



## **Draft minutes of the OfS board meeting, 23 September 2021**

**Location: One Great George Street, London**

**Timings: 930-1300**

- Present members: James Wharton (chair)  
Martin Coleman  
Nicola Dandridge (chief executive)  
Elizabeth Fagan  
Katja Hall  
Verity Hancock  
Kathryn King  
Kate Lander  
Simon Levine  
Martha Longdon  
Chris Millward (Director for Fair Access and Participation)
- Attendees: Hannah Sheehan, Department for Education (DfE) representative
- Apologies: David Palfreyman  
Monisha Shah
- Officers: Camilla Briault, Strategic Business Manager  
Ed Davison  
Josh Fleming  
Paul Huffer, Head of Legal  
Susan Lapworth, Director of Regulation  
Paula McLeod, Corporate Governance Senior Adviser (clerk)  
Richard Puttock, Director of Data, Foresight and Analysis  
Nolan Smith, Director of Resources and Finance  
Ben Whitestone, Head of Governance

## Chair's welcome

1. In opening the meeting, and welcoming board members and other OfS colleagues, the chair advised that David Palfreyman and Monisha Shah had sent their apologies. Conor Ryan was also unable to attend. He also welcomed Camilla Briault, Strategic Business Manager and Hannah Sheehan from the Department for Education (DfE).
2. The chair advised that Gurpreet Dehal had stepped down from the board earlier in the month. He put on record his thanks to Gurpreet on behalf of the board for his excellent contributions over the years, and also for his work as a member of the Risk and Audit Committee.
3. The board noted its general duties as set out on the agenda and the need to have regard to these as it considered papers and made decisions.

## Approval of July minutes (paper 2.1)

4. The minutes of the board meeting held on 13 July 2021 were approved.

## Chief executive's report (paper 3.1)

5. 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 13 July 2021.
6. The following points were raised:
  - a. As part of the planning for the implementation of the Lifelong Loan Entitlement (LLE), a Challenge Competition has been launched for providers to bid for funding to develop higher education short courses at Levels 4-6 in government priority areas. Kate Lander has agreed to chair the assessment panel. It was recognised that the timescales for this would be challenging as was the burden being placed on providers who wished to bid, but this was necessary due to the timing of government decisions and the need to gather learning to inform the implementation of the LLE.
  - b. As he has now left the board, a replacement for Gurpreet Dehal on the quarterly review group for the Data Futures Programme was required. The board agreed to the proposal that Margaret Monckton, an independent member of the Risk and Audit Committee, should be appointed to this role. She would provide feedback to the board through the chair of the Risk and Audit Committee.
  - c. The board noted the communications activities planned over the coming months.
  - d. The OfS is continuing its work in relation to suicide prevention and student mental health, recognising that addressing mental health issues is a high priority for students. The OfS is exploring options for further intervention in this area, which could extend from setting expectations, to gathering and publicising student feedback through NSS, and measures to promote good practice.
  - e. Following the recent publication of the Prevent monitoring data, further analysis will be undertaken with some cases followed up as necessary.
7. The board noted the updates contained in the report.

## Presentation of regulating student outcomes

8. The Director of Regulation gave a presentation on the approach the OfS is developing for its consultation on regulating student outcomes in the autumn. She noted the following current thinking:
  - a. Exempt from publication
  - b. Exempt from publication
  - c. Exempt from publication
  - d. Exempt from publication
  - e. Exempt from publication
  - f. Exempt from publication
9. Exempt from publication
  - a. Exempt from publication
  - b. Exempt from publication
  - c. Exempt from publication
  - d. Exempt from publication
  - e. Exempt from publication
  - f. Exempt from publication
10. Exempt from publication
  - a. Exempt from publication
  - b. Exempt from publication
  - c. Exempt from publication
  - d. Exempt from publication
  - e. Exempt from publication
11. Exempt from publication
  - a. Exempt from publication
  - b. Exempt from publication

### Report on findings from A&P monitoring (paper 5.1)

12. The Director for Fair Access and Participation introduced his paper outlining progress made on access and participation following reforms agreed by the board in December 2018. He also set out the emerging issues for OfS regulation and funding in the future. He highlighted that:
  - a. Disadvantaged students have been disproportionately affected by the impact of the pandemic. Catalysing higher education providers to help these students to catch up on lost learning needs to be proportionate with what it might be possible for OfS to achieve as the higher education regulator.
  - b. Given data developments, it would be possible in future to focus more closely on the most disadvantaged students in a more targeted way, for example, through the use of data on free school meals and their intersection with other factors such as place and ethnicity.
  - c. It would be essential for measures to promote inclusivity and equality of opportunity in relation to student success to be underpinned by rigour in relation to quality and standards.
  - d. The introduction of the LLE could improve opportunities for learning at different stages of life, which could become a stronger feature of access and participation plans.
  - e. Although admissions to higher education have increased this year with record numbers coming from disadvantaged background, the number of students from advantaged backgrounds also increased, so the gap between the two groups has widened. The challenge for the OfS is to decide how hard to push on improving equality of opportunity as against improving opportunity.
13. The following points were made in discussion:

