setting out the work we are doing to improve the NSS.

Strategic objective - experience

17. We are continuing to make progress with applications for registration: Table 1 below sets out the current position. The Provider Risk Committee continues to meet regularly to make registration decisions and is continuing to consider representations submitted by those providers issued with 'minded to refuse registration' letters. We have also made more final decisions to refuse registration and, in these cases, the provider has an opportunity to submit representations against our decision to publish information about the refusal. We have now published information about refusals for 12 providers.

Table 1: Registration decisions at 4 March 2020*

Number on register	394
Number refused	16
Number minded to refuse	21
Decision made but not yet published on the register	1
Total decisions made	432
Assessment closed (due to merger or provider request)	24
Sub-total of applications with decisions or otherwise closed	456
Provider awaiting QSR or management and governance review	21
Assessment complete and awaiting decision	2
Application under assessment	41
Total number of active assessments	64

Application incomplete	15
Total	528

*one provider that received a minded to refuse decision submitted new information as part of its representation against our proposed decision. The provider’s application was subsequently reconsidered by the PRC and the provider has now received a second minded to refuse decision. The provider is counted once in the table.

18. For many providers, the OfS imposed additional requirements as part of the registration decision in order to mitigate areas of increased risk. These are in the form of specific conditions, enhanced monitoring requirements or a formal communication. Table 2 sets out the number of mitigations imposed at registration across all providers.

Table 2: mitigations imposed at registration, at 4 March 2020*

Providers with specific condition	25
Providers with enhanced monitoring	261
Providers with formal communication	306
Total providers with mitigation	375
Providers with no mitigations applied	13

19. Many of the additional requirements put in place at registration require a provider to submit responses which are then assessed. This assessment may result in the removal, variation or addition of regulatory requirements. We have now closed more than 60 of these cases because providers have made submissions that meet our requirements.

20. Registered providers are also required to submit certain ‘reportable events’ to the OfS and each of these requires assessment. Our data tells us that we can expect to receive up to 11 of these reports each working day. At the time of writing we have assessed and closed more than 700 reportable events.

21. We also receive notifications from third parties who wish to give us information about a registered provider and, again, each of these requires assessment. Our data tells us that we can expect to receive up to three of these notifications each working day. At the time of writing we have assessed and closed more than 280 notifications.

22. Following the board’s agreement to the establishment of a TEF Advisory Group, the terms of reference and membership have now been agreed. Annex C provides further details.

23. Exempt from publication.

24. Exempt from publication.

25. Exempt from publication.

26. In line with the November student contracts board paper and in particular the activities proposed under aim two of our IAG Strategy, we want to create clear, specific expectations for the information from providers, which facilitates comparison by students between providers. We are therefore currently in the process of a 'soft consultation' with providers and sector stakeholders and in particular those working in marketing, academic registry and academic colleagues. This will help inform the approach to the regulatory guidance on consumer protection.

27. In parallel with this soft consultation we are continuing to plan for how the underlying regulatory change would be delivered and what possibilities it allows us. In particular, we are exploring how a change to condition C1 to refer to our own guidance would allow us to use this as a regulatory vehicle to address other issues we are consulting on, such as harassment and the use of conditional unconditional offers.

28. Following the grant of £1m funding from the Department of Health and Social Care, we launched on University Mental Health day (5 March 2020) a second phase of investment in partnerships between universities, colleges, NHS trusts and charities to tackle the student mental health challenge in higher education. In the second phase, our investment will be focused on student groups we have identified as at greater risk of developing poor mental health due to the particular pressures they face or the barriers they experience to accessing support, but were not addressed directly in the first phase. This includes care leavers and estranged students, students on placements or studying part-time, and those coming from overseas or commuting to study.

Strategic objective – outcomes

29. Having focused substantially on undergraduate participation during the first phase of our access and participation work, we are taking steps during 2020 to tackle the barriers to postgraduate progression.

30. With £13m from the Department of Culture, Media and Sport, we have confirmed support for 18 projects across the country that will develop conversion courses designed to equip graduates from other disciplines for jobs needing AI and digital skills, and to provide financial support for graduates who are currently under-represented in these areas. This includes graduates living outside London and the South East, those with disabilities, women and black students. The programme will support more than 900 students across the country during the coming years. Details of the assessment panel and its terms of reference, coupled with a list of the successful projects, are included in the Resources section of Diligent. The awards will be announced in April.

