

Chief Executive's Report

Issue

1. To update provide an update on work undertaken and issues that have arisen since the last board meeting on 26 September 2019 to the extent that they are not covered in other board papers.

Recommendations

2. The board is invited to:
 - Approve the proposed revisions to the OfS board proceedings and code of conduct at Annex B.
 - Approve the proposed revision to the QAC Terms of Reference at paragraph 35
 - Exempt from publication
 - Note the decisions taken under delegated authority at Annex D
 - Note the report on strategic risks at Annex E
 - Note the updates contained in this report

Further information

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

Summary of main activity

4. At its away day on 25 September 2019, the board reviewed the OfS's performance over its first 18 months – at the mid-point of its current three year strategy. The board's views fed into an internal review, which is now informing the development of the annual business plan for 2020/21, which represents the final year of the strategy. Paper 5.1 describes the outcomes of that mid-point review process. The OfS's business plan for 2020/21 will be published in Spring 2020.
5. During the current pre-election period, the OfS is bound by Cabinet Office restrictions and is restricted in what it can say and do, until such time as a new government is formed. During this period, our external communications are necessarily restricted. While we continue with our regulatory work, we will significantly reduce the amount of material we publish, and not undertake interview requests until after polling day. The impact of the pre-election period has meant we have had to postpone our proposed consultation on using the regulatory framework to help tackle harassment and sexual misconduct (see paragraph 20), and also the publication of our 2019 annual review. Notwithstanding pre-election restrictions, we are still pressing ahead with a small number of publications. For example, we agreed to publish a piece of guidance on degree awarding powers because the risks of publication were low (it is highly operational) and not publishing would have brought substantial negative consequences for providers.
6. I have previously updated the board by email regarding our response to the fire in the student accommodation block in Bolton. We continue to liaise with the Department for Education to enable the distribution of a hardship fund to the students affected, and have assisted the Department in their work to assure themselves that safety standards are met in student accommodation offered by registered providers.
7. Since the date of the last board meeting, our systems and processes for the monitoring and intervention of registered providers are now broadly in place, following the initial registration process, and we are looking at how we can best address the areas where provision risks falling below the thresholds of the regulatory framework. This will particularly include looking at how we can address poor quality provision, so that we ensure a minimum level of performance can be delivered for all students, regardless of their background or what and where they study.
8. Aside from the Equality and Human Rights Commission's report on harassment in higher education published on 23 October 2019, referred to in paragraph 22 below, the board may also be interested in several external publications, relevant to the OfS's work. Which? published their annual tracker of which markets the public most trust and mistrust. It is noticeable how relatively poorly the higher education sector scores: 38% of the public trust universities, compared to 72% trust in the NHS, and 46% trust in schools. Then the Foreign Affairs Select Committee published their report on Chinese influence on academic freedom on 5 November 2019, questioning the extent of Chinese influence in UK universities and calling on the Foreign Office in particular to do more to address this. Policy Exchange also published a report on academic freedom and free speech on 11 November 2019, recommending that each university appoint a free speech champion reporting into the vice chancellor, with an oversight role for the OfS.
9. The OfS is currently dealing with three judicial review claims. Two of these relate to decisions to refuse registration on quality grounds (condition B3): **Exempt from publication**.
10. As a result of other decisions being reached to refuse registration, it is anticipated that at least one further judicial review claim will be issued against the OfS before the end of the calendar year.

