



Minutes of the OfS board meeting – 25 May 2023

Location: Finlaison House, London

Timings: 1330 - 1620

- Present members:
- James Wharton (chair)
 - John Blake (Director for Fair Access and Participation)
 - Martin Coleman
 - Elizabeth Fagan
 - Katja Hall
 - Verity Hancock
 - Rachel Houchen
 - Kate Lander
 - Susan Lapworth (Chief Executive)
 - Simon Levine
 - Martyn Oliver
 - Dayo Olukoshi
 - David Palfreyman
 - Michael Spence
 - Caleb Stevens
- Attendees:
- Anne Spinali, Department for Education (DfE) representative
- Apologies:
- None
- Officers:
- Josh Fleming, Head of Strategy, Evaluation and Delivery
 - Paul Huffer, Head of Legal
 - Katherine Jacob, Corporate Governance Senior Officer (clerk)
 - Kate Nickols, Corporate Governance Manager
 - Meg Matthews, Head of Development and Effectiveness
 - Conor Ryan, Director of External Relations
 - Nolan Smith, Director of Resources and Finance
 - David Smy, Director of Monitoring and Intervention
 - Mike Spooner, Senior Adviser to the CEO and Chair

Chair's welcome

1. The chair welcomed board members, OfS staff and the DfE's representative, Anne Spinali. He advised that Anne will be starting in a new role in June. She will be replaced by Patrick Curry who joins DfE from the Department for Digital, Culture, Media and Sport (DCMS).
2. New staff members Katherine Jacob and Meg Matthews were welcomed.
3. It was noted that Kate Lander will be stepping down from the board after the July board meeting. Kate was warmly thanked for her contributions to the board and for chairing the Risk and Audit Committee.
4. The chair reported on his recent meetings with Baroness Barran, Parliamentary Under Secretary of State (Minister for the School System and Student Finance) and Minister Halfon. He has also recently met with the Committee of University Chairs. He noted that the following day he would be visiting two providers as part of the refreshed approach to provider engagement: Matrix College of Counselling and Psychotherapy and Norwich University of the Arts.
5. The board noted its general duties as set out on the agenda and the need to have regard to these and other relevant considerations as it considered papers and made decisions.

Approval of minutes of the last meeting (paper 2.1)

6. The minutes of the board meeting held on 30 March 2023 were approved.

Chief executive's report (paper 3.1)

7. The chief executive presented her paper which provided an update on work undertaken and issues that have arisen since the last board meeting on 30 March 2023.
8. The following points were made:
 - a. The Higher Education (Freedom of Speech) Act received royal assent on 11 May 2023. The announcement of the new Director for Freedom of Speech and Academic Freedom was expected in the next few days. Regulations have been laid by the Department for Education to increase levels of funding through sections 70 and 71 of HERA. This is the first increase since the fees were introduced in 2018 and will give the OfS additional funding to support delivery of the business plan this year.
 - b. Quality investigations were progressing, and draft reports will soon be sent to providers for factual accuracy checks and representations, prior to decisions about publication.
 - c. In the latest recruitment round for academic assessors we received over 300 applications and appointed a further 70 academic assessors bringing the total number to over 150. We made highly credible appointments from a broad range of subjects drawn from providers of varying sizes and specialisms and launched a further recruitment round at the end of April to extend the pool further and target particular subject specialisms that we require.
 - d. Four providers (one unregistered) have been referred to National Trading Standards.

- e. There have been 477 responses to our consultation on harassment and sexual misconduct. We are pleased to note that 14 per cent of these are from students which is significantly higher than for previous consultations.
- f. The office move of the OfS's London premises to the Government Hub in Sanctuary Buildings has been slightly delayed.

9. The board:

- a. Noted the updates contained in the paper.
- b. Noted that visits to providers are being scheduled with the aim to visit approximately 20 by the end of this academic year. Members were invited to take part in the visits.
- c. Agreed to extend from 1 May 2023 to 31 July 2023 the temporary delegated authority arrangements for the Director of Quality and Director of Monitoring and Intervention to accommodate the absence of a Director of Regulation.
- d. Thanked Jean Arnold and David Smy for their work as Director of Quality and Director of Monitoring and Intervention during the period in which a Director of Regulation was not in post.

