



## **Draft minutes of the OfS Board meeting, 3 February 2021**

**Location: by video or telephone conference**

**Timings: 0900-1300**

- 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
- Apologies:
- None
- Officers:
- Ed Davison
  - Josh Fleming
  - Ruby Gatehouse, TEF Manager
  - 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
  - Conor Ryan, Director of External Relations
  - Nolan Smith, Director of Resources and Finance
  - Ben Whitestone, Head of Governance

## **Chair's welcome**

1. The chair welcomed members to the meeting. No apologies had been received.
2. The chair updated on his meetings with the Secretary of State and the Universities Minister. He had also met with the Permanent Secretary at the DfE. He had given a lecture at a King's College London event in a personal capacity in which he had focused on the importance of scholarship and diversity of thought. The issues raised had been well received.
3. The chair acknowledged the high levels of pressure the sector has been under as a result of coronavirus but through this he had seen evidence of resilience and strong leadership which he welcomed.
4. Publication of the review of digital teaching and learning is expected at the end of February 2021.
5. In taking on the review for the Prime Minister's Office and the Cabinet Office, he had reduced his time working for the OfS. He thanked the deputy chair, the chief executive and others for picking up any work as a result of this. He also confirmed to the board that he would not be taking his chair's salary for the period 01/01/2021-31/03/2021.
6. 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 December minutes (paper 2.1)**

7. The minutes of the board meeting held on 1 December 2020 were approved.

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

8. 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 1 December 2020. She advised that:
  - a. Given the continuing pressures of a further lockdown on providers, we had not taken forward the publication of the planned open letter on free speech in January.
  - b. The recent letter to providers setting expectations during the current lockdown was designed to balance the need to ensure students have a minimum standard of teaching quality at the same time as recognising the pressures on providers.
  - c. DfE has issued a number of policy proposals – post-qualification admissions, Augar, TEF response, Skills White Paper and a funding guidance letter – some of which would be considered in detail at this meeting.
  - d. The government has announced a £50m hardship fund. The money will be allocated by the OfS to providers for them to distribute to students by the end of this financial year.
  - e. It will be necessary for the board to hold a short meeting in April to discuss the outcomes of the phase 1 quality and standards consultation.
9. The following points were raised in discussion:
  - a. The Skills for Jobs White Paper has been welcomed, particularly as it gives more prominence to further education. The outcomes of the Spending Review will be important for the delivery of the ambitions set out in the document.
  - b. The recent letter to providers reminding them of their regulatory obligations prompted providers to undertake a review of their compliance with consumer protection obligations as the, albeit relatively small, number of notifications the OfS

- has received from students and others suggested that some students did not consider that they had received the teaching they had been promised.
- c. Providers had generally submitted data returns on time in autumn 2020. Financial data is expected from the majority of providers this month and there is no indication this extended deadline will not be met.
  - d. There are plans for the OfS to consider the issue of VC pay early in 2021.

10. The board:

- a. Reiterated the importance of protecting its independence as it makes decisions.
- b. Noted the updates contained in the report and thanked the chief executive and her team for all the work that continues to be done during a busy and challenging period for the OfS.

### **Development of a new approach to the TEF (paper 4.1)**

11. The Director for Fair Access and Participation introduced the paper updating the board on the development of proposals for a new approach to the Teaching Excellence and Student Outcomes Framework (TEF), noting that Dame Shirley Pearce's Independent Review of the TEF and the Government response had both been published last month. In addition, the OfS has published the outcomes of its subject pilots. Having a rating scheme above the baseline of the B conditions is a key part of delivering the OfS's regulatory objectives. There is now an opportunity to reform the TEF, ensuring it aligns with proposals for the future approach to regulating quality and standards in higher education, and takes into account other developments such as the NSS review, the chair's review of digital teaching and learning, and the effects of the pandemic. In deciding on any proposed reforms for consultation, the OfS will have regard to any statutory guidance issued by government and other relevant considerations.

12. The following points were raised in discussion:

- a. The view was expressed that running the TEF every 4 or 5 years was a long period. It risked losing its relevance and might fail to achieve its original purpose of influencing behaviour within providers. Consideration should be given to reviewing TEF grades more frequently so as to influence providers' behaviour and give students up-to-date and robust information.
- b. We need to ensure the UK's reputation for teaching quality is maintained internationally, and that any evidence OfS publishes for this audience is robust and timely.
- c. It was sensible to seek to align baseline regulatory requirements with the TEF criteria and approach. There is a lot of work to be done in this area in preparation for the consultations planned for later in 2021. There would need to be good communication between the Provider Risk Committee and the TEF development process.
- d. The sector appeared to have welcomed the Pearce review and the government's views that there should not be a subject-level TEF. Any proposed reforms of the TEF would need to take into account concerns about regulatory burden, including as expressed in the government's statutory guidance.

