



Draft minutes of the OfS board meeting, 8 December 2022

Location: By Teams

Timings: 1330-1700

- 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
 - Martha Longdon
 - Dayo Olukoshi
 - David Palfreyman
 - Monisha Shah
 - Michael Spence
- Attendees:
- Hannah Sheehan, Department for Education (DfE) representative
 - Martyn Oliver, Observer, OfS board member w.e.f. 1 January 2023
- Apologies:
- David Smy, Director of Monitoring and Intervention
- Officers:
- Jean Arnold, Director of Quality
 - Louisa Baker, Head of Governance
 - Ed Davison, Competition and Registration Manager
 - Josh Fleming, Head of Strategy and Evaluation
 - Paul Huffer, Head of Legal
 - Paula McLeod, Corporate Governance Senior Officer (clerk)
 - Richard Puttock, Director of Data, Foresight and Analysis
 - Conor Ryan, Director of External Relations
 - Nolan Smith, Director of Resources and Finance
 - Mike Spooner, Senior Adviser to the CEO and Chair

Chair's welcome

1. In opening the meeting, the chair formally welcomed Martyn Oliver, noting he was attending as an observer. His term of office on the board formally starts on 1 January 2023. He also welcomed other members, OfS staff and Hannah Sheehan from the DfE.
2. The chair noted that recruitment has taken place for a new student experience member to replace Martha Longdon. The decision on the final appointment will be made by ministers. Following a shortlisting process, interviews for the Director for Freedom of Speech and Academic Freedom post are planned to take place before Christmas. Again, the decision on who to appoint lies with ministers.
3. The chair reported on his meeting with Gillian Keegan in her new role as Secretary of State for Education, and with Claire Coutinho, the DfE Minister leading on the Free Speech bill. He and Martin Coleman had dinner with Dr Anthony Freeling, Acting Vice-Chancellor of the University of Cambridge.
4. 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 September minutes (paper 2.1)

5. The minutes of the board meeting held on 30 September 2022 were approved.

Chief executive's report (paper 3.1)

6. The chief executive presented her paper which provided an update on work undertaken and issues that have arisen since the date of the last regular board meeting on 30 September 2022.
7. The following points were raised:
 - a. A pool of academic experts have been recruited to carry out assessments to inform quality investigations. Eight investigations focused on the quality of business and management courses are progressing. Assessment teams including academic experts have made an initial visit to each provider, with second visits taking place in the New Year. A further group of investigations focused on the quality of computing courses is expected to be initiated shortly.
 - b. Investigations focussed on matters relating to the credibility of awards are underway for three providers. The OfS is expecting to take over responsibility for carrying out quality and standards assessments from the QAA in April 2023, when we expect it to cease to be designated. The OfS plans to extend the model currently in use for its investigatory work to undertake these assessments. Exempt from publication.
 - c. The triennial report of the QAA, in its role as the DQB, has been completed and submitted to the Secretary of State. The OfS is considering publication matters in relation to the triennial report.
 - d. Exempt from publication.

11. The following points were raised in discussion:
 - a. It was important for the OfS to avoid appearing to intervene in the current round of industrial action affecting parts of the higher education sector. The OfS has updated and reissued its guidance for providers. This focuses on the need to ensure the effect on students of any industrial action is minimised and that any missed teaching is replaced. It was noted that the Office of the Independent Adjudicator for Higher Education has also issued guidance on refunding students who may have missed teaching as a result of industrial action.
 - b. The launch of a new funding initiative to support specialist performing arts providers was welcomed. This was important support for those providers making a significant contribution to the well-regarded arts and culture sector in the UK.
 - c. The board would discuss the OfS's approach to the annual financial return and its risk appetite for financial sustainability cases at the board planning event in February.

8. The board:
 - a. Noted the updates contained in the report.
 - b. Asked to be kept updated on any work undertaken by National Trading Standards on cases referred to it by the OfS.
 - c. Approved the recommendation at paragraph 76 of the paper to release the final tranche of funding for Data Futures of £38,442 in 2023-24.
 - d. Agreed that no changes should be made to the published scheme of delegation and that existing delegation arrangements remain appropriate for all the relevant decisions that may need to be taken in connection with the exercise of powers to recover investigation costs detailed in paragraphs 64-68 of the paper.

Communicating our strategy (paper 4.1)

9. In introducing this item, the chair acknowledged the recent announcement that Conor Ryan will be retiring from his role as Director of External Relations in summer 2023. He thanked Conor for all he had done for the OfS since his appointment and noted there would be a proper opportunity for the board to say a formal farewell before his departure.