Role of the OfS board (paper 4.1)

- 10. It was explained that the way the board performs its role has changed as the OfS has moved from start-up phase to the current period of more active regulation. A framework to structure the board's business and discussions was proposed.
- 11. The board expressed a desire to spend more time talking about longer term, structural risks that might affect large parts of the sector, linking this with horizon scanning activity. It was agreed that the board will discuss a longer-term structural risk at an upcoming board meeting.
- 12. It was noted that the strategic risks are currently being reframed and the mitigations being examined. The revised risks will be discussed by the Risk and Audit Committee in June and brought to the board in July.
- 13. It was suggested that the category of 'oversee performance' also includes the board's interest in organisational culture.
- 14. The board agreed to take the proposal forward.

Managing conflicts of interests (paper 5.1)

- 15. The policy on managing conflicts of interests has been revised to ensure that there is a single policy for board members, committee and panel members and staff. There was discussion about whether there should be more examples provided in the policy. The intention to not be constrained by specificity was noted.
- 16. Once the new policy has been approved by the board, it will be published. Awareness-raising sessions for staff are planned together with refreshed guidance as appropriate. It was noted

that when members join the board or its committees, attention is drawn to the importance of declaring and managing conflicts of interests in the formal appointment letter. There will also be communications to board, committee and panel members to inform them of the revised policy.

17. The board agreed that the Executive should consider the comments made, finalising and re-circulating the policy for final approval.

Subcontractual relationships between providers (paper 6.1)

18. Data on subcontractual relationships between providers was presented in paper 6.1 for the board to discuss possible implications for future strategy.

19. The board noted:

- a. That there are many possible drivers for the significant recent growth of these arrangements, some of which may advance student interests, some of which may expose these providers to specific risks relating to poor quality outcomes or public funding being paid out inappropriately.
- b. The commercial nature of agreements. Providers need to have particular capabilities to manage outsourced provision successfully, while also meeting ongoing regulatory requirements, including those relating to quality and standards.
- c. The importance of regulating in a way that consistently works in the interests of students, regardless of whether students are studying with a registered provider or a subcontracted provider.

20. The reflections of the board will be built into the development of the next business plan and strategy.

21. The board requested a discussion of validation arrangements at a future board meeting.

Financial sustainability of registered providers

22. Our annual report on financial sustainability was published on 18 May 2023. This year's report was more detailed than in previous years, including for example, information about mitigations put in place by providers to manage their financial position, and assessment of how different risks might interact for individual providers.

23. The report shows that the financial position of the sector in aggregate is generally sound, but with significant variation between providers. The majority of providers outperformed their forecasts from the previous year. In aggregate, surpluses are forecast to reduce next year and then improve in future years. This forecast improvement relies on an expectation of increased income from non-EU students.

24. The board noted:

- a. The growth in numbers of overseas students has coincided with a period when the pound has been weak.

- b. It would be useful to continue work to identify critical factors that could significantly affect the sector and put in place triggers relating to these.
- c. Meetings with the chairs of governing bodies would be a good opportunity to communicate the need for each provider to understand and mitigate the risks it faces.

Report from the Provider Risk Committee (paper 7.1)

25. A report from the Provider Risk Committee (PRC) was included with the papers.

26. Exempt from publication.

27. The board received the report from the Provider Risk Committee.

Closing remarks

28. The chair noted that the next meeting of the board would be held on 4 July 2023. It was agreed that this would be held on Teams.

29. The chair reminded members that the annual planning event will now be held in February 2024.

30. The chair noted that this would be the last board meeting of Conor Ryan before his retirement. The board thanked Conor for his excellent work as Director of External Relations

31. Martyn Oliver, David Palfreyman, Verity Hancock, Michael Spence and Anne Spinali left the meeting at 1550.

Restricted item – (paper 8.1)

32. The board had an initial discussion and agreed to further discuss the topic at the July board meeting in order to come to a decision.

The meeting closed at 1620.