Strategic objective – participation

11. We reported at the September Board meeting on the outcomes from the assessment of 43 new 5 year access and participation plans for providers with early application deadlines, following the reforms agreed by the Board in December 2018. 184 further access and participation plans have been submitted by providers with standard application deadlines, 148 of which had been approved by the Director for Fair Access and Participation by the second week of November. As in the first phase, although all of the plans submitted to date have been approved, many will be subject to enhanced monitoring that requires them to report on specific commitments within their plans, including variations to activities and targets. A small number of plans have, though, been approved for less than five years due to the fundamental nature of the changes that will be needed once commitments to improve data and evaluation have been completed. This is a higher level of intervention than has been the case for our other regulatory conditions, which is due to the level of ambition agreed by the Board for improvement in this area and the need for closer monitoring during the transition from annual to five year plans. We have established a census date of plans approved by 31 October for analysis to be included in an outcomes publication to be considered by the Board in January. This is later than initially planned due to the time it has taken to negotiate the second phase of plans. The publication will summarise the targets and commitments made in plans in the context of the reforms agreed by the Board and our KPMs, together with the monitoring interventions we are making and our priorities for further intervention to meet our goals in this area. Based on our assessments we consider that providers have substantially increased the level of their ambition to reduce equality gaps across the student lifecycle and demonstrated how they will improve their practice.
12. On 30 October 2019, we released official statistics which looked at the impact of unconditional offers on students' continuation rates. The accompanying report showed that first year non-continuation was 10 per cent higher for students who accepted unconditional offers than would have been expected had they accepted conditional offers. Along with the evidence that unconditional offers can negatively impact on prior attainment, we will continue to review the extent to which these sorts of admissions practice work in the interests of students. We recently wrote to a number of universities and colleges seeking further clarification on how they use unconditional offers and what they do to ensure students are supported. These providers were selected either because they have high levels of conditional unconditional offers (where the offer will be made unconditional if the student makes the provider their firm choice) or because of a recent increase in the use of unconditional offers.
13. These practices in relation to unconditional offers will also inform our review of admissions, in relation to which we will be launching our consultation shortly after a new government forms. The review will consider both the direct impact of unconditional offers and alternative approaches to admissions such as post-qualification admissions.

Strategic objective – experience

14. We continue to respond to applications for initial registration: Table 1 below sets out the current position in relation to registration applications. During 2019 the Provider Risk Committee met monthly 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 decisions to refuse registration, in response to which providers have the opportunity to submit representations in relation to provisional decisions to publish information about the refusal. Barking and Dagenham College applied for an injunction against our proposed decision to publish the refusal. In a judgement dated 11 October 2019, the judge agreed with our argument that current and future students needed to know about our regulatory decision so that they could make informed choices about their studies. The refusal was subsequently published on our website along with the full judgement of the court.

15. We are still receiving new applications for registration; as at 14 November 2019 we have received 525 applications in total.

Table 1: Registration decisions at 14 November 2019

Number on register	388
Number refused	11
Number minded to refuse	20
Decision made but not yet published on the register	2
Total decisions made	421
Provider awaiting QSR or management and governance review	21
Application under assessment	40
Application incomplete	21
Providers where a decision has not been made	83
Assessment closed (due to merger or provider request)	19

16. The OfS's new monitoring arrangements are now fully in place. From the date on which a provider is first registered it has an obligation to meet a number of new regulatory requirements. For many providers, the OfS has imposed requirements as part of the registration decision to mitigate areas of increased risk: these will be in the form of specific conditions, enhanced monitoring requirements or a formal communication. Many of the requirements involve the provider submitting responses which are then assessed. The accompanying new risk assessment may result in the removal, variation or addition of regulatory requirements. Table 2 sets out the current position for registered providers.

Table 2: mitigations imposed on providers at the point of registration, to 16 September 2019

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

17. On 15 October 2019 we published a suite of regulatory guidance setting out our expectations of registered providers in relation to their obligations under the regulatory framework. The guidance describes in detail our approach to monitoring and intervention and reportable events. The launch of the guidance is being accompanied by a series of regional events for providers throughout October and November.
18. On 30 October 2019, we published a detailed analysis of the registration process, which we have previously circulated to board members. Board members may be interested in a recent Wonkhe podcast that discussed our registration report in some detail. The link to the podcast is <https://wonkhe.com/blogs/wonkhe-show-s04e08/>.
19. We have continued to progress our programmes of work relating to student mental health and to harassment, hate crime and sexual misconduct in higher education. The ten projects funded through our £6million mental health challenge competition are now all underway and our programme-level evaluation is running alongside to ensure that we maximise the impact for the whole sector from our investment. We are continuing to support the work of Student Minds in the development of a university mental health charter and are working closely and in partnership with a range of organisations, including UUK and NUS, to ensure alignment in our work on mental health. We are also continuing to work with the Department for Health and Social Care on a second competition of £1million which will be funded by Department but managed by the OfS. We anticipate launching this competition early in 2020.
20. On 5 November 2019, we published an Insight brief on the issue of mental health, with a particular focus on intersectional issues between students with protected characteristics and declared mental health conditions. The Insight brief provided a focus for our Insight Event which was held on 6 November 2019 and which covered both mental health as well as harassment, hate crime and sexual misconduct in higher education. The event fell during the pre-election period and was therefore held as a closed event.
21. On 23 October 2019, the Equality and Human Rights Committee published its inquiry into racial harassment in higher education, which highlighted concerns about low levels of reporting of incidents and a lack of confidence that universities will address complaints

