

Part 1: scheme of delegation from 1 August 2019

What is it?

1. The Office for Students' (OfS) powers, duties and functions are set out in the Higher Education and Research Act (HERA) 2017. Within that legislative framework, our scheme of delegation sets out how the OfS makes decisions, either through the OfS board itself, through its committee structure, or through a structure of delegations through the chief executive to directors and to staff.

Delegation principles

2. Our scheme of delegation outlines how decisions are taken and how staff are accountable for these decisions. It ensures that staff know what is expected of them, and if asked how a decision has been made, we can clearly demonstrate who had the authority to make it. Ensuring that there is clarity about decision making is an important aspect of the appropriate use of public funds as set out in *Managing Public Money*¹. There are a number of broad principles which guide our detailed scheme of delegation:
 - The OfS is a transparent, accountable, proportionate and consistent regulator: our scheme of delegation supports us to operate in this way.
 - Decision making is delegated as close as possible to the impact of the decision and where the expertise lies, with regard to reserved matters where necessary.
 - A diversity of views is sought in decision making: therefore groups have delegated responsibility where appropriate in line with the scheme of delegation.
 - Our scheme of delegation ensures we comply with all relevant legal obligations.

Who has the authority to take decisions in the OfS?

3. Matters reserved to the OfS board are:
 - Consideration and approval of the 'Approach to Corporate Governance' including the terms of reference of its committees
 - Consideration and approval of the OfS's strategic objectives
 - Changes to the regulatory framework²
 - Approval of risk management arrangements.

¹ See

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf

² Section 75 of HERA

4. The board is responsible for major reputational issues facing the OfS. However, it is not practical for the board to make every decision necessary to fulfil the OfS's role. It therefore delegates the authority to make certain decisions to individuals and/or groups as set out in this scheme of delegation. In addition, where a type of decision or the exercise of a function is not expressly reserved to the board or set out within this scheme of delegation, the board has decided that this type of decision or function is to be treated as an "operational matter" and is delegated to:
 - the chief executive and the Directors' Group;
 - in respect of their normal areas of responsibility, each director; and
 - with the written authorisation (in any form or medium) of the chief executive or director (in respect of a matter within their normal area of responsibility), any member of staff at pay band 8 or above.
5. In making decisions, the Directors' Group should consist of the chief executive (including a director acting as the chief executive) and two or more directors. The Directors' Group has delegated authority to take decisions on:
 - any matters that may otherwise be taken individually by the chief executive or a director (excluding the matters that are reserved to the Director for Fair Access and Participation, the DFAP, in this scheme of delegation);
 - operational matters or strategic issues; and
 - having regard to legal advice, matters relating to legal or reputation risks arising in connection with any decisions and functions of the OfS (including matters reserved to the board or the DFAP in this scheme of delegation).
6. The scheme of delegation deals with the temporary delegation of certain functions. For this purpose, the following provisions apply in respect of the delegation of one or more functions which are expressly covered by this scheme of delegation (excluding functions that are treated as operational matters and functions that are reserved to the DFAP) and each such function is hereafter referred to as "Specific Function":
 - a. Subject to the conditions set out in b., each OfS board member and member of staff at pay band 10 or above is treated as having a form of delegated authority for any Specific Function which can be activated from time to time;
 - b. The conditions are that:
 - i. The OfS board member or member of staff with delegated authority for the relevant Specific Function has given written authorisation (in any form or medium) to another OfS board member or member of staff at pay band 10 or above to exercise that function on a specific occasion or on a time-limited basis; and
 - ii. The OfS board member or member of staff at pay band 10 or above who is the subject of the written authorisation complies with any conditions set out in that written authorisation.

7. Any functions for which the board has delegated authority can be exercised or reassumed by it either generally or on a case by case basis.
8. Functions, matters, powers, authorisations, delegations, duties and responsibilities within this scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
9. Parts 1 and 2 of this scheme of delegation describe how specific delegated responsibility is exercised at the OfS.
10. Where an individual or group has delegated authority under this scheme of delegation, that individual or group also has delegated authority to seek and receive legal advice from the Head of Legal, including via member of staff or contractors operating under the supervision of the Head of Legal, and external lawyers instructed by the Head of Legal.

Part 2: detailed scheme of delegation

This document sets out the detail of the OfS scheme of delegation and should be read in accordance with scheme's principles in Part 1.

Decisions required by the board

1. The board will normally make decisions at one or more of its formal meetings. Should scheduling issues preventing the board from meeting face-to-face, it can consider issues and take decisions via correspondence or a special meeting. In the unusual event that it is not possible to convene the board to make an urgent decision within the necessary timescales, or make an urgent decision through correspondence, the board delegates authority to the chair and chief executive to take urgent decisions on any matter that could have been decided by the board between board meetings, provided any such decisions are reported to the board at its next meeting.

The chair

2. The chair has particular responsibility for providing strategic leadership and for responding to major reputational issues.
3. The board may delegate decisions to the chair as circumstances dictate. The board delegates authority to the chair to appoint board members/independent members to OfS committees.
4. In respect of any matter where the chair of the board has a conflict of interest, the chair's authority will be exercised by the deputy chair of the board.
5. There may be instances where the chair is absent or unable to fulfil his functions, with or without prior notice. In these circumstances the chair's authority will be exercised by the deputy chair.

