



## Draft minutes of the OfS Board meeting, 2 December 2021

Location: by video or telephone conference

Timings: 13.30-17.00

- Present members:
- James Wharton (chair)
  - Martin Coleman
  - Nicola Dandridge (chief executive)
  - Elizabeth Fagan
  - Katja Hall
  - Verity Hancock
  - Kathryn King
  - Kate Lander
  - Simon Levine
  - Martha Longdon
  - Chris Millward (Director for Fair Access and Participation)
  - David Palfreyman
  - Monisha Shah
- Attendees:
- Hannah Sheehan, Department for Education (DfE) representative
- Apologies:
- None
- Officers:
- Jean Arnold, Head of Compliance and Student Protection
  - Louisa Baker, Head of Governance
  - Camilla Briault, Strategic Business Manager
  - Ed Davison
  - Josh Fleming
  - Paul Huffer, Head of Legal
  - Susan Lapworth, Director of Regulation
  - Paula McLeod, Corporate Governance Senior Adviser (clerk)
  - Richard Puttock, Director of Data, Foresight and Analysis
  - Graeme Rosenberg, Head of Teaching Excellence and Student Outcomes Framework
  - Nolan Smith, Director of Resources and Finance

## Chair's welcome

1. In opening the meeting, the chair welcomed members and confirmed that no apologies had been received. Simon Levine would be joining a little later. He also welcomed OfS colleagues Jean Arnold, Head of Compliance and Student Protection, Graeme Rosenberg, Head of Teaching Excellence and Student Outcomes Framework, Camilla Briault, Strategic Business Manager, and Louisa Baker, Head of Governance, and Hannah Sheehan from the Department for Education (DfE).
2. The chair noted that this would be Chris Millward's last board meeting before he leaves the OfS this month. He passed on his thanks to Chris on behalf of the board and wished him well in his new role at the University of Birmingham.
3. The chair advised that the DfE have confirmed the reappointments of Martha Longdon (to 31 December 2022) and Elizabeth Fagan (to 31 December 2024).
4. The chair updated the board on the meetings he has undertaken since the last meeting including with the university council at the University of Nottingham. He was also planning to visit Sheffield Hallam University next week.
5. The board noted its general duties as set out on the agenda and the need to have regard to these as it considered papers and made decisions.

## Approval of September minutes (paper 2.1)

6. The minutes of the board meeting held on 23 September 2021 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 date of the last regular board meeting on 23 September 2021.
8. The following points were raised:
  - a. Significant engagement has already taken place with the incoming Director for Fair Access and Participation (DFAP), John Blake, to ensure that he is fully briefed in advance of his official start in January.
  - b. A number of consultations are planned for early 2022. These include outcomes of the consultation responses to the OfS's July proposals for revised B conditions, proposals in relation to student outcomes (condition B3), TEF and for the data indicators that will underpin the policy proposals.
  - c. Industrial action by members of the University and College Union has now started although the extent of this is variable across providers. The OfS has written to remind affected providers of their obligations to students in these circumstances.
  - d. The OfS has opened an investigation in relation to the University of Sussex and made a public statement about the scope of that investigation.
  - e. DfE plans to add an additional clause to the Skills and Post-16 Education Bill to clarify the OfS's ability to publish information about higher education providers.
  - f. The NAO is carrying out a study on the financial sustainability of the higher education sector. The OfS is providing them with data to support this work. The report will be considered by the Public Accounts Committee on 21 March 2022 at which the chief executive will give evidence.

- g. Interviews have taken place for new OfS board members. Their applications are going through the DfE appointment processes, and it is hoped that they will be approved by DfE and Number 10 shortly.
  - h. The board noted the volume of traffic to the OfS website, and how it has changed over time.
9. The board noted the updates contained in the report.

## **Discussion with the Minister of State**

10. Michelle Donelan, Minister for Higher and Further Education, joined the meeting to discuss with the board the government's plans for higher education.
11. In concluding the session, the chair thanked the Minister for her useful insights, and it was agreed that future further engagement with the board would be valuable.