effectively. UUK also published a follow up report on its Changing the Culture report on 9 October 2019, which evaluated the progress that has been made, particularly in the prevention of this type of behaviour in higher education, over the last two years. We intend to publish a consultation early in 2020 that will set out and seek views on our expectations of providers, and how we can more explicitly use our regulatory conditions to assist in addressing these issues. We will be seeking views from all higher education providers, students, representative bodies and other individuals and organisations with an interest in these issues.

22. Eight days of strike action by members of the University and College Union has been announced at 41 providers starting on 25 November 2019. We have published a briefing note setting out our expectation that providers uphold quality standards and minimise any disruption to students' studies. We have also updated guidance for affected students on our website, and will be working with the OIA in terms of further communications. We will now be closely monitoring the impact on students of any industrial action, assessing the risk breaches to conditions of registration by providers affected by the strike action.

Strategic objective – outcomes

23. In relation to grade inflation, we have written to a group of providers whose data demonstrates either a statistically significant increase in the unexplained percentage of first class degrees awarded in a single year, or a statistically significant overall increase in the unexplained percentage of first class degrees awarded between 2010-11 and 2017-18. We asked these providers to submit further information about their approach to securing degree standards in order to better understand the reasons for the performance we have seen. The providers we have engaged with have submitted a substantial amount of evidence in response and we are in the process of analysing this. We will be in a position to update the board further on this work at the next meeting. Meantime the board may be interested in this article from The Times from one provider who has explicitly decided to tackle inappropriate grade inflation.
24. We have now launched calls for proposals within two programmes to support graduate skills in collaboration with partners across government. The Department for Culture, Media and Sport has provided £13m funding for programme and running costs in order for us to support students from under-represented groups to access postgraduate conversion courses in AI and digital skills. This is intended to address the shortages employers are identifying in relation to the supply of graduates with these skills and the lack of diversity among the workforce, and thereby support our strategic goals in relation to student outcomes. We have also now launched a joint £10m programme with Research England to test models of knowledge exchange involving students. This is intended to influence the government's broader review of knowledge exchange funding and our own priorities for the funding we invest through the Higher Education Innovation Fund.

Strategic objective – value for money

25. We published the OfS Value for Money strategy on 18 October 2019. The intention was to provide a coherent narrative about our existing or currently planned OfS work on VfM issues. Our ongoing regulation aims to ensure value for money for students and taxpayers, but there are a number of specific actions that we will take in support of this strategy:
 - issue further guidance to providers so that they better understand our requirements and expectations for transparency about value for money for students and taxpayers (early 2020, depending on whether there is a need for consultation);
 - measure our performance by surveying students and graduates about their views on value for money, as part of our plan to regularly poll students (results due in March 2020);

- report on our progress in ensuring that students and taxpayers receive value for money in our annual report and accounts (July 2020); and
- publish a separate report on the value for money of the OfS (alongside annual report or shortly after).

26. In the longer term, when developing new regulation, we will consider our principles for addressing value for money outlined in the strategy.