10. The Director then introduced his paper setting out the OfS's planned approach to communications, particularly with providers, as part of the implementation of the OfS strategy. He noted that the research carried out by Shift showed a number of improvements had been made by the OfS, such as combining communications into planned mailings to accountable officers, but there was still more that could be done.

11. The actions being proposed, including in response to the research are to:
 - a. Have more extensive engagement with providers through a variety of means, including a planned programme of visits to providers.
 - b. Consider how consultations are structured and delivered, including the time made available for providers to respond.
 - c. Improve how information is presented on the OfS website.

12. Once the actions are complete, follow up research would be carried out with providers.

13. In agreeing that the actions being proposed were appropriate, the board:
- a. Suggested further consideration could be given to the tone of OfS communications and recognising the needs of different audiences. However, the board noted that a regulator needs to write with a degree of precision in language and an element of direction.
 - b. Offered its support in engaging with providers, including accompanying OfS colleagues on visits.
 - c. Noted the paper.

Exempt from publication

14. Exempt from publication.

15. Exempt from publication.

16. Exempt from publication.

Access and participation reforms (paper 6.1)

17. The Director for Fair Access and Participation gave a presentation on an overview of responses and the emerging themes from the recently-closed consultation on a new approach to regulating equality of opportunity, including access and participation plans. He advised that:

- a. The majority of respondents were supportive of the proposals set out in the consultation. He is considering how to respond to the points raised in some of the responses.
- b. There are several areas where providers have requested more specific guidance – we have in general adopted a broad approach in guidance, to avoid circumscribing innovation, but will consider providing more guidance where the sector specifically requests it providing this would not have unintended consequences, or where the impact of broad guidance is not as we had hoped.
- c. Exempt from publication.

18. The board fully endorse the proposals set out in the presentation and noted it would receive a further update in the new year.

Investigation of allegations of fraud (paper 7.1)

19. The Chief Executive introduced a paper on the approach the OfS is taking to intelligence about registered providers that may suggest inappropriate or fraudulent use of the student finance system. This relates, in particular, to cases where funding may have been paid in relation to students. The paper had also been shared with the Risk and Audit Committee.
Exempt from publication.

20. Exempt from publication.

21. Exempt from publication.

Finance report (paper 8.1)

22. The Director of Resources and Finance introduced his paper updating the board on the financial position of the OfS for the seven-month period ended 31 October 2022 and forecast expenditure for the full financial year (to 31 March 2023). Exempt from publication.
23. The board received the report.

Student panel update (paper 9.1)

24. The chair of the student panel provided the board with her report on its most recent meeting held on 27 October 2022 and the minutes from that meeting. She noted that she is looking to revive the mentoring programme put in place previously between panel and board members. She asked board members to advise if they were interested in being involved.
25. The board:
- a. Received the report from the student panel.
 - b. Noted the minutes from the 27 October 2022 panel meeting which have been approved by the panel and will be published on the OfS website in due course.
26. Noting that this was her last report to the board, the chair thanked the chair of the student panel for her leadership of the panel over the last few years and all it had done in informing the board's approach to its own work.

Report from the Provider Risk Committee (paper 10.1)

27. Exempt from publication.
28. Exempt from publication

29. The board received the oral report from the Provider Risk Committee.

Oral report from the Risk and Audit Committee (paper 11.1)

30. The chair of the Risk and Audit Committee presented her oral report to the board on its most recent meeting held on 7 December 2022. The committee had discussed:
- a. A recent report from KPMG in response to a request from the executive team to review the overall governance of the Data Futures programme. The committee noted the positive outcome which provided assurance that the concerns previously highlighted have been addressed.
 - b. Exempt from publication.
 - c. Exempt from publication.
 - d. A request to receive an updated assurance map at its February 2023 meeting. This will need to align with the board's risk appetite which the committee considered that the board should keep under regular review.
31. The board:
- a. Thanked the team for providing further assurance that the Data Futures programme remained on track.

- b. Received the oral report from the Risk and Audit Committee.

The directors and other attendees left the meeting at 15.28.

Report from the Remuneration and Nominations Committee (paper 12.1)

32. The chair of the Remuneration and Nominations Committee presented her report on the most recent meeting of the committee held on 17 November 2022, for which a confidential minute was taken.

Closing remarks

33. The chair thanked members for their contributions and the executive team for the papers. He reminded members that the next meeting of the board will be held on 3 February 2023 at the end of the annual planning event.
34. As both were close to completing their terms of office and attending their final meeting, the chair put on record his thanks on behalf of the board to Monisha Shah and Martha Longdon for their many and varied contributions to its work.

David Palfreyman, Verity Hancock, Michael Spence, Martyn Oliver and Hannah Sheehan left the meeting at 1540.

Reserved discussion (paper 13.1)

35. Confidential item.

The meeting closed at 1622.