The chief executive

6. The chief executive is the accounting officer, which means she is the OfS staff member who ultimately takes responsibility for the proper and regular use of public funds and ensuring value for money.
7. It is not practical for the chief executive to make every day-to-day operational decision necessary for the smooth running of the OfS. Decision-making on operational matters is therefore cascaded to the Directors' Group, directors and other staff in accordance with paragraph 4 of Part 1 of this scheme of delegation.
8. Where the chief executive has a conflict of interest, the chair or director will exercise her function.
9. There may be instances where the chief executive is absent or unable to fulfil her functions, with or without prior notice. When the chief executive is on leave she will delegate her authority to one of the directors to act on her behalf and exercise such delegated powers across the full range of duties carried out by the chief executive. In the event of the chief

executive's unplanned absence, the chair may authorise the delegation of authority to one of the directors to act on her behalf across the full range of duties carried out by the chief executive, taking appropriate advice from the chair. This will enable urgent decisions to be taken during such periods of absence.

The Director for Fair Access and Participation (DFAP)

10. HERA makes provision for the OfS board to delegate responsibility to the DFAP for the OfS's access and participation functions. The OfS board delegates the responsibilities set out in paragraph 3 of schedule 1 of HERA to the DFAP:
 - a. To issue guidance as to the matters to which the OfS will have regard in deciding whether to approve access and participation plans
 - b. Decisions to approve or refuse access and participation plans
 - c. Decisions to refuse to renew an access and participation plan
 - d. Monitoring of access and participation plans (including access agreements agreed by the OFFA Director of Fair Access and penalties arising from this)
 - e. To issue guidance on good practice in preparing access and participation statement(s)
 - f. Reporting to the board on access and participation and preparation of any reports relating to access and participation required by the Secretary of State
 - g. To identify and give advice to registered providers about good practice relating to the promotion of equality of opportunity.
11. Subject to the conditions in paragraph 12 below, any member of staff at pay band 7 or above ("relevant member of staff") has delegated to authority to exercise the following functions:
 - a. To provide the DFAP with advice, information or assistance with the exercise of the OfS's access and participation functions
 - b. To compel the production of documents and information in accordance with any registration condition or statutory provision (excluding section 61 of HERA)
 - c. To disclose information externally in accordance with section 63 of HERA
 - d. To do anything which is calculated to facilitate, or is conducive or incidental to 11 a. to c.
12. The conditions are that:
 - a. The DFAP has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant functions (which may be on a specific occasion or on a time-limited or enduring basis).

- b. The DFAP is satisfied that the relevant member of staff has appropriate skills and experience.
- c. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the DFAP.
- d. The relevant member of staff obtains and has regard to legal advice; and
- e. The relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

Delegated authority for OfS legal function

13. The Head of Legal has delegated authority to:
- a. in accordance with any general or specific strategic direction which may be provided by the board, chief executive or relevant director, defend any form of legal claim, application or challenge brought against the OfS (including where the OfS is named as a respondent or party to proceedings).
 - b. with the agreement of, and in accordance with any general or specific strategic direction which may be provided by, the board, chair, deputy chair or chief executive:
 - i. bring, manage and conduct any form of legal claim or appeal on behalf of the OfS
 - ii. make an application for, and if granted exercise, a search warrant under section 61 of HERA 2017 on behalf of the OfS
 - iii. make any other form of legal application on behalf of the OfS, including but not limited to an application for a declaration, injunction, disclosure and award of costs.
 - c. in accordance with any guidance provided by the chief executive or supervising director on procurement and ensuring value for money, to procure and instruct external lawyers of any description or other specialist or professional support for the purposes of, or in connection with, the provision of legal representation, advice and/or support for any of the OfS's functions and/or any form of legal proceedings or application as described in 13 a. or b.
 - d. to disclose information externally in accordance with section 63 of HERA 2017 for any purposes connected with 13 a. to c. and e.
 - e. to do anything which is calculated to facilitate, or is conducive or incidental to 13 a. to d.
14. Acting under the supervision and direction of the Head of Legal, an employee or contractor of the OfS with the appropriate legal qualifications and experience has delegated authority to:
- a. assist the Head of Legal with any matters set out or described in 13 a. and b.

- b. instruct external lawyers of any description or other specialist support for the purposes of, or in connection with, the provision of legal representation, advice and/or support for any of the OfS's functions and/or any form of legal proceedings or application as described in 13 a. or b.
 - c. disclose information externally in accordance with section 63 of HERA 2017 for any purposes connected with 14 a., b. and d.
 - d. do anything which is calculated to facilitate, or is conducive or incidental to, 14 a. to c.
15. For the purposes of this delegation:
- 'Head of Legal' means, irrespective of a person's job title from time to time, the lawyer employed by the OfS, at the grade of pay band 12 or above, with the principal role of leading the provision of legal services;
- 'relevant director' means the employee or member of the OfS whose normal areas of responsibility cover the functions or matters in question; and
- 'supervising director' means the employee or member of the OfS the Head of Legal normally reports to.