Strategic objective – efficient and effective

27. In line with a planned review we have, in collaboration with the DfE, refined and improved the Framework Document which sets out agreed expectations for how the relationship and day to day interactions between the OfS and DfE will be managed.
28. Given the pressures on all public sector bodies to review their contribution to the government's target of zero reduce carbon emissions by 2015, we are implementing a review of our own internal practices as an organisation to ensure we are doing what we can to reduce our own emissions. We are also looking at what contribution we should be making in relation to the sector's emissions, particularly our role in relation to the collection of relevant data. Further details will be shared with the board at the January board meeting.
29. At the end of October 2019, the OfS had 414 employees, of whom 96 joined the organisation since 1 April 2019. As part of the establishment of the OfS, a learning and development plan was launched, focussing on developing the Workday learning system as an enhanced platform for creating and delivering organisation-wide learning and activities. We are also now taking forward a significant programme of work to provide more resource and focus on our ongoing work on equality, diversity and inclusion. As part of this we will be reviewing our approach to internal governance and organisational practices, recruitment of new staff and the progression of existing staff.
30. We plan to publish our first annual review in December 2019, which will be an important opportunity for students, providers and the general public to find out more about the impact of our work over the course of the last year. We now have over 11,200 followers on Twitter, while there were 260,000 unique visitors to the website in August, with 605,000 visitors in the last three months. The most popular pages were the POLAR postcode look-up tool, NSS results and a searchable list of access and participation plans. Please see Annex A for examples of our press cuttings.
31. As part of our business continuity arrangements we ran an exercise on 14 November to test our crisis and incident management plans. The exercise was facilitated by a specialist external organisation and was focused on a cyber breach resulting in a loss of sensitive data. Whilst we hope not to face this situation in real life it was important to test our plans. Overall the exercise was successful, with a number of lessons learned. In addition to this test exercise, we also ran a number of events to recognise International Fraud Awareness Week, which is a global initiative to raise awareness of fraud and highlight the importance of fraud prevention, including a staff briefing by the Cyber Protection team at Avon and Somerset police who highlighted current scams and how staff can protect themselves.
32. The Cabinet Office updated its Code of Conduct for Board Members in June 2019. This sets out the personal and professional standards expected from non-executive board members of public bodies. The revised Code includes new provisions on the unacceptability of bullying, harassment and discriminatory behaviour, introduces a new requirement for the board member to notify the sponsor department of any bankruptcy, current police investigation, unspent criminal conviction or disqualification as a company director, and reminds members of their role in promoting inclusivity with their organisation, including at board level.

33. To reflect the wording in the new Code, we are recommending that the OfS's own board proceedings and code of conduct (Annex B) also be updated. The key changes are:
- An update to the 'conduct of members' section (paragraphs 25-34) to bring it in line with the general wording of the Code
 - A new provision at paragraph 29 regarding the unacceptability of bullying, harassment or other discriminatory behaviour at OfS
 - Paragraph 27 is worded to reflect the OfS's values and its commitment to promote diversity and an inclusive culture
 - The section on 'media and social media' (paragraphs 41-46) has been updated and encourages members to involve OfS colleagues if they are representing the organisation at any public engagement. This section also highlights the need for members to be clear if they are speaking or commenting in a private capacity rather than in their capacity as a member of the board of the OfS
 - A strengthening of the 'use of official information and data security' section (paragraphs 55-59) to reflect the OfS's own internal standards in this area and to set out the expectations around the board's use of Diligent
 - A new provision at paragraph 46 which requests that a colleague with a @officeforstudents.org.uk email address should always be included in any email correspondence relating to OfS business. This will enable us to carry out data searches more effectively should these be required as a result of a Freedom of Information or subject access request.

Recommendation: The board is invited to approve the proposed revisions to the OfS board proceedings and code of conduct at Annex B.

34. Previously a board member was a member of both the Provider Risk Committee (PRC) and Quality Assessment Committee (QAC). We would like to preserve the link between the two committees and propose an amendment to the Terms of Reference of QAC to allow the co-option of an independent member of the PRC to QAC. The proposed revision to the terms of reference for QAC is as follows:

7. With the agreement of the QAC chair, membership of the committee may include an independent member of the Provider Risk Committee (PRC) who is co-opted to the QAC to provide a link between these committees. This co-opted member is not expected to be engaged in the provision of higher education. Their period of appointment to QAC will reflect that of their appointment to the PRC.

Recommendation: The board is invited to approve the proposed revision to the QAC Terms of Reference.

35. Exempt from publication.

Paper publication date

36. This paper will be published as soon as possible after the board meeting, and once the pre-election period comes to an end, with any relevant sections and annexes redacted as appropriate.