31. This month we will be launching , jointly with Research England, a new £7m programme to stimulate progression from undergraduate and postgraduate taught programmes into postgraduate research for black, Asian and minority ethnic students who are generally well-represented on undergraduate and postgraduate taught programmes but not at postgraduate research level. This is important both to improve opportunities for current generations of minority ethnic students, but also to improve the flow of qualified researchers into academic careers, which has been identified as a cause of the attainment gaps we have been working with providers to address at undergraduate level. We have made provision for our £2m contribution to this programme within the budgets submitted to the board for challenge competitions.

32. With Research England, we have also confirmed £10m support for 20 projects across the country that will trial innovative approaches to engaging students in knowledge exchange with business, public services and local communities. The programme is designed to influence future approaches to understanding and supporting student involvement in knowledge exchange, so will be influential for the reviews of Higher Education Business Community Interaction (HEB-CI) data and of Higher Education Innovation Funding (HEIF) in which we are also closely involved. Details of the assessment panel and its terms of reference, coupled with a list of the successful projects, are included in the Resources section of Diligent. The awards will be announced in April.

Strategic objective – efficient and effective

33. On 13 February 2020 we launched our student engagement strategy. The launch was targeted towards a student and student-facing audience, which meant taking a different approach to the promotion and dissemination of the strategy. This has significantly increased our engagement with new stakeholders: the engagement rate across our social media platforms was 4.3 per cent (1-2 per cent is considered good). Since the launch of the strategy it has received 1,730 page views, 1,581 of which were unique.

34. The board is invited to approve amendments and to the OfS's arrangements for the delegation of decisions in relation to two areas: Prevent and potential market exit cases. The proposed changes to delegations relating to Prevent include explicit authority for the following types of decisions:

- a. decisions to compel the production of information from registered and unregistered providers
- b. decisions about whether or not a provider complies with the Prevent duty, and anything incidental to that (e.g. risk assessments, the need for review visits etc)
- c. decisions to disclose information about a provider in relation to Prevent to third parties

37. Exempt from publication.

35. The proposed wording of these amendments to the scheme of delegation for the board's approval can be reviewed at Annex D. In addition we are considering whether we need to seek delegation arrangements for any prospective matters relating to Covid-19, e.g. in the event that Government use powers under the Civil Contingencies Act 2004 to create new functions for the OfS whether further delegations are needed for making disclosures and information gathering. If this is the case we will circulate a request to the board.

36. In terms of supporting our staff, in January we launched Workday Learning, our new online learning management system. The next phase will see us develop content which will be delivered through Workday, as defined in the 'OfS Essentials' learning and development programme. An invitation to tender for this work is currently live. We have also delivered a new annual People Survey which closed on 28 February 2020. This mirrors the Civil Service People Survey and means we will be able to benchmark against the 100+ organisations which take part in that, including other regulators. We will analyse the results and provide the board with a summary of the results at the next board meeting.

37. To coincide with the publication of our student engagement strategy, we have launched two new social media channels. Instagram and Facebook will allow us to reach greater numbers of students, and we will tailor content to these channels – particularly Instagram – accordingly. The new channels – and a commitment to reach students more effectively – are key aspects of our new social media strategy, which also includes a commitment to provide increased support for staff in policy areas who use social media in their jobs as a

way to build networks and share information. We now have 12,100 followers on Twitter. There were 195,000 unique page views to the website in February, with 562,000 unique page views between November and February.

38. Our March 2020 Risk and Assurance report can be found at Annex E.

39. A note of future board business can be found at Annex F.

40. An overview of OfS communications since the date of the last board meeting can be found at Annex G.

Annex B: summary of the OfS's response to the Covid-19 epidemic (09.03.20)

This paper briefly summarises the work being undertaken by the OfS to respond to the Covid-19 epidemic, in terms of both our external regulatory functions and our internal staffing capacity. This update was accurate as at midday 9 March 2020 and supplements the email sent by Nolan Smith on 5 March 2020. Any developments between the writing of this update and the board meeting will be reported orally.