Freedom of Information Act and Environmental Information Regulations

16. The following have delegated authority to disclose information or withhold information externally in accordance with the provisions of the Freedom of Information Act 2000 and/or The Environmental Information Regulations 2004:
- a. The chief executive (including a director acting as the chief executive);
 - b. The Directors' Group;
 - c. Each director;
 - d. The Head of Governance; and
 - e. Any member or staff or contractor who:
 - i. has appropriate qualifications and/or experience in relation to the Freedom of Information Act 2000 and/or The Environmental Information Regulations 2004;
 - ii. has been given written authorisation (in any form or medium) by a person with delegated authority under paragraphs 16 a. to d. above; and
 - iii. acts in accordance with the following conditions:
 - they operate under the supervision and direction of the Head of Governance; and
 - they have regard to legal advice.

17. A decision to withhold information pursuant to section 36 of the Freedom of Information Act 2000 may only be taken by persons authorised by a Minister of the Crown for this purpose in accordance with section 36(5)(o)(iii) of the Freedom of Information Act 2000. These persons are currently the chief executive or, in the absence of the chief executive, the Director of Resources, Finance and Transformation.

Regulation of individual providers

Applications to register with the OfS

18. The relevant team will assess all applications for registration and make recommendations on the following matters:
 - a. Whether the provider is eligible for registration (that is whether the provider is a provider of higher education in England)
 - b. Whether the provider satisfies the initial conditions of registration
 - c. The risk of a future breach of each of the ongoing conditions of registration
 - d. Actions (if any) that are necessary to mitigate areas of increased risk.
19. The OfS board delegates to the Provider Risk Committee (PRC), chief executive and Director of Competition and Registration the following decisions relating to the initial registration of providers on the OfS Register including, where judged necessary, the application, amendment or imposition of one or more specific conditions of registration.
20. The Director of Competition and Registration will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
 - a. the provider satisfies the initial conditions of registration; and
 - b. the risk category for each condition is no higher than yellow; or
 - c. the risk category for only condition A1 is amber.
21. The Director of Competition and Registration may decide upon recommendations to disapply the initial condition of registration B3 for a provider that meets these criteria.
22. The Director of Competition and Registration may refer any case to the chief executive or to the PRC in which case the chief executive or PRC will make a decision in that case.
23. The chief executive will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
 - a. the provider satisfies the initial conditions of registration; and
 - b. the risk category for each condition is no higher than amber; or
 - c. the risk category for only one condition is red unless that red condition is condition D (financial viability and sustainability) or E2 (management and governance).

24. The chief executive may decide upon recommendations to disapply initial condition of registration B3 for a provider that meets these criteria.
25. The chief executive may refer any case to the PRC in which case the PRC will make a decision in that case.
26. The PRC will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
 - a. the provider is not eligible for registration; or
 - b. the provider does not satisfy the initial conditions of registration; or
 - c. the risk category for two or more conditions is red or the risk category for condition D (financial viability and sustainability) or E2 (management and governance) is red.
27. The PRC, or the chair of the PRC, may decide upon recommendations to disapply one or more initial or ongoing conditions of registration for a provider.
28. The PRC may refer any case to the board in which case the board will make a decision in that case.

Monitoring, intervention and sanctions

29. The relevant team will assess all evidence and make recommendations on the following matters for each registered provider:
 - a. Whether the provider remains eligible for registration (that is, whether the provider is a provider of higher education in England).
 - b. Whether the provider continues to satisfy each of its ongoing conditions of registration, or whether there is or has been a breach of an ongoing condition of registration.
 - c. The risk of a future breach of each ongoing condition of registration.
 - d. Actions (if any) that are necessary to mitigate areas of increased risk of a future breach.
 - e. Actions (if any) that are necessary to rectify any breach and/or to mitigate the impact of any breach.
 - f. where the recommendation is that there is or has been a breach, whether to impose a monetary penalty and the amount of that penalty.
 - g. where the recommendation is that there is or has been a breach, whether suspension or deregistration is necessary.
30. Any decision for a case set out below may be referred to a more senior authority (a more senior authority may be the Director of Competition and Registration, chief executive, the PRC, or the board), in which case the more senior authority will make a decision in that case.
31. Where a decision about suspension or deregistration is listed to be taken by the board or by the PRC in the table below titled: 'Decision about changes to risk category and consequent

regulatory action', a 'gateway decision' will be taken by the chair, the chair of the PRC, the chief executive and the Director of Competition and Registration to determine whether the decision for an individual provider should be taken by the board or by the PRC.

32. The board will approve a 'monetary penalty framework' which sets out the circumstances in which a monetary penalty may be imposed by the chief executive or the Director of Competition and Registration. An approved monetary penalty framework will specify a maximum value for a monetary penalty imposed under the framework.
33. Where a decision to deregister a provider is taken by the board or by the PRC: a majority of the members of the board or the PRC will not take part in reaching a proposed decision, but will then rejoin the decision-making process as any representations from the provider are considered and a final decision is reached.
34. Subject to the conditions in paragraph 35 below, any member of staff at pay band 8 or above ('relevant member of staff') has delegated authority to exercise the following types of function or power in connection with any matter relating to monitoring, intervention and sanctions ('relevant functions'):
 - a. To compel the production of documents and information in accordance with any registration condition or statutory provision (excluding section 61 of HERA).
 - b. To impose, or amend, a specific condition of registration.
 - c. To determine that there is or has been a breach of an ongoing condition of registration.
 - d. To impose a monetary penalty and determine the amount of that penalty.
 - e. To disclose information externally in accordance with section 63 of HERA.
 - f. To assist, in the manner described in paragraph 4(4) of schedule 5 to HERA, authorised persons with the exercise of powers under a search warrant obtained under section 61 of HERA.
 - g. To do anything which is calculated to facilitate, or is conducive or incidental to paragraph 32 a. to f.
35. The conditions are that:
 - a. The relevant functions are only being exercised in relation to a matter for which the chief executive or Director of Competition and Registration has delegated authority for, in accordance with the table below titled: 'Decision about changes to risk category and consequent regulatory action'.
 - b. The chief executive or Director of Competition and Registration has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant functions (which may be on a specific occasion or on a time-limited or enduring basis).
 - c. The chief executive or Director of Competition and Registration is satisfied that the relevant member of staff has appropriate skills and experience.