Annex B: Office for Students – board proceedings and code of conduct

Guidance on the Office for Students' board proceedings

Introduction

1. This document sets out the arrangements and standards through which the Office for Students' (OfS) board will conduct its proceedings and carry out its business.

Meetings

2. Board meetings will normally be held at least four times a year. Board meetings are held in private with neither press nor public present.
3. Board meetings will normally be convened well in advance with a minimum of five clear working days' notice. Notice of a meeting shall be given to members in writing. Failure to receive notice of a board meeting will not invalidate that board meeting or any business transacted at that meeting.
4. If required, the chair may convene a special meeting of the board. This may be conducted in any manner which the chair considers appropriate, including by electronic means, in correspondence (including email) or by telephone or video conference, and all members participating shall count as part of the quorum.
5. A special meeting may also be convened in response to a written request to the chair from a minimum of three members specifying the business to be transacted and confirming why it cannot wait until the next ordinary meeting.

Quorum

6. The quorum for board meetings is half the current number of its members (*HERA 2017, schedule 1 (9 (2))*). Should the need arise, members may attend meetings by telephone or video link. Members attending by telephone or video link shall be considered to be present at the meeting. A board member is not counted towards the quorum for an item in respect of which they have a conflict of interest and is not entitled to take a decision.
7. Other attendees, e.g. the DfE representative or OfS staff, who attend meetings will not form part of the quorum.
8. The names of all members present at a meeting of the board shall be recorded in the minutes of the meeting.
9. If the chair is unavailable to chair the meeting or has declared themselves to have a conflict of interest in relation to any matter, the deputy chair will chair the meeting. If both are unavailable, the members present shall appoint one of their number to take on the role as chair of the meeting.

Decision making

10. Board discussions take place in accordance with the Code of Conduct for members of the OfS. If a member has an interest then they should declare this and the details recorded in the minutes. The member shall leave the meeting for the item in question if they or the chair considers that their interest is so substantive that their continued presence would prejudice the proper conduct of the board's business.
11. Decisions by the board will normally be made by consensus. However, if an individual member has a reservation, then that reservation may, on request, be minuted. Failing consensus, decisions will be made by a vote. In the case of a tied vote, the chair has a casting vote.
12. The chair may determine if any item should be 'reserved business' and involve only board members to discuss this item in 'closed session'.

Minutes

13. The minutes of board meetings are drafted by an OfS officer ("the clerk") and are the formal record of the decisions made by the board at that meeting. The chair will agree the minutes before they are presented to the board for approval at the following meeting.
14. If it is necessary for the board to make any decisions between meetings then a formal electronic record of individual members' approval will be maintained by the clerk. This will be reported in the minutes of the next ordinary meeting of the board.
15. The board is committed to carrying out its work transparently. In doing so, its minutes will be published on the OfS website (subject to any necessary redactions and in line with any appropriate exemptions in the Freedom of Information Act 2000) once formally approved by the board.

Agenda and papers

16. The agenda and papers for board meetings will normally be issued seven days before the meeting. Members will be advised of any instances where a paper will be late. These will be issued as soon as possible before the meeting or tabled at the meeting.
17. The chair and chief executive may ask the clerk to redact or withhold a paper from any person or member if it contains information which, if disclosed, might harm or unfairly disadvantage providers, individuals (including members of staff), contractors or third parties. Confidential papers will be handled in any way necessary to keep the information contained in them secure.

Transparency

18. The OfS attaches considerable importance to being an appropriately open and transparent organisation. It will publish extensive information about what it does and how it operates – all of which is available on its website.
19. A full list of members' interests will also be published on the OfS website.

Code of Conduct for members of the Office for Students

Introduction

20. The purpose of this code is to give guidance to board members on their responsibilities and the standards to which they are expected to operate. Relevant sections apply equally to committee members, senior managers and others who contribute to the Office for Students (OfS) at a governance level.
21. This document is published on the OfS website as part of its commitment to openness and accountability and to give confidence to the general public and other stakeholders as to the OfS governance standards.
22. This code is based on current best practice, including in the Civil Service Code, guidance from the Cabinet Office, HM Treasury and the Department for Education (DfE), the OfS's sponsor department.