## **Emerging outcomes of July 2021 quality and standards consultation (paper 5.1)**

12. The Director of Regulation presented to the board a preliminary and high-level summary of the main themes emerging from the responses to the phase two consultation on quality and standards conditions. She highlighted that:
  - a. The number of responses was less than in previous consultations and came mainly from providers but also included some from students, PSRBs and other organisations.
  - b. The response to the proposals was largely positive, particularly for the principles-based approach to the conditions and the likely reduction in regulatory burden for high quality providers resulting from the application of a risk-based approach.
  - c. There was support for the continued use of expert academic judgement, with some respondents suggesting that the role of the designated quality body be strengthened.
  - d. Responses were generally positive in relation to proposal for new initial conditions of registration, although some respondents made points about a possible dilution of quality where new providers do not have a track record of delivering higher education.
  - e. A number of respondents were not in favour of the proposal to extend the sector-recognised standards used for conditions B5 and B8 to include standards for degree classifications.
13. The director advised that analysis of responses had not yet identified any unanticipated issues.
14. The following points were made in discussion:
  - a. Consultation responses had again featured the view that there is a tension between setting minimum requirements for quality and standards and ensuring equality of opportunity for students from under-represented groups.
  - b. The OfS's position, as set out in the regulatory framework, is that our regulation of quality and standards and equality of opportunity is mutually reinforcing. It will be important to continue to seek opportunities, including through the publication of the OfS strategy, to underline the important of, and rationale for, this approach.
  - c. The team should seek to understand why this consultation had received a smaller number of responses than might have been expected.

15. The board:
  - a. Noted the Quality Assessment Committee will discuss the preliminary themes arising from the consultation at its December meeting.
  - b. Agreed to establish a committee of the board consisting of the chair, deputy chair, chief executive, and Director of Regulation to make decisions relating to any changes to the regulatory framework arising from the phase two consultation on quality and standards conditions that ran between 20 July and 27 September 2021.
  - c. The board noted that the existing provisions of the scheme of delegation are sufficient to permit decision-making in relation to ancillary matters, for example, the publication of an analysis of consultation responses.

## **DfE guidance letter on access and participation (paper 6.1)**

16. The chief executive introduced her paper presenting the board with the recent ministerial statutory guidance on access and participation. She advised that:
  - a. It places a focus on engagement with schools.
  - b. There is a clear steer about an expectation for renegotiation of access and participation plans.
  - c. The letter suggests the government wants to see a continued focus on improving outcomes.
  - d. The incoming DFAP will shape the OfS's approach in response to the guidance. This will be brought to the board for discussion at its meeting on 3 February 2022.
17. The Director for Fair Access and Participation advised that OfS had received a similarly detailed guidance letter from ministers on access and participation at the inception of the OfS in 2018. In carrying out its work, the OfS had addressed all aspects of the guidance, and had considered which elements of the priorities were best delivered through its regulation of access and participation plans, taking into account its powers and the regulations governing the plans, and which through other mechanisms such as funding, data and good practice.
18. In considering what was different in the new guidance he noted:
  - a. The focus on outcomes beyond entry to higher education is not an area of great change.
  - b. There is a change in focus from universities addressing inequalities in their own intake to working with schools to raise attainment.
  - c. A requirement to re-write access and participation plans will increase regulatory burden on providers. The OfS's approach to monitoring could be revisited, but any changes would need to ensure providers continue to be held to account for delivery of the commitments in their plans.
19. The following points were made in discussion:
  - a. The government is trying to provide more diverse routes through higher education. Access and participation plans could be used as a mechanism for this. Clarity on the OfS's role in the overall landscape could be provided in the government's response to the Augar Review.
  - b. Regulatory burden needs to be proportionate.
  - c. A challenge for the OfS is how to measure the movement of students through education. Providers should be given credit for their investment in working with schools across the system. However, they still need to be held accountable if they are not admitting disadvantaged students.

20. The board:

- a. Noted the statutory guidance on access and participation.
- b. Noted that a further discussion would take place at its next meeting.