- d. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the chief executive or Director of Competition and Registration.
- e. The relevant member of staff obtains and has regard to legal advice.
- f. The relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

Decision about changes to risk category, breaches, and consequent regulatory action

Table 1

Change to risk category	Direction of travel	New risk category recommended	Regulatory action recommended (to include addition, amendment or removal of an action)	Delegated authority
No	↔	Any	<ul style="list-style-type: none"> • No action required • Formal communication • Enhanced monitoring 	Director of Competition and Registration
No	↔	Any (all conditions except D and E2 if the risk category is red for one of these two conditions)	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	Chief executive
No	↔	Conditions D and E2 if the risk category is red for one of these two conditions	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	PRC
Yes	↓	Green, Yellow (all conditions) Amber (all conditions except B3, C3, D, E2)	<ul style="list-style-type: none"> • No action required • Formal communication • Enhanced monitoring 	Director of Competition and Registration
Yes	↓	Amber (conditions B3, C3, D, E2)	<ul style="list-style-type: none"> • No action required • Formal communication • Enhanced monitoring 	Chief executive

Yes	↑	Yellow (all conditions) Amber (all conditions except B3, C3, D, E2)	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Director of Competition and Registration
Yes	↑	Amber (conditions B3, C3, D, E2) Red (all conditions)	<ul style="list-style-type: none"> No action required Formal communication Enhanced monitoring 	Chief executive
Yes	Any	Any (all conditions except D and E2 if the risk category is red for one of these two conditions)	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	Chief executive
Yes	Any	Conditions D and E2 if the risk category is red for one of these two conditions	Specific condition – to include the replacement of an existing specific condition with enhanced monitoring or formal communication	PRC
Yes	N/A	Breach	<p>No action required</p> <p>Formal communication</p> <p>Enhanced monitoring</p> <p>Imposition of a monetary penalty (including the amount of a penalty) for a breach under an approved monetary penalty framework.</p>	Director of Competition and Registration
Yes	N/A	Breach	<p>Specific condition</p> <p>Imposition of a monetary penalty (including the amount of a penalty) for a breach under an approved monetary penalty framework</p>	Chief Executive
Yes	N/A	Breach	Imposition of a monetary penalty	The board or PRC, with a 'gateway decision'.

Yes	N/A	Breach	Suspension of registration under sections 16 and 17 of HERA	The board or the PRC, with a 'gateway decision'. In urgent cases, the group taking the 'gateway decision' may also reach the final decision about suspension for an individual provider.
Yes	N/A	Breach	Deregistration under sections 18-20 of HERA	The board or the PRC, with a 'gateway decision'.
Yes	N/A	Breach of conditions C3, D and E2	Initiation of interventions to prevent disorderly exit	The group taking the 'gateway decision' for deregistration.

The OfS's entry and search powers

36. Where a search warrant under section 61 of HERA has been issued, the chief executive and Director of Competition and Registration each have delegated authority to decide, with or without conditions, which additional members of OfS staff, at pay band 11 or above, will be authorised persons for the purposes of exercise powers under the issued warrant. Following such a decision, each of the members of OfS staff are to be treated as having their own delegated authority for the purposes of exercising powers under the issued warrant, subject to any conditions the chief executive or Director of Competition and Registration may decide to apply.

Quality and standards

Assessing the quality of, and standards applied to, higher education

37. Section 23 of HERA makes provision for the OfS to assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by English higher education providers.
38. The board has established a Quality Assessment Committee (QAC) as required by section 24 of HERA. The board must approve the committee's terms of reference, which must comply with section 23 of HERA including giving advice to the board and chief executive on the exercise of the OfS's quality functions by the Designated Quality Body (DQB).
39. A delegation is made to the chair of QAC, following consultation with the OfS chief executive, to take decisions on the board's behalf in relation to general directions about the performance of any of the assessment functions (under schedule 4 paragraph 10 of HERA), and formal requests for the DQB to provide information to the OfS under section 27(4) of HERA.
40. Any other decisions relating to the approach to be taken by the DQB are delegated to the chief executive.

Decisions about permission to use 'university' in a provider's title – for applications from 1 April 2019

41. Where a decision about revocation of university title is to be taken by the board or by the PRC in paragraph 48 below, a "gateway decision" will be taken by the chair, the chair of the PRC, the chief executive and the Director of Competition and Registration to determine whether the decision for an individual provider should be taken by the board or by the PRC.
42. Where a decision to revoke university title for a provider is taken by the board or by the PRC: a majority of the members of the board or the PRC will not take part in reaching a proposed decision, but will then rejoin the decision-making process as any representations from the provider are considered and a final decision is reached.