Public Service Values

23. Board members must at all times:

- Fully adhere to the standards set out in 'The 7 Principles of Public Life'¹.
- Ensure the safeguarding of public funds and the proper custody of assets which have been publicly funded, including ensuring the OfS uses resources efficiently, economically and effectively.
- Comply with the principles of openness and transparency.
- Comply with the procedures set by the board and the OfS regarding remuneration, allowances and expenses.
- Adhere to the same governance standards we would expect of registered higher education providers.

24. Board members are encouraged to support the OfS values – ambition, openness, learning and diversity – and use these to guide them in their decision making.

Conduct of members

25. Board members should play a full and active role in the work of the OfS, fulfilling their duties and responsibilities responsibly and, at all time, act in good faith and in the best interests of the OfS.
26. Members should respect the principle of collective decision-making and corporate responsibility. Once the board has made a decision, members should support that decision
27. In line with the values of the OfS, members should promote an inclusive and diverse culture and their actions should help create an environment where different perspectives and backgrounds are encouraged and valued.

¹ See www.gov.uk/government/publications/the-7-principles-of-public-life.

28. Members should deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of their ability. They should not act in a way that unjustifiably favours or discriminates against particular individuals or interests.
29. Members should not harass, bully or act inappropriately towards or discriminate towards others at the OfS or involved in its work.
30. Members must comply with any statutory or administrative requirements relating to their post, for example, through accessing any OfS systems for information sharing or for claiming expenses.
31. Members must not use, or attempt to use, the opportunity of public service or their association with the OfS, to promote their personal interests or those of any connected person, firm, business or other organisation.
32. Members must avoid any actions which could embarrass the OfS or risk the organisation being brought into disrepute, including through their political activities or use of social media.
33. The DfE must be informed of any bankruptcy, current police investigation, unspent criminal conviction or disqualification as a company director in advance of a member's appointment, or should any such instances occur during their appointment, including any convictions of a criminal offence or disqualification from being a company director.
34. If members have a concern about a possible breach of this code, or a concern about misconduct or wrongdoing in other areas of the OfS, then they have a responsibility to raise that with the OfS chair or with the Permanent Secretary at the DfE.

Conflicts of interest

35. Board members must ensure that no conflict arises, or could reasonably be perceived to arise, between their public duties and private interests, financial or otherwise.
36. Board members must comply with the OfS rules on handling conflicts of interest, declaring any private financial or non-financial interests of their own, or of close family members, which may, or may be perceived to, conflict with your public duties. Any changes should be registered with the clerk immediately. Separate guidance is provided within this document on what interests should be registered and how these will be recorded. A full register of board members' interests is published on the OfS website.
37. Members are also expected to declare interests at the start of each meeting or during a meeting if it becomes apparent they should do so.
38. If a member wishes to take up additional employment or appointments then the chair must be informed in advance, giving them the opportunity to comment.
39. Board members and committee members should register with the clerk any personal or business interests which may conflict or be perceived to conflict with their OfS board responsibilities.

40. Further information and guidance on declaring interests and how these will be managed by the OfS is provided in Annex A.

Media and social media

41. Board members should normally speak with one voice in public on matters to do with the OfS. Appearances on television or radio, briefings to journalists, etc., should be undertaken with caution and following advice from the Communications team at OfS.
42. Members of the board should seek advice from the OfS communications team and Head of Governance in advance of any public engagement activity they wish to undertake in their capacity as an OfS board member. Committee members should also exercise discretion in any such activity and may approach the clerk to the committee for advice should they wish to do so.
43. Board members should be clear when they are speaking in a purely personal capacity or representing an organisation other than the OfS. Similarly, the writing of newspaper columns, blogs or contributions to social media (i.e. Twitter, Facebook, LinkedIn, etc.) should avoid comment on or details of sensitive or confidential OfS information.
44. If social media is used to communicate about your work with the OfS then board members should be clear in what capacity they are acting and at all times respect confidentiality, financial, legal and personal information.
45. Members are also reminded of the permanency of social media content and that communications may need to be disclosed if subject to a request under the Freedom of Information Act 2000.²
46. There may be occasions when board members communicate with each other on matters relating to OfS business. This data may be subject to consideration as part of a request made under the Freedom of Information Act 2000. To ensure effective data searches can be undertaken in response to any such requests, members are requested to copy in a relevant OfS employee in all such correspondence.