## Update on data futures (paper 7.1)

21. The Director of Data, Foresight and Analysis introduced his paper which updated the board on the HESA Data Futures programme. He was also seeking approval from the board to fund the Data Futures programme until 31 March 2023 and to set aside budget of £38,422 in 2023/24 to support delivery of HESA Data Futures. He advised that:

- a. Progress on the programme is good with HESA and Jisc continuing to deliver against the plan.
- b. The overall RAG rating for the programme remains at amber but there are some red risks which are being actively managed by HESA and Jisc.
- c. The Risk and Audit Committee continue to monitor the OfS oversight on HESA's management of the programme and will receive an update at its meeting next week.
- d. Board agreement of funding for next year will provide HESA and Jisc with certainty over the programme, enabling them to secure resource to carry out the work.
- e. Plans are in place to consult on the approach to in-year data collection. Any proposed reduction in collection should have little impact on the data required to underpin the OfS's regulatory functions but would reduce the burden on providers. The overall process for data collection is sufficiently robust to deal with any external changes that might arise as a result of government policy developments.
- f. The HESA chief executive is standing down this month and will be replaced by the current managing director.
- g. Exempt from publication

22. The following points were made in discussion:

- a. Although some elements of the pilot were being phased in across a longer timescale, the beta phase is going ahead as planned. There is no concern this will not be delivered on time.
- b. A member of the Risk and Audit Committee, Margaret Monckton, sits on the quarterly review group. Reporting on a recent meeting of the group, she was assured that the running of the programme is being carried out effectively

23. The board:

- a. Noted the progress of the programme since March 2021.
- b. Agreed, subject to the availability of funds, funding of £2,634,547 for the period from 01 April 2022 until 31 March 2023 including:
  - i. Core funding of £2,027,047
  - ii. Additional rolled forward underspend of up to £121,500
  - iii. Contingency of up to £486,000

## Finance report (paper 8.1)

24. The Director of Resources and Finance introduced a paper updating the board on the financial position of the OfS for the seven-month period ended 31 October 2021 and forecast expenditure for the full financial year (to 31 March 2022). He advised that:

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

25. The board received the report.

## Report from the Student Panel (paper 9.1)

26. The chair of the Student Panel presented her report to the board on the outcomes of its most recent meeting held on 28 October 2021 at which the panel provided input into the OfS strategy and the student engagement strategy.
27. The panel also met with Michelle Donelan, Minister for Further Education and Higher Education, on 4 November. The panel discussed with her their experiences of the return to campus and the government's proposals for a Lifelong Loan Entitlement. The chair of the board advised he had received positive feedback from the Minister as to how helpful she had found the panel session.
28. With a number of new panellists in place, the chair of the panel was keen to continue the mentoring programme that had been established last year. She advised it would be helpful to receive feedback from those board members who had been involved previously and encouraged other members to engage with the new cohort of panellists if they were able.
29. The board received the report from the Student Panel.

## Report from the Provider Risk Committee (paper 10.1)

30. The chair of the Provider Risk Committee presented his report to the board on the outcomes of its most recent meeting held on 30 September 2021 and its follow up meeting held on 8 October 2021.

31. Exempt from publication

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

## Report from the Quality Assessment Committee (paper 11.1)

33. The board received the report from the Quality Assessment Committee on the outcomes of its most recent meeting held on 14 September 2021 which had been reported orally at the last board meeting.

## Report from the Risk and Audit Committee (paper 12.1)

34. The board received the report from the Risk and Audit Committee on the outcomes of its most recent meeting held on 8 September 2021 which had been reported orally at the last board meeting.
35. The chair of the committee advised that at its next meeting on 8 December 2021, the committee will be doing a deep dive into organisational prioritisation and capacity. Exempt from publication
36. The board received the report from the Risk and Audit Committee.

## Oral report from the Remuneration and Nominations Committee

37. The board met in closed session to discuss the outcomes of the committee's recent meeting held on 17 November 2021.

## **Closing remarks**

38. The chair thanked the board and the executive for their contributions at the meeting and for their work during the year. He also expressed his gratitude for the support he has received since joining the board in April.
39. He reminded members that the next meeting of the board will be held on 3 February 2022. This will again be held by Teams.

The meeting closed at 15.54.