



## **Draft minutes of the OfS Board meeting, 28 January 2020**

**Location: Finlaison House, London**

**Timings: 13.30-17.00**

- Present members:
- Sir Michael Barber (chair)
  - Martin Coleman (deputy chair)
  - Nicola Dandridge (chief executive)
  - Gurpreet Dehal
  - 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
  - Steve West
- Attendees:
- Ian Coates, Department for Education (DfE) representative
  - Richard Pennycook, DfE non-executive board member
- Apologies:
- None
- Officers:
- Ed Davison
  - Josh Fleming
  - Paul Huffer, Head of Legal
  - Susan Lapworth, Director of Competition and Registration
  - Paula McLeod, Corporate Governance Senior Adviser (clerk)
  - Richard Puttock, Director of Data, Foresight and Analysis
  - Conor Ryan, Director of External Relations
  - Nolan Smith, Director of Resources, Finance and Transformation
  - Ben Whitestone, Head of Governance

## Chair's welcome

1. The chair welcomed Richard Pennycook to the meeting noting that Richard is the lead non-executive board member of the DfE with responsibility for oversight of the OfS. He also welcomed Ian Coates from the DfE. No apologies had been received for the meeting.
2. On behalf of the board, the chair congratulated Elizabeth Fagan on her award of a CBE in the Queen's New Year's Honours list.
3. The chair reported on a number of meetings and visits he been involved in since the last board. He advised that:
  - a. He attended a meeting of the Student Panel and noted that through their discussions and other activities the panel were continuing to make a valuable contribution to the work of the OfS. Kate Lander also attended and he suggested that other board members should attend a panel meeting if they were able to.
  - b. He met with Sir Simon Stevens, chief executive of the NHS, to discuss the training of nurses and the potential need to train more doctors.
  - c. Post-election he met with Gavin Williamson and confirmed that the Secretary of State is very interested in many aspects of the work of the OfS including the TEF and teaching quality. He also met with Chris Skidmore and had discussions with him along the same lines.
  - d. He met with Michael Gove and had been in touch with the Number 10 Policy Unit.
  - e. Along with the chief executive, he met with the NUS leadership. They are continuing to push the OfS to take measures on the climate change agenda and he noted that the paper on today's agenda is a response to this.
  - f. He will shortly be meeting with the Treasury to discuss public value and how this is measured.
  - g. Board members would be welcome to attend the Parliamentary reception being held on Wednesday 29 January 2020.
4. The chair noted that he had visited or was about to visit a number of education providers and representative bodies since the last board meeting including:
  - a. Imperial College London
  - b. King's College London
  - c. South Devon College
  - d. University of Plymouth
  - e. University of Surrey
  - f. Eton College
  - g. Russell Group.
5. The chair advised that the OfS is continuing to make good progress on several issues including:
  - a. Grade inflation
  - b. Vice Chancellor pay
  - c. Conditional unconditional offers
  - d. Ambition in access and participation plans.
6. The chair highlighted the large agenda the OfS was continuing to deal with and the consequential pressure on the executive team. This included:
  - a. Preparing for the forthcoming Budget in March
  - b. Finding ways to reduce the burden on the sector
  - c. Climate change
  - d. The admissions review

- e. Preparing for the Government's response to the Independent Review of the TEF and to the Augar review.

#### 7. Exempt from publication.

8. 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 November minutes (paper 2.1)**

9. The minutes of the meeting held on 27 November 2019 were approved.

### **Chief executive's report (paper 3.1)**

10. The chief executive presented her paper which provided an update on work undertaken and issues that have arisen since the date of the last board meeting on 27 November 2019. The following issues were highlighted:
  - a. The admissions review consultation document will be shared with the board by the end of the week.
  - b. The judicial review case taken out against OfS by Bloomsbury Institute is due to be heard in the High Court in week commencing 10 February. This is very significant and defining litigation for OfS. Advice from counsel is that OfS has a reasonable chance of success and, if it is successful, will seek to recover costs from Bloomsbury. A judgement could follow at any time between 4-5 weeks to several months after the hearing.
  - c. Delays in publishing the Independent Review of the TEF and the associated government response could impact on the OfS's ability to deliver TEF outcomes for 2021-22. In anticipation of the government's response being delivered by March and it being broadly along anticipated lines, the chief executive was proposing that authority be delegated to a small group of board members (chair, chief executive, Director of Fair Access and Participation, Gurpreet Dehal and Martha Longdon) to enable them to make any policy decisions that may need to be taken, including finalising a consultation, in advance of the March meeting. If the Government response was delayed beyond March, then detailed options would come to the full board for discussion in March.
  - d. Following the resignation of the Director of Teaching Excellence and Student Experience the functions of this directorate have been re-distributed across the executive team.
11. The following points were made in discussion:
  - a. There is an expectation in the sector that a consultation on the TEF will be issued in the spring. It will be advised if this is not the case.
  - b. Annual financial statements and forecast information has been received from a large number of registered providers. This is being assessed and a summary is intended to be published in April.
  - c. The internal management of data and cyber security is noted as 'high' on the risk register but that the risk is not increasing. These areas continue to be a threat and systems for monitoring and mitigation maintain a high priority across the organisation.
  - d. Business planning for 2021 is underway. In order to address capacity concerns flexibility will be built into the plan. It will be important for the OfS to focus on its core activities and not over-commit. The OfS would aim to provide clarity over what work

is covered as part of the registration fees paid by registered providers and what is funded by DfE.

e. Exempt from publication.