- a. Providers will need to assess the capabilities of incoming students and focus their catch-up activities on those that need the most support.
- b. The OfS's work on access and participation should align with the government's wider plans for post-18 education. Diversifying the routes through post-18 education should, though, involve higher education and enable students to progress as far as their abilities and aspirations enable them, rather than setting higher education and further education against each other.
- c. The aim of outreach work with schools and colleges is to improve grades and shift family expectations. Caution is needed on how much we can expect providers to improve attainment in schools, but they can do more to widen the funnel into higher education so it is not just seen as a one-time opportunity for young people.
- d. Although it was desirable for the HE sector to play an important part in the government's levelling up agenda through providing education and encouraging people to stay in the region, the OfS does not currently have the levers to manage the market in this way and to make it a focus of its access and participation work.
- e. Outreach mapping will look at any gaps in support provided for students from moderate backgrounds falling between those classed as advantaged and disadvantaged.

14. The board noted:

- a. The emerging findings from monitoring of 2019-20 access and participation plans and the latest admissions data, and that a summary report will be published in late autumn 2021.
- b. The issues highlighted for OfS regulation and funding of access and participation in the future
- c. That its view will help to inform our approach to future regulatory guidance on access and participation plans, to the funding of access and participation following the spending review, and the work of the incoming Director for Fair Access and Participation.

### Free speech (paper 6.1)

15. The Director of Regulation introduced her paper asking the board to provide a strategic steer on the approach the OfS should take to issues of free speech and academic freedom, ahead of the implementation of the provisions of the government's proposed Higher Education (Freedom of Speech) Bill. Exempt from publication

16. The following points were made in discussion:

- a. Supporting free speech is essential for higher education, and should be defended across the board with all views being allowed, subject to the constraints of the law. A university should be a place where people can debate and discuss issues in a structured way that leads to a better society. It is important that students have the opportunity to learn to debate complex and difficult issues in a nuanced way.
- b. The OfS is able to consider providers' compliance with existing regulatory requirements, including by considering their decision-making processes for free speech issues. The board took the view that concerns about free speech were too important to wait for the Bill to be enacted and it was important for the OfS to continue to use its existing powers.
- c. The criteria for the cases the OfS chooses to pursue needs careful consideration, particularly in the context of the OfS's existing powers and limited resources. It will be important to choose cases that incentivise compliance now and in the future.

17. In expressing its overwhelming support for the executive's recommendation, the board requested further discussion about the criteria that would be used to identify cases the OfS would pursue. This will be brought back to a future meeting.

### **Financial sustainability of registered providers (paper 7.1)**

18. The Director of Regulation introduced her paper which set out the OfS's approach to monitoring financial sustainability before and during the pandemic and proposals to develop a more proactive approach to monitoring and intervention for the medium- and long-term. She advised that:
- a. Post-pandemic, the OfS should develop its monitoring approach to better understand future financial risks for the sector and individual providers.
  - b. This could be achieved through exploiting data already held by the OfS and using that data to model scenarios that may have differential impacts on providers.
  - c. Modelling in this way would allow the OfS to identify cases in which early intervention on management and governance matters would reduce the risk to students that may be generated by a provider heading towards financial difficulties.
19. The following points were made in discussion:
- a. This is important work for the OfS and it was particularly important to be confident that those providers that may be vulnerable to changes in their operating environment could be identified.
  - b. Changes and events that could impact on the sector such as a rise in energy prices, a weak pound and the appetite of the banks to lend to providers, will be used to inform modelling and monitoring.
20. The board:
- a. Acknowledged the importance of the OfS continuing with this work and developing it further over the medium term.
  - b. Noted the need to make decisions about prioritisation of this work in the context of a large programme of regulatory activity.
  - c. Asked for a further opportunity to discuss these issues, including the types of providers that may be vulnerable to future financial risk, at a future meeting.

### **Finance report (paper 8.1)**

21. The Director of Finance and Resources introduced a paper updating the board on the financial position of the OfS for the five-month period ended 31 August 2021 and forecast expenditure for the full financial year (to 31 March 2020). He advised that:
- a. Exempt from publication
  - b. Exempt from publication
  - c. Exempt from publication
22. The board received the report.

### **Oral report from the Quality Assessment Committee**

23. The chair of the Quality Assessment Committee presented his report to the board on the outcomes of its most recent meeting held on 14 September 2021. He reported that:
- a. The committee had considered the scope of the triennial review of the DQB. The outcomes of the review will be reported to the board in spring 2022.
  - b. A process is underway to recruit new members to the committee.

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

25. The board received the oral report from the Quality Assessment Committee

### **Oral report from the Risk and Audit Committee**

26. The chair of the Risk and Audit Committee updated the board on the outcomes of its most recent meeting held on 8 September 2021. She reported that:

- a. Exempt from publication
- b. Exempt from publication
- c. The process to recruit a new independent member to the committee to replace Colin Wilby has now been completed.

27. The board received the oral report from the Risk and Audit Committee.

### **Closing remarks**

28. The chair thanked the board and the executive for their contributions both at the meeting and at the planning event. He reminded members that the next meeting of the board will be held on 2 December 2021.

The meeting closed at 1230.