13. The board noted:

- a. The Independent Review of the Teaching Excellence and Student Outcomes Framework (TEF), the government's response to the review and the OfS subject pilots report.
- b. The issues to be addressed through consultation on the future approach to the TEF, which we plan to conduct alongside the next phase of our consultation on quality and standards.

- c. That it will consider the next phase of TEF development alongside the outcomes of the current consultation on quality and standards at its board meeting in April.

### **Review of the NSS – phase one report (paper 5.1)**

14. The Director of External Relations updated the board on the comprehensive process that has been undertaken as part of the review of the NSS, including student polling, holding roundtables and engaging with academics. In addition, historic NSS results have been analysed and reviewed. In highlighting the key findings of the review he noted that:
  - a. Without the NSS it was likely that providers will run their own surveys.
  - b. Although it is mostly academic staff that see the NSS as a burden, the majority of academics do recognise its value in helping to improve the student experience.
  - c. The NSS is not seen as a major cause of grade inflation. Students are getting better degrees but there is no real evidence these are linked.
  - d. There was support for reviewing the survey questions, particularly those relating to satisfaction and the role students play in contributing to their own learning.
15. The DfE representative thanked the OfS for carrying out such a comprehensive review and responding to the questions that had been raised by government. He advised that ministers saw this as a robust piece of work and were keen that the right decisions were made as a result, taking into account the interests of the wide range of stakeholders providing information and advice to students. The preference of ministers was not to present a fixed set of conclusions at this stage but did acknowledge the final decision lies with the OfS board.
16. In thanking the director and his team for the thoroughness of the review, the chair commented that the outcomes show how much the NSS is valued by senior managers in HE and the important role it plays in improving the student experience. The NSS is also a fundamental part of the OfS's evidence base to inform its regulatory work so it is important not to delay the conclusion of this review.
17. In strongly expressing its support for the NSS and for maintaining an annual cycle, the following points were raised in discussion:
  - a. The NSS is a useful tool for university management to ensure continuous improvement in the overall student experience. It also helps to highlight any variability at modular level or other areas that require particular focus.
  - b. Questions in the survey covering provision carried out with partners, such as the NHS, provides a lever for enhancement and change in these areas.
  - c. It was important to have a formal vehicle to hear the student voice, particularly in current times. Not running a survey annually will mean that the views of some cohorts will not be heard.
  - d. The next survey will need the flexibility to include questions that relate to the student experience over the period of the pandemic.
  - e. It was better to have a survey carried out at a national level rather than by providers on an individual basis.
  - f. Having a survey that delivers robust and timely information should be the primary key driver for change, not cost savings.
  - g. The review of the NSS, the future design of the TEF and the consultation on quality and standards helpfully align to support the development of the OfS's regulatory framework.
18. After considering the evidence and recommendations in the report and expressing its views on the findings, the board agreed, subject to one amendment, to the proposed delegation set out in paragraph 32 of the paper. The amendment was that one additional board

member would be a member of the decision-making group and the chair would decide on the appropriate board member. The members of the decision-making group would therefore be the chair, chief executive, director of external relations, plus one additional board member agreed by the chair.

19. The chair confirmed he will brief the incoming chair on some of the issues and concerns raised during the discussion.

### Exempt from publication

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27. Exempt from publication

### OfS funding for AY2021-22 (paper 7.1)

28. The Director of Resources and Finance introduced a paper covering the statutory guidance letter recently received from the Secretary of State for Education and our proposed consultation on funding for the academic year 2021-22. He advised that:
- Total funding is broadly similar to the previous year but because of an increase in student numbers the total funding per student will reduce.
  - The proposed reduction in price group C1 would save £18m. This could be re-distributed to high cost subjects.
  - Based on the proposals, more providers would see an increase in funding than a decrease.
  - Some recurrent funding is expected to be used to support student mental health. Part of this will go into existing Challenge Fund programmes.
29. The director also responded to a question raised earlier in the meeting regarding the additional £10 million of recurrent funding and up to £10 million additional capital funding to support increased student numbers in 2020-21. He noted that the bids received outweighed the amount of funding available but that the figures had been skewed by some large bids. Some bidders will not get any additional capital funding but there will be recurrent funding for those with an increase in eligible student numbers.
30. The board noted:
- The plans for the proposed consultation on funding for the academic year 2021-22.
  - That the outcomes of the consultation would come to the board in May 2021.