12. The board:

- a. Noted the 2020-21 success criteria in Annex A of the paper.
- b. Noted the decisions taken under delegated authority.
- c. Noted the report on strategic risks.
- d. Agreed to delegate authority for policy decisions relating to the TEF as set out in paragraph 32 of the paper
- e. Noted the updates contained in the report.

### **Preserving provision framework (paper 4.1)**

13. Exempt from publication.

14. Exempt from publication.

15. Exempt from publication.

### **HESA Data Futures update (paper 5.1)**

16. Exempt from publication.

17. Exempt from publication.

18. Exempt from publication.

### **Access and participation: implementation of the reforms (paper 6.1)**

19. The Director for Fair Access and Participation introduced the paper regarding the implementation of our outcomes-based approach to regulating access and participation. He noted that:

- a. A report is being published on 29 January 2020 which analyses the assessment of 171 access and participation plans.
- b. The response from the sector has been positive and they want to be ambitious.
- c. The messaging aligned to the report will highlight that positive responses to the access and participation challenge have come from a diverse range of providers across the sector.
- d. In producing their plans many providers have taken the opportunity to review their overall access and participation strategies, bringing widening participation teams together with those working on learning and teaching, and careers.
- e. Mitigations have been applied to most providers. This does not reflect 'special measures' but is about engaging closely with providers as they explore new issues and approaches. We are asking many providers to report back on their first phase of work next year.
- f. We are making it clear where we need ourselves to take steps to improve performance across the sector, beyond the level set out in the plans. Specifically, on:
  - i. Mature students
  - ii. Levels of non-continuation in some providers
  - iii. Understanding effective practice in relation to BAME attainment and
  - iv. Supporting students with disabilities.

20. The board noted:

- a. The steps we have taken to implement our access and participation reforms since the Board agreed them in December 2018 and the outcomes of the assessment for providers.
- b. That we will separately circulate a public report summarising the key commitments that providers will deliver through their plans.
- c. The level of ambition in providers' plans demonstrated through the analysis of the targets set which align with OfS KPMs 2, 3, 4 and 5.
- d. The developments in respect of our monitoring and intervention for access and participation through provider impact reports and student submissions.
- e. The work that is being conducted to support our provider-level regulation of access and participation through funding, effective practice and evaluation.

### **Reducing higher education carbon emissions (paper 7.1)**

21. The chief executive introduced a paper proposing an approach to the higher education sector's carbon emissions. She noted the reasons for and against the OfS playing a role in this agenda including:

- a. Government has set targets to reduce emissions to net zero by 2050 and this commitment was repeated in the Conservative manifesto.
- b. Higher education makes a significant contribution to greenhouse gases but can also be part of the solution.
- c. Parts of the sector have established a Climate Commission and have set themselves ambitious targets.
- d. HEFCE had a legacy of work in this area which creates an expectation in the sector that OfS will also do this.
- e. This is a very significant issue for students and the letter from the NUS reflects what a priority this is for its members.
- f. OfS can play a unique role through its ability to introduce standardised data collection.

22. In noting that the board were overwhelmingly supportive of the OfS playing a role in this area, the following additional points were raised in discussion:

- a. This was not just about carbon emissions so suggested the scope of this work could be widened. OfS could have a role in sharing good practice or running challenge competitions.
- b. Should OfS look for the sector to deliver environmental, social and governance plans and not just data on carbon emissions, in collaboration with other parties
- c. Given this issue was also on the agenda of the LEPs and was important for schools and colleges as well, should the data collection be done in collaboration with the DfE?
- d. Student choice could be a powerful tool and may impact on the financial viability of providers.
- e. This issue is particularly important to current and future students. OfS should look to involve students in taking forward this work.
- f. Taking action will be critical. This is not just about data returns.
- g. OfS's role needed to be light touch and should not create additional unnecessary burden for the sector.

23. The board:

- a. Agreed that the OfS should support registered providers to meet the target of net zero emissions by 2050, through the interventions described below

- b. Agreed that there should be a consultation by the OfS on the future collection and publication of carbon emissions data from registered providers
- c. Agreed that the OfS should publish information on the sector's carbon emissions, and students' attitudes to climate change
- d. Agreed that the OfS should signpost the option of Salix loans to providers and explore the possibility of linking OfS capital funding to decarbonisation
- e. Noted the internal OfS sustainability plan.