43. Subject to the conditions in paragraph 44 below, any member of staff at pay band 8 or above (“relevant member of staff”) has delegated authority to exercise the following types of function or power in connection with any matter relating to university title (“relevant functions”):
- a. To compel the production of documents and information in accordance with any registration condition or statutory provision (excluding section 61 of HERA)
 - b. To disclose information externally in accordance with section 63 of HERA
 - c. To do anything which is calculated to facilitate, or is conducive or incidental to 42 a. to b.
44. The conditions are that:
- a. The relevant functions are only being exercised in relation to providing advice, information or assistance to any other person with delegated authority, in accordance with paragraphs 46 and 48 below.
 - b. The chief executive or the Director of Competition and Registration has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant functions (which may be on a specific occasion or on a time-limited or enduring basis).
 - c. The chief executive or the Director of Competition and Registration is satisfied that the relevant member of staff has appropriate skills and experience.
 - d. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the chief executive.
 - e. The relevant member of staff obtains and has regard to legal advice.
 - f. The relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

Authorisation to use university title and university college title

45. The Competition and Market Entry team will assess all evidence and make recommendations on the following matters for each provider:
- a. Whether the provider meets the eligibility criteria for university title or university college title set out in paragraphs 284 and 285 of the regulatory framework
 - b. Whether the provider proposes to use a name that is not confusing and that has been subject to an appropriate consultation.
46. The board will consider the recommendations and decide whether or not the provider should be authorised to use university title or university college title.

Revocation of university title and university college title

47. The Competition and Market Entry team will assess all evidence and make recommendations on the following matters for each provider:
 - a. Whether one or more of the conditions set out in section 58 of HERA is satisfied.
48. The board or the PRC, with a “gateway decision” as set out in paragraph 41 above, will consider and decide upon recommendations for providers where the recommendation is that university title or university college title should be revoked.

The OfS’s advice on university college and university title applications under the old system

49. Approval of giving advice and information in response to a request from the Secretary of State in respect of the creation of a university or the use of university or university college (in connection with powers that continue to be exercisable by the Privy Council) is delegated to the chief executive or Director of Competition and Registration.

Decisions about the authorisation, variation and revocation of degree awarding powers (DAPs)

50. The Competition and Market Entry team will assess all evidence and make recommendations on the following matters for each provider:
 - a. Whether the provider has submitted a correct application
 - b. Whether the provider is, or remains, eligible for DAPs as set out in paragraphs 211, 247, 278 and 281 of the regulatory framework
 - c. Whether the provider is, or remains, suitable for DAPs as set out in paragraphs 228-229 and 256-257 of the regulatory framework
 - d. For an application for New DAPs, whether the provider’s student protection plan is suitable
 - e. Whether the provider has provided a satisfactory progression statement as part of an application for foundation degree only authorisation
 - f. Whether the provider should be referred to the designated quality body for assessment
 - g. Having regard to advice from the designated quality body, whether DAPs should be authorised, varied or revoked for the provider.
51. Any decision for a case set out in Table 2 below may be referred to a more senior authority (a more senior authority may be the Director of Competition and Registration, chief executive, the PRC, or the board), in which case the more senior authority will make a decision in that case.
52. Where a decision about the variation or revocation of degree awarding powers is listed to be taken by the board or by the PRC in Table 2 below, a “gateway decision” will be taken by the chair, the chair of the PRC, the chief executive and the Director of Competition and

Registration to determine whether the decision for an individual provider should be taken by the board or by the PRC.

53. Where a decision to vary or revoke degree awarding powers for a provider is taken by the board or by the PRC: a majority of the members of the board or the PRC will not take part in reaching a proposed decision, but will then rejoin the decision-making process as any representations from the provider are considered and a final decision is reached.
54. Subject to the conditions in paragraph 55 below, any member of staff at pay band 8 or above (“relevant member of staff”) has delegated to authority to exercise the following types of function or power in connection with any matter relating to degree awarding powers (“relevant functions”):
 - a. To compel the production of documents and information in accordance with any registration condition or statutory provision (excluding section 61 of HERA)
 - b. To refer a provider for assessment to the designated quality body
 - c. To disclose information externally in accordance with section 63 of HERA
 - d. To do anything which is calculated to facilitate, or is conducive or incidental to 53 a. to c.
55. The conditions are that:
 - a. The relevant functions are only being exercised in relation to:
 - i. a matter for which the chief executive or the Director of Competition and Registration has delegated authority, in accordance with Table 2 below
 - ii. providing advice, information or assistance to any other person with delegated authority, in accordance with Table 2 below.
 - b. The chief executive or the Director of Competition and Registration has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant functions (which may be on a specific occasion or on a time-limited or enduring basis).
 - c. The chief executive or director of competition and registration is satisfied that the relevant member of staff has appropriate skills and experience.
 - d. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the chief executive.
 - e. The relevant member of staff obtains and has regard to legal advice.
 - f. The relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.

