

## Regulatory case report for London College of Business Studies – Specific Ongoing Condition E2A

### Summary

This case report explains why we have decided to impose a specific condition of registration on London College of Business Studies (the “Provider”) in relation to ongoing condition E2.

London College of Business Studies has satisfied the initial conditions of registration with the OfS.

However, an independent management and governance review has identified concerns around the apparent informality of decision-making at the Provider. A key issue was a lack of adequate recording and reporting of decisions at a senior level (for example, there was insufficient evidence to show that matters/reports from the Quality and Standards committee meetings made their way to the Board of Trustees meetings for discussion). Related to this, there was a lack of evidence to suggest sufficient discussion and challenge by the Board of decision-making in key areas, such as finances, risk management and compliance. These concerns suggest that the Provider may be at increased risk of breaching condition E2: Management and governance.

London College of Business Studies has stated that it has already taken actions to address these concerns. We have imposed a specific ongoing condition of registration which requires the Provider to comply with the OfS accounts direction from the date of registration, which is earlier than would otherwise be required for a newly registered provider, as they are usually given a grace period of 12 months or more. By requiring early compliance with the accounts direction, the OfS can monitor the adequacy and effectiveness of the Provider’s arrangements at an earlier date and can therefore respond more quickly to any risks relating to the Provider’s ongoing compliance with condition E2.

### Reasons for the specific ongoing condition of registration

In October 2019, the OfS commissioned an independent management and governance review of the Provider, to test its ability to satisfy condition E2.

The management and governance review found ‘no assurance’ that the following public interest governance principles were upheld:

- I: Academic freedom
- II: Accountability
- IV: Academic governance
- V: Risk management
- VI: Value for money

The review found 'limited assurance' that the following public interest governance principles were upheld:

- III: Student engagement
- VIII: Governing body

The review found 'moderate assurance' that the following public interest governance principle was upheld:

- IX: Fit and proper

The review also found that there was 'limited assurance' of the Provider's ability to continue to comply with conditions of registration.

In summary, the main area of concern centred around the apparent informality of decision-making at the Provider. A key issue was a lack of adequate recording and reporting of decisions at a senior level (for example, there was insufficient evidence to show that matters/reports from the Quality and Standards committee meetings made their way to the Board of Trustees meetings for discussion). Related to this, there was a lack of evidence to suggest sufficient discussion and challenge by the Board of decision-making in key areas, such as finances, risk management and compliance. These concerns suggest that the Provider:

- may not be operating in accordance with its governing documents
- may not be able to fully uphold in practice all the governance principles relevant to it, in particular II: Accountability, IV: Academic governance and V: Risk management, and
- may not be able to continue to comply with its conditions of registration.

Additionally, there was no evidence to suggest that the Provider "regularly reviews the adequacy and effectiveness of its own governance arrangements, with external input, particularly with regard to the public interest governance principles, and to course delivery and compliance with its conditions of registration and takes appropriate action" (one of the behaviours listed in paragraph 450 of the regulatory framework that may indicate compliance with condition E2).

Since the review, the Provider has taken actions to address the concerns identified, such as updating the standing agenda for Board of Trustees' meetings and stating that it would undertake a management and governance review, with external input, in 2021; however, some of these actions may not sufficiently address the risks or are untested, and therefore the OfS's concerns with regards to management and governance arrangements at the Provider remain.

## **Relevant OfS condition of registration**

It is the OfS's view that the concerns raised in the independent management and governance review pose risks relevant to condition E2. This condition requires a provider to have in place adequate and effective management and governance arrangements to:

- i. Operate in accordance with its governing documents.
- ii. Deliver, in practice, the public interest governance principles that are applicable to it.
- iii. Provide and fully deliver the higher education courses advertised.
- iv. Continue to comply with all conditions of its registration.

The range of management and governance issues identified in the independent management and governance review, such as informality in decision-making, insufficient discussion of key risks at Board level and a lack of evidence to suggest the Provider regularly reviews its management and governance arrangements (with external input), raises the concern that the Provider may not have adequate and effective management and governance arrangements in place to fully deliver the requirements of condition E2.

## Decision

We require the Provider to undertake specific actions in relation to condition E2, by way of a specific ongoing condition of registration.

Ongoing condition E3, relating to 'Accountability', requires the Governing Body of a registered provider to ensure compliance with the OfS's accounts direction.<sup>1</sup> The current accounts direction (OfS 2019.41) gives newly registered providers a grace period before they are expected to comply with the direction. The specific condition below requires the Provider to comply with the accounts direction from the date of registration, so earlier than would otherwise be required, and that it needs to prepare, submit and publish audited financial statements in accordance with the accounts direction for the financial year ending 31 July 2023.

The reason the OfS requires the Provider to comply with the accounts direction from the date of registration and to prepare, submit and publish audited financial statements in full accordance with the requirements of the accounts direction is due to the concerns raised about the adequacy and effectiveness of the Provider's management and governance arrangements as highlighted in BDO's final report. By requiring early compliance with the accounts direction, the OfS can monitor the adequacy and effectiveness of the Provider's arrangements at an earlier date and can therefore respond more quickly to any risks relating to the Provider's ongoing compliance with condition E2.

The text set out below constitutes the specific ongoing condition imposed on London College of Business Studies pursuant to section 6(1) of the Higher Education and Research Act 2017 and is to be referred to as "Specific Ongoing Condition E2A (London College of Business Studies)".

## Specific Ongoing Condition E2A (London College of Business Studies)

E2A.1 The Provider must prepare and publish financial statements which comply with the requirements set out in the Accounts Direction for any financial year ending less than 12 months, or exactly 12 months, after the Registration Date. For the avoidance of doubt, this means that the phased approach for compliance with the Accounts Direction set out in paragraphs 7-8 of the Accounts Direction does not apply to the Provider.

### Definitions

"Accounts Direction" means the document titled "Regulatory advice 9: Accounts direction" (OfS 2019.41), published on the OfS website.

"OfS" means Office for Students.

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<sup>1</sup> See [www.officeforstudents.org.uk/publications/regulatory-advice-9-accounts-direction-accounting-periods-beginning-on-or-after-1-august-2019/](http://www.officeforstudents.org.uk/publications/regulatory-advice-9-accounts-direction-accounting-periods-beginning-on-or-after-1-august-2019/).

“Provider” means London College of Business Studies.

“Registration Date” means the date that the Provider is added to the OfS Register.