### **Board effectiveness review 2019 (paper 8.1)**

24. The Head of Governance introduced a paper setting out the outcomes of the 2019 survey carried out to seek the views of members on the effectiveness of the OfS board. He noted that the results are generally positive, reflecting the continuing development of the board. The results highlighted some themes where there were opportunities for further improvements including:
- a. More opportunities for strategic engagement and being able to discuss issues at an early stage.
  - b. Influencing the tone of the organisation.
  - c. Better information on organisational performance.
  - d. A clearer understanding of how the OfS is viewed by its stakeholders.
  - e. More scrutiny of board sub-committees.
25. In addressing these themes, the Head of Governance outlined the proposed actions. These included:
- a. Holding a board meeting in Bristol annually.
  - b. Sharing a corporate scorecard with the board, something which is currently being developed.
  - c. Receiving the outcomes of the stakeholder survey which is planned for autumn this year.
  - d. Having a focussed risk discussion at the board twice yearly.
  - e. Having a focussed discussion on one sub-committee at each board meeting.
  - f. Working with the Head of External Relations, shaping the tone of our major communications at an early stage.
26. The board:
- a. Noted the survey outcome data.
  - b. Discussed some of the issues arising from the survey and considered the proposed actions, agreeing that:
    - i. A board meeting in Bristol should be as part of a wider programme of events and briefings.
    - ii. There needed to be a more routine way of bringing to the fore upcoming issues that could involve the board.
    - iii. Group visits to providers would be a good way for the board to engage with its stakeholders as would engaging with experts on particular topics through board presentations.
    - iv. The board can get good insights from groups such as the Student Panel.

### **Finance report (paper 9.1)**

27. The Director of Resources, Finance and Transformation updated the board on the year-to-date position on OfS's administration costs and programme expenditure for the nine month

period ended 31 December 2019 and forecast for the full financial year to 31 March 2020.  
He advised that:

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

28. The board noted the paper.

### **Oral report from the Student Panel**

29. The chair of the Student Panel updated the board on the work of the panel since the last board meeting and the outcomes of the panel meeting held on 23 January 2020. She noted that:

- a. The panel had considered market exit, student protection plans and proposals for a sexual harassment consultation.
- b. She is looking at how meetings of the panel might be better aligned to those of the board to ensure its outcomes are reported in a timelier manner.
- c. In addition, the chair thanked the chair of the board and Kate Lander for attending the panel meeting and extended the invitation to other members to attend a future meeting.

30. The chair noted that as it comes to the end of its second year, there will be a review of the panel. 8 panellists have come to the end of their terms so further recruitment will be required.

31. The board received the oral report of the Student Panel and put on record its thanks to the 8 outgoing members for their contributions.

### **Report from the Provider Risk Committee (paper 11.1)**

32. The board received a paper on the work of the Provider Risk Committee and the outcomes of its most recent meeting held on 20 January 2020.

33. Exempt from publication.

34. The board received the report of the Provider Risk Committee.

### **Report from the Quality Assessment Committee (paper 12.1)**

35. The board received a paper on the work of the Quality Assessment Committee and the outcomes of its most recent meeting held on 5 December 2019.

36. Exempt from publication.

37. Exempt from publication.

38. Exempt from publication.

39. Exempt from publication.

40. The board received the report of the Quality Assessment Committee.

### **Report from the Risk and Audit Committee (paper 13.1)**

41. The board received a paper on the work of the Risk and Audit Committee and the outcomes of its most recent meeting held on 11 December 2019.
42. The chair of the committee advised that:
- a. The newly appointed internal audit provider has completed its first reports and its findings were positive. In completing their work there has also been good staff engagement.
  - b. There has been a change of NAO director assigned to the OfS. He had attended his first meeting in December and left with a high degree of comfort that issues were being prioritised and addressed by the committee.
  - c. There is an appetite from the committee to get into more detail on specific higher risk areas.
43. The board received the report of the Risk and Audit Committee.

### **Report from the Horizon Scanning Panel (paper 14.1)**

44. The board received a paper on the work of the Horizon Scanning Panel and the outcomes of its most recent meeting held on 25 November 2019.
45. The chair noted that he covered orally the main issues arising at this meeting at the November board. The written report covered these in more detail. He was also looking to address the diversity of the panel.
46. The board received the report of the Horizon Scanning Panel.

### **Oral report from the Remuneration and Nominations Committee**

47. The chair of the Remuneration and Nominations Committee updated the board on the outcomes of its most recent meeting held on 28 January 2020. She noted that:
- a. The committee received an update on the pay award and a discussion on developments with establishing a new performance management system at OfS.
  - b. The committee discussed the findings arising from an equal pay audit of OfS, the actions being undertaken by management to address these, and its role in tracking the implementation of these actions.
  - c. Following discussion at the November board, the committee considered a framework for recruitment to OfS committees and agreed it has a watching brief in ensuring the diversity of the committees and will step in if necessary.
48. The board received the oral report of the Remuneration and Nominations Committee.

### **Closing remarks**

49. In closing the meeting, the chair thanked the board for their contributions.
50. The next meeting of the board will be on 16 March 2020.

**Outstanding actions arising from current and previous board meetings:**

**Status update**

Exempt from publication.