Authorisation, variation and revocation of DAPs

Table 2

Risk category for conditions B1, B2, B3, B4, B5, C3, D, E1 and E2	Action recommended	Delegated authority
Where none of these conditions are Red	Refer to the DQB for assessment.	Director of Competition and Registration
Where none of these conditions are Amber or Red	<p>Authorise DAPs.</p> <p>Extend a New DAPs authorisation for up to 12 months.</p> <p>Vary a time-limited DAPs authorisation to an indefinite DAPs authorisation.</p> <p>Vary a DAPs authorisation for reason other than where the OfS has concerns about the quality of, or the standards being applied to, higher education.</p> <p>Each of these may be with or without:</p> <ul style="list-style-type: none"> • restrictions to the authorisation • actions in relation to the provider's ongoing conditions of registration to mitigate areas of increased risk. 	Director of Competition and Registration
Where any of these conditions are Red	Refer to the DQB for assessment.	Chief executive
Where any of these conditions are Amber	<p>Authorise DAPs.</p> <p>Extend a New DAPs authorisation for up to 12 months.</p> <p>Vary a time-limited DAPs authorisation to an indefinite DAPs authorisation.</p> <p>Vary a DAPs authorisation for reason other than where the OfS has concerns about the quality of, or the standards being applied to, higher education.</p> <p>Each of these may be with or without:</p> <ul style="list-style-type: none"> • restrictions to the authorisation 	Chief executive

	<ul style="list-style-type: none"> actions in relation to the provider’s ongoing conditions of registration to mitigate areas of increased risk 	
Any	Do not refer to the DQB for assessment.	PRC
Where any of these conditions are Red	<p>Authorise DAPs.</p> <p>Extend a New DAPs authorisation for up to 12 months.</p> <p>Vary a time-limited DAPs authorisation to an indefinite DAPs authorisation.</p> <p>Vary a DAPs authorisation for reason other than where the OfS has concerns about the quality of, or the standards being applied to, higher education.</p> <p>Each of these may be with or without:</p> <ul style="list-style-type: none"> restrictions to the authorisation actions in relation to the provider’s ongoing conditions of registration to mitigate areas of increased risk. 	PRC
Any	<p>Do not authorise DAPs.</p> <p>Do not extend a New DAPs authorisation.</p> <p>Do not vary a time-limited DAPs authorisation to an indefinite DAPs authorisation, with or without extension of the time-limited DAPs authorisation.</p>	PRC
Any	<p>Vary a DAPs authorisation because the OfS has concerns about the quality of, or the standards being applied to, higher education.</p> <p>This may be with or without actions in relation to the provider’s ongoing conditions of registration to mitigate areas of increased risk.</p>	The board or the PRC, with a “gateway decision” as set out in paragraph 52 above
Any	<p>Revoke a DAPs authorisation.</p> <p>This may be with or without actions in relation to the provider’s ongoing conditions of registration to mitigate areas of increased risk.</p>	The board or the PRC, with a “gateway decision” as set out in paragraph 52 above

The OfS's advice on DAPs under the old system

56. For applications received before or on 31 March 2018, approval of advice provided to the Secretary of State in respect of the awarding of DAPs (in connection with powers that continue to be exercisable by the Privy Council) is delegated to the chief executive.

Specific course designation

57. Subject to the conditions set out in paragraph 58, the following persons have delegated authority to exercise powers, under or by virtue of section 62 of HERA and/or paragraph 15 of schedule 1 to HERA, to compel a person to provide information:
- a. The chief executive; and
 - b. Any member of staff at pay band 7 or above (“relevant member of staff”).
58. The conditions are:
- a. The powers are only used for the following purposes in relation to Specific Course Designation:
 - i. for assessing an application made by a person for Specific Course Designation to be granted by the OfS;
 - ii. for assessing compliance with a condition that applies to, or making any other assessment in connection with, Specific Course Designation which has been granted by the OfS.
 - b. The chief executive has given written authorisation (in any form or medium) to the relevant member of staff in respect of all or any relevant powers (which may be on a specific occasion or on a time-limited or enduring basis).
 - c. The chief executive is satisfied that the relevant member of staff has appropriate skills and experience.
 - d. The relevant member of staff operates in accordance with any general or specific instructions or strategic steer provided by the chief executive.
 - e. The chief executive and relevant member of staff obtains and has regard to legal advice.
 - f. The chief executive and relevant member of staff does not further delegate the exercise of the relevant function to another member of OfS staff who does not have delegated authority under this part of the scheme of delegation.
59. For the purposes of paragraphs 55 and 56, “Specific Course Designation” means any functions under or by virtue of section 22 of the Teaching and Higher Education Act 1998 that have been delegated to the OfS by the Secretary of State pursuant to section 23 of that Act.

60. Approval of giving advice and information in response to a request from provided to the Secretary of State in respect of DfE retained powers to designate courses for student support is delegated to the chief executive.

Advice on the designation of a provider as a further education institution

61. Section 28 of the Further and Higher Education Act (1992) sets out the Secretary of State's powers to designate a provider as a further education institution. Where this designation is because of a merger with a higher education institution, the OfS provides advice to the Secretary of State on the case for further education designation submitted by the higher education institution. Approval of advice in respect of further education designation is delegated to the chief executive.

Teaching Excellence and Student Outcomes Framework

62. Under the HERA 2017 section 25 the OfS may make arrangements for a scheme to give ratings. The OfS has adopted the Teaching Excellence and Student Outcomes Framework (TEF) as the scheme.
63. The OfS board delegates to the chief executive the authority to take decisions necessary to manage and implement the TEF such as decisions about: eligibility; the use of data and data amendments; and the appointment of assessors and members of the TEF Panel. The TEF Panel chair is appointed by the OfS board. TEF assessors and TEF Panel members are appointed by the OfS chief executive for their standing with higher education providers and students. The role of assessors is to assess individual applications while the TEF Panel has the role of taking independent decisions on the final judgement of a provider's rating.