Political activity

47. Board members should be, and be seen to be, politically impartial in their OfS role. They should not occupy paid party political posts or hold particularly sensitive or high profile unpaid roles in a political party. They should abstain from all controversial political activity and comply with the principles set out in Cabinet Office rules on attendance at party conferences³ and on conduct during the period prior to elections and referendums, whether local or national⁴.

² Further information is available in the Cabinet Office Social media guidance for civil servants: www.gov.uk/government/publications/social-media-guidance-for-civil-servants/social-media-guidance-for-civil-servants.

³ Available at <https://www.gov.uk/government/publications/civil-servants-and-party-conferences-guidance>

⁴ Available at <https://www.gov.uk/government/publications/election-guidance-for-civil-servants>

48. On matters directly related to the OfS, members should not make political statements or engage in any other political activity.
49. Subject to the above, members may engage in political activity but should, at all times, remain conscious of their responsibilities as a board member and exercise proper discretion.

Personal liability of board members

50. Any legal proceedings initiated by a third party are likely to be brought against the OfS, not individual members. In exceptional cases, proceedings (civil or criminal) may be brought against the chair or other individual board members. For example, a board member may be personally liable if he or she makes a fraudulent, reckless or negligent statement which results in loss to a third party. Board members or others involved in the governance of the OfS who misuse information gained by virtue of their position may be liable for breach of confidence under common law or may commit a criminal offence under insider dealing legislation.
51. However, individual board members (or others involved in the governance of the OfS) who act honestly, reasonably, in good faith and without negligence should not normally incur any liability in an individual capacity, provided they are acting in furtherance of their board or related governance functions.

Gifts and hospitality

52. Board and committee members must not accept any gifts or hospitality which might, or might reasonably appear to, compromise their personal judgement or integrity or place them under an improper obligation. Decisions on the acceptance of gifts and hospitality must stand up to public scrutiny and not bring the member's public office or the OfS into disrepute.
53. Board members and committee members are required to comply with relevant OfS guidance on the acceptance of entertainment, gifts, hospitality, fees and awards. The full guidance is available to members on the board portal, Diligent.
54. The offer and acceptance of any entertainment, gifts, hospitality, fees and awards received in the course of carrying out a member's duties will be recorded in the gift register. This will be available for public inspection on request.

Use of official information and data security

55. Board members must not misuse information gained in the course of their OfS role for personal gain or for political purpose.
56. Board members must not disclose any information which is confidential in nature or which is provided in confidence.
57. Board members are required to comply with the OfS's Acceptable Usage Policy. In addition, board members have a responsibility to respect the confidentiality of board papers or other information supplied to them in their role as members. This includes all information made available on the board portal, Diligent. Members should:

- Ensure devices such as mobile phones or laptops used to receive or view OfS information, including via Diligent, are installed with up to date vulnerability protection (for example, virus protection and anti-spyware) and require some kind of user authentication to access them
- Not share papers or other information provided to them in their OfS role with anyone outside of the board, the relevant committee or the OfS.⁵
- Only keep information for as long as necessary to carry out their role as a board member, including deleting any electronic data from personal computers and devices.
- Not use data sticks as a storage system for any OfS information.
- Promptly report any data loss or incident to the clerk.

58. Members are reminded that maintaining the confidentiality of OfS information continues to apply after they leave the board. At that point all OfS records should be promptly destroyed.

59. Members' access to OfS information via Diligent will be disabled upon leaving the board.

Prohibition on use of confidential information for personal advantage

60. In the course of carrying out their duties, board and committee members may become aware of unpublished price sensitive information relating to English higher education providers or associated organisations e.g. a group holding company, whether listed on a UK stock exchange or elsewhere. Where this occurs members must not themselves deal in any securities, or provide advice/procure other people to deal in such securities.
61. This prohibition on dealing does not extend to investment assets which are exclusively managed by an independent portfolio manager with full discretion over investment decisions, provided that there is no communication of unpublished and price sensitive information by the board or committee members to the independent portfolio manager.
62. These restrictions continue to apply once members have ceased being members of the OfS in relation to information received while they held office.