1. OfS regulatory functions

1. To date our external role has primarily consisted of distributing advice from the DfE and Public Health England, when requested by them, to all registered providers. We have also made this information available on our website. Their advice has covered basic guidance on hygiene, as well as strategic decisions (for instance on 3 March 2020 advising that no school should close unless directed by Public Health England). On 3 March 2020, the DfE also announced the establishment of a general helpline for all staff, students and parents, as well as a separate immigration helpline. We will continue to play this role of disseminating information on behalf of government.
2. We have also liaised with the DfE to ensure that we can respond should a decision be made by the government (through the Civil Contingencies Unit) to close some or all universities, should that be required.
3. We are now planning our response to various scenarios that might arise:
 - How we would ensure that so far as possible students are protected should providers close, to ensure alignment with both PHE/DfE advice and the requirements of our regulatory framework;
 - Whether we would need to adapt the requirements of our regulatory framework, by suspending various requirements or adapting others (for instance in relation to reportable events);
 - How we might model possible consequences for providers' financial viability and sustainability
 - Whether we have a role in sharing examples of effective practice in planning or preparations amongst registered providers, bearing in mind that some providers may be better prepared than others. This might for instance cover mitigating the impact of disrupted teaching, assessment or exams, or supporting international students;
 - Whether we can assist in providing information to registered providers regarding DfE policy decisions – for instance in relation to funding flows from the SLC to providers were institutions were to close; or what the position would be in relation to funding for students who have to extend their studies due to disruption.
4. These responses would require close collaboration with other sector agencies, as well as the devolved administrations. Universities UK, working closely with DfE and sector agencies have set up a working group on Covid-19. The OfS is a member of this group and the group had its first meeting on 6 March.
5. On 9 March we wrote to all registered HE providers requesting information on any suspected or actual cases of Coronavirus (both staff and students), and any actions should a provider encounter cases. Information collected will, as appropriate, be shared with government to help with their planning.

6. We will be modelling our response by reference to the short term (for instance broken down into April to June; July to August, September to December) as well as the medium to longer term – for instance in terms of the impact of a decline in international student participation and the impact on the sustainability of providers.

2. OfS operations

7. We are planning the impact of staff illness, or other incapacity – were significant numbers of staff required to stay at home due to child care responsibilities, or were both Bristol and London offices required to close, or significant numbers of staff to fall ill. Our Business Continuity team have implemented several initial actions and are developing our responses to mitigate any further vulnerabilities and risks. We will also be undertaking a compulsory 'working at home' day on Thursday 12 March to test our capabilities to operate without offices and all staff needing to work remotely.
8. We are particularly looking at how we would manage the impact of reduced staff capacity (i.e. part 2 of this paper) coinciding with increased regulatory responsibilities (i.e. part 1 of this paper). In effect, this would be likely to require extreme prioritisation and suspension of 'business as usual'.
9. As part of this exercise we will explore how we can continue to make robust decisions that comply with our scheme of delegation. In terms of board and committee decisions, this will involve ensuring we have the capacity to make effective conference calls with board and committee members. Indeed, starting with the board meeting on 16 March 2020, we will be ensuring that we have alternative meeting arrangements in place should the organisation be required to shut, or should travel be restricted, by the time of that meeting.

3. Oversight of OfS's Covid-19 response

10. A working group has been set up to coordinate the work described in this paper, to be chaired by Nolan Smith, Director of Finance and Resources, and drawing in staff from across the organisation.

Annex F – Board forward look

21 May

Report from the Provider Risk Committee including periodic “focus on” the committee
Report from the Quality Assessment Committee
Annual report to the board from the Risk and Audit Committee
OfS annual report and accounts 2019-20
Finance report
Proposals on future funding method
Harassment and sexual misconduct – outcomes of consultation
Corporate scorecard reporting
Follow up on student consumer protection
Update on TEF

2 July

Report from the Risk and Audit Committee
Report from the Horizon Scanning Panel
Finance report
People update
Report from the Remuneration and Nominations Committee including periodic “focus on” the committee

22 September

Report from the Provider Risk Committee
Report from the Quality Assessment Committee including periodic “focus on” the committee
Report from the Risk and Audit Committee
Finance report
OfS annual review
TEF
Review of admissions systems