*The chair left the meeting for the following item.*

### **Discussion on the new OfS strategy (paper 8.1)**

31. In introducing this item, the deputy chair acknowledged the unusual position of discussing future strategy at a time when the organisation is transitioning to a new chair. He advised discussions at this stage would be high level and the board would have the opportunity to return to this issue when the new chair is in post.
32. The chief executive followed up the introduction, noting that she would like the board's views on the proposal to publish the new strategy in January 2022. In asking the board to confirm that the written summary of its planning event in 2020 (Annex A) accurately represented its views, a member noted the point relating to the OfS's relationship with providers, and suggested revisiting this to express more carefully the balance between the use of positive incentives for improvement and sharper regulatory tools where we have compliance concerns. The summary will be amended to reflect this.
33. The Head of Strategy Oversight and Implementation drew the board's attention to the initial literature review which had had been focused on the student perspective. He asked the board to consider other areas in which further research might be required. He also invited the board to consider the aspirations for the strategy and future outcomes.
34. The following points were raised in discussion:
  - a. Exempt from publication
  - b. Exempt from publication
  - c. Exempt from publication
  - d. Exempt from publication
  - e. Exempt from publication
  - f. Exempt from publication
  - g. Exempt from publication
35. The DfE representative endorsed the proposed timings for the strategy and advised that some statutory guidance may be issued which will provide further context on this. The timing also fitted with the FE White Paper. He noted that this strategy period will cover the cohorts of students whose GCSEs and A levels have been severely disrupted as a result of the pandemic. This is important context as the characteristics of these cohorts may be different from those in other years.
36. The board:
  - a. Were supportive of the proposal to publish the strategy in January 2022.
  - b. Subject to the point in 32 above, confirmed the written summary of its planning event in November/December 2020 accurately represents its views.
  - c. Noted that a further iteration of the strategy will come back to a future board for discussion.

### **Follow up on board effectiveness (paper 9.1)**

37. The Head of Governance presented a paper updating the board on its recent consideration of its own effectiveness, including the final review carried out by KPMG as the OfS's internal auditors. As well as highlighting areas of good practice, the review offered areas for improvement, some of which have been implemented for this meeting.
38. The board:

- a. Noted the final report from the KPMG review and the update on the actions arising from the board effectiveness discussions at the board planning event.
- b. Agreed there should be an early conversation with the new chair to update him on the development work that has been done to date.

### **Finance report (paper 10.1)**

39. Director of Resources and Finance introduced his paper updating the board as to the financial position of the OfS's Programme and Administration budgets for the nine month period ended 31 December 2020 along with forecast expenditure for the full financial year (to 31 March 2021). He advised that this report did not take into account the recent announcement of the £50m hardship fund but that arrangements were being made to distribute the money as soon as possible.
40. The board:
  - a. Noted the year-to-date and forecast positions on Administration costs and Programme expenditure.
  - b. Thanked the director and his team for their exemplary management of the OfS's internal finances.

### **Report from the Student Panel (paper 11.1)**

41. The chair of the Student Panel updated the board on the activities of the panel and its members since the date of the last board meeting on 1 December 2020, including a meeting held with the Universities Minister to discuss the impact on students of the third national lockdown. The Minister had indicated she was keen to meet with the panel again. The chair of the panel noted that it and its members have continued to provide support and advice during the ongoing pandemic, and she thanked all involved for their contributions.
42. The board received the oral report from the Student Panel, noting the significant level of impact the panel has achieved this year and that this created a platform for it to build on in the coming months.

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

43. The chair of the Quality Assessment Committee updated the board on the outcomes of its most recent meeting held on 7 December 2020, noting that the key issues had already been discussed earlier in this board meeting.
44. The board received the report from the Quality Assessment Committee.

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

45. The chair of the Risk and Audit Committee updated the board on the outcomes of its most recent meeting held on 10 December 2020. She advised that:
  - a. The committee held a discussion with the Director of Data, Foresight and Analysis to consider the management of risks associated with the Data Futures programme. The committee were assured that robust processes were in place. A further update on progress will be provided at the next meeting.
  - b. Exempt from publication
  - c. The committee received a presentation from the recently appointed Chief Technology Officer which demonstrated that the OfS had taken effective steps in relation to cyber security, with a detailed action plan in place to continuously improve and respond to the ever changing threats in this area.
46. The board received the report from the Risk and Audit Committee

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

47. The chair of the Horizon Scanning Panel updated the board on the outcomes of its most recent meeting held on 16 November 2020, noting that this these had fed into the board's strategy discussion at the recent planning event. He noted that it would be for the new chair and the executive to decide what form the panel should take in future or how it would engage with its members.

48. The board received the report from the Horizon Scanning Panel.

### **Closing remarks**

49. In closing the meeting, the chair thanked the executive for the papers and for their continuing hard work during a very busy period. He also thanked members and the DfE representative for their valuable contributions.

50. Exempt from publication

51. The next formal meeting of the board is scheduled for 9 March 2021.

52. The meeting closed at 1235.