⁵ Members of the board or a committee will often have a personal assistant (or equivalent) who may need to have access to OfS papers occasionally. This is acceptable providing the staff concerned are bound by similar obligations concerning the confidentiality of information they have access to in their role.

Annex D – Report on use of delegated decision making

1 September to 15 November 2019

Adjustments to grant

1. Under the scheme of delegation, the board delegates to the chief executive the ability to make changes to individual funding allocations, virements between budgets and decisions on the recovery of grant.
2. On 11 October 2019, the chief executive agreed a number of changes to recurrent and formula capital grants. These were:
 - a. Approval of changes to recurrent grant for academic year 2019-20 for 18 providers. These changes total £1,366,733, and have been met from the £14 million of recurrent grant originally set aside for allocation after May 2019. Revised allocations for 2019-20 were included in an updated Annex A to 'Recurrent funding for 2019-20: Initial allocations' (OfS 2019.17)⁶, published on 18 October 2019. The changes comprise:
 - i. Allocations for five providers that were not registered in the Approved (fee cap) category in time for inclusion in our recurrent grant announcement in July 2019, but had become registered in that category by 20 September 2019.
 - ii. Changes to allocations for five providers arising from amendments to their 2017-18 individualised student data, or our identification of students in it.
 - iii. Changes to allocations for five providers arising from amendments to their aggregate student data funding returns for 2018-19.
 - iv. Changes arising from a transfer of provision between Bournemouth University and AECC University College.
 - v. Changes arising from the merger on 1 August 2019 of Havering College of Further and Higher Education and New City College.
 - b. Approval of changes to formula capital grant for financial year 2019-20 for nine providers. These changes total £31,479, and have been met from the £2 million of formula capital grant originally set aside for allocation after March 2019. Revised allocations for 2019-20 were included in an updated Annex A to 'Formula capital funding for 2019-20' (OfS 2019.13)⁷, published on 18 October 2019. The changes comprise:
 - i. An allocation for one provider that was not registered in the Approved (fee cap) category in time for inclusion in our formula capital grant announcement in July 2019, but had become registered in that category by 20 September

⁶ www.officeforstudents.org.uk/publications/recurrent-funding-for-2019-20/.

⁷ www.officeforstudents.org.uk/publications/formula-capital-funding-for-2019-20/.

2019 and met the £10,000 minimum threshold for a formula capital allocation.

- ii. An increased allocation for one provider arising from a change to our identification of some of its students on their 2017-18 individualised student data return.
 - iii. Changes to allocations for four providers arising from amendments to their aggregate student data funding returns for 2018-19.
 - iv. Changes arising from a transfer of provision between Bournemouth University and AECC University College.
 - v. Changes arising from the merger on 1 August 2019 of Havering College of Further and Higher Education and New City College.
- c. Approval of the formulaic changes to recurrent grant for earlier years set out below arising from data audit or reconciliation.

Formulaic grant adjustments for 2014-15 to 2018-19 arising from data audit or reconciliation

Provider	Total adjustment to recurrent grant for 2014-15 to 2018-19
University of Bolton	–£489,089
Havant and South Downs College	–£47,002
University of Leicester	–£425,288
University College London	£234,451
London Metropolitan University	–£1,183,585
North East Surrey College of Technology (NESCOT)	£41,168
North Warwickshire and South Leicestershire College	£16,512
South Thames College Group	–£113,146
Total	–£1,965,979

Annex F – Board forward look

28 January

Validation arrangements
Report from the Risk and Audit Committee
Oral report from the Student Panel
Challenge competitions annual report
Amendments to the regulatory framework
Outcomes of APP assessments
Student welfare and safeguarding – update on OfS role
Preserving provision
Innovation framework
Outcomes of board effectiveness review
Finance report

31 March

Proposals on future funding method
Report from the Provider Risk Committee
Report from the Remuneration and Nominations Committee
Report from the Quality Assessment Committee
Report from the Risk and Audit Committee
Report from the Horizon Scanning Panel
Written report from the Student Panel
Finance report

21 May

Report from the Provider Risk 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