Terms and conditions of OfS funding

64. The board delegates to the chief executive the authority to approve the OfS terms and conditions of funding. The board delegates to the chief executive authority to agree any specific terms and conditions of funding with individual providers.

Accounts direction

66. Approval of the Accounts Direction may be undertaken by the chief executive.

The Prevent duty

67. Under the Counter-Terrorism and Security Act 2015 the OfS has delegated responsibility from the Secretary of State for monitoring compliance with the Prevent duty in the higher education sector in England, and for advising the Secretary of State on levels of compliance. In practice, this means the OfS gathers evidence from providers and makes an assessment of this evidence as to whether they are demonstrating due regard. Where a provider cannot show sufficient evidence of compliance with the duty the OfS will work with them to agree any changes needed. If we conclude that the provider's response has been inadequate in any area of this monitoring framework, and it does not agree to take further action, we will consider whether to ask the DfE to consider whether further formal action is needed. Decisions about whether the provider is not demonstrating due regard to the duty, and so should be referred to the DfE, are taken by the chief executive and reported to the board.

OfS financial management

68. All staff are required to operate under the financial management principles described above and set out in *Managing Public Money*³. Guidance is provided to staff in guidance for budget holders and managers, the Staff guide, and the Procurement guide. These detail the authority limits, thresholds and procedures to be followed. The most effective controls over expenditure are those that operate at the point that expenditure is committed. Budget holders and budget managers, therefore, need to be able to track commitments, and not just what has been paid against their budgets.
69. The power to commit the OfS to expenditure is assigned to specific individuals. Other staff are not normally permitted to order goods or services. Guidance is supplemented by Government's spending controls which apply to some categories of spend such as that on advertising, marketing and communications; digital and technology, consultancy, and property and facilities management.

Programme budgets

70. Programme budgets are agreed by the OfS board. 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.
71. 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.

³ See www.gov.uk/government/publications/managing-public-money

72. The board delegates to the chief executive the ability to make changes to individual funding allocations or virements between budgets. This includes:
- a. Decisions on the recovery of grant. This will include: acceptance or rejection of appeals against holdback where student numbers have not been delivered or where recruitment has exceeded levels permitted e.g. for medical and dental intake targets recoveries from the outcomes of data audits or data reconciliations; or where providers have not delivered the activities for which the grant funding was provided, or used the full allocation of funding in delivering those activities.
 - b. Decisions on medical and dental intake student number allocations. Regarding medical and dental intake allocations, the chief executive will take advice from the Department of Health and Social Care, Health Education England and the DfE to ensure that the supply of medical students meets the needs of the NHS, and is aligned with the support available for clinical placements and foundation training places.
73. Without prejudice to her general power to delegate conferred above, the chief executive may delegate to the appropriate director the responsibility for management of programme budgets that relates to their strategic responsibilities. Each director will be provided with a delegation to manage a specified amount of the OfS's resources in accordance with budget(s) set by the board or a lower limit set by the chief executive. The director as budget holder is responsible for ensuring it is effectively managed and delivers value for money, and these responsibilities cannot be delegated further.
74. A director may be assisted in the day-to-day management of budgets under their control by a budget manager. These arrangements must be documented and must be within defined parameters.
75. The director must ensure that all budget managers within their responsibility:
- a. have a clear view of their budget management objectives and the means to assess and measure outputs or performance in relation to those objectives
 - b. have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

Administration budgets

76. Administration budgets relate to the costs of the OfS's operation, such as staff salaries and premises. The board delegates to the chief executive the authority to agree administration budgets. Without prejudice to her general power to delegate conferred above the chief executive may delegate to the appropriate director (or senior member of staff) the responsibility as budget holder for managing administration funds that relates to their strategic responsibilities. The director may be assisted by a budget manager in the day-to-day management of the budget. This arrangement does not absolve the director (or senior member of staff) from their responsibility for the budget.

Committing the OfS to expenditure through third party suppliers

77. The power to commit the OfS to expenditure through third party suppliers is delegated to specific individuals designated as Budget Holders and Budget Managers. Other staff are not normally permitted to authorise the ordering of goods or services or sign contracts with third party suppliers committing the OfS to expenditure. Where requisitions are raised against a contract that has been approved in accordance with the requirements set out above, these can be approved by the budget holder or the budget manager having been satisfied that the commitment is in accordance with the contract.
78. The following limits apply for signing of contracts and approval of requisitions (subject to budget availability):
- Up to £10,000 (excluding VAT) and up to one calendar year in duration – budget manager
 - Up to two calendar years in duration, and/or over £10,000 (excluding VAT) – budget holder/director
 - Over two calendar years – Director of Resources, Finance and Transformation.

Payment of monies

79. Budget holders or budget managers cannot commit expenditure where this will exceed the remaining uncommitted funds for any particular budget line. Where this is the case authority needs to be sought from the chief executive or board to increase the budget, with a clear rationale for the increase, and subject to funds being available. Budget holders need to agree these cases with the OfS finance team before they are submitted to the chief executive or board.
80. The Director of Resources, Finance and Transformation will have authority for agreeing the profile of payments between academic and/or financial years for all programme budgets. This includes variations to payment or repayment profiles for individual providers as may be appropriate for their circumstances; suspension of payment to providers, pending those providers meeting any conditions or criteria that the OfS may wish to specify for them; and cancellation of payments where those conditions are not met within a reasonable timeframe.
81. The OfS's Finance Team is authorised to make payments once the allocations are agreed by the chief executive or through the relevant delegation.

Decisions on the repayment of Exchequer Interest

82. As a public sector organisation providing capital funds to providers to acquire or develop assets, the OfS is required to take steps to protect the Exchequer Interest by making sure that these funds are used for the intended purposes for which the grant was made. Our terms and conditions of OfS grant set out our processes for monitoring Exchequer Interest, and the steps we would take if we needed to reclaim funding. The OfS has the right, but not the obligation, to request repayment of Exchequer Interest from providers where a 'trigger event' occurs, as set out in the terms and conditions of OfS grant. The OfS also has the

discretion to waive the requirement for repayment. Decisions on proposals to request or waive the Exchequer Interest repayment following a trigger event should be taken by the OfS board.

Write-off of debts

83. The write-off of debts will need to be compliant with any guidance from our sponsor department. The board delegates responsibility to the chief executive to take decisions in line with departmental guidance.

Communication management

84. The chief executive is responsible for the identification of major communication issues or publications which should be considered by the board. In such cases the board approves in principle the communication of any matters of major public, political or reputational significance but delegates the finalisation and publication of key plans, reports or statements to the OfS chief executive.

Staffing and remuneration decisions

85. The board delegates to the chief executive the authority to determine the numbers of posts and how the OfS is organised to deliver its aims and objectives. This will include any changes to the formal organisational structure which may result in increases or decrease in the number and nature of posts.
86. The OfS's pay policy which determines pay levels, pay bands and annual pay settlements is decided by the chief executive. The OfS is required to submit to the sponsor department an annual pay remit, based on Treasury pay guidance that has to be approved by the Secretary of State. The approved remit then sets the parameters for negotiations with any recognised trade union. The Remuneration and Nominations Committee (a committee of the OfS board) will review the aims of the annual pay remit, delegating the details to the chief executive.
87. The Remuneration and Nominations Committee carries out an annual review of remuneration of the chief executive and the DFAP, making recommendations to the DfE on these matters. The committee also has a role in agreeing the terms and conditions of employment of other OfS directors and carrying out an annual review of their remuneration, making decisions about changes to basic pay and levels of performance related pay, involving the sponsor department where required.

Internal policies and procedures

88. The board delegates its authority for the approval of OfS internal policies and procedures to the chief executive. However, the chief executive can seek board approval for a policy, and the board can request to approve a policy, should it wish to do so.

Business continuity

89. In the event of an emergency that causes a major disruption to business or prevents access to the OfS's Bristol or London offices, the agreed business disruption actions will be

implemented. The Crisis Management Group is empowered by the chief executive to take the necessary actions.

Use of the OfS seal

90. The use of the seal to 'seal' a deed or other formal document requires approval by both the OfS chief executive and one other director, or by the chief executive and the Head of Legal or Head of Finance.

Signing of formal documents

91. The chief executive and directors are authorised to sign formal documents such as Memoranda of Agreement or grant funding agreements on behalf of the OfS.

Internal information management and security practices

92. The board and chief executive delegate the responsibility for the appointment of the role of OfS senior information risk officer (SIRO) to the Director of Resources, Finance and Transformation. The SIRO has delegated responsibility for approving policies that relate to the OfS's internal information management and security practices.

Data protection officer (DPO)

93. The role of the OfS's data protection officer (DPO) is defined predominantly in Articles 37-39 and associated articles of Regulation (EU) 2016/679 ['EU General Data Protection Regulation' or 'GDPR']. From 25 May 2018 it is a legal requirement that the DPO does not receive any instructions from the OfS regarding the exercise of the tasks of the DPO listed in Article 39. The DPO is required to act independently in their role and must directly report to the highest management level, the chief executive and/or chair, and co-operate with the Supervisory Authority. The DPO may take legal advice to assist them in carrying out their statutory duty and must be provided with the resources necessary to carry out those tasks. The board delegates the appointment of the DPO to the chief executive.

Making decisions on use of data

94. The board delegates to the chief executive the responsibility to determine the most appropriate processes to consider how data is obtained, assessed and used, including judgements about the acceptability of data which are used in its functions. The chief executive should take advice from the data asset owner within the OfS.
95. The data provided to us by or in connection with provider students and other organisations is assessed and may be used to inform the publication of data by us or on our behalf for a variety of purposes. In publishing data, there is a need at times for the OfS to make judgements about the acceptability of data, and a decision may be taken not to publish data in some circumstances. The board delegates to the chief executive the responsibility to make these judgements.

Statistical matters

96. In accordance with any general or specific strategic direction which may be provided by the board, chair or chief executive, the Head of Profession for Statistics has delegated authority for deciding on methods, standards and procedures, and on the content and timing of the release of regular and ad hoc official statistics. This should include:
- determining the need for new official statistics
 - ceasing the release of official statistics
 - the development of experimental statistics.
97. As the principal adviser and accountable officer on statistical matters within the organisation, the views of the Head of Profession for Statistics should be considered in all matters relating to statistics and data. The Head of Profession for Statistics should report to the National Statistician on professional matters.