

# Scheme of delegation from 6 December 2018

## What is it?

1. The Office for Students' (OfS's) powers, duties and functions are set out in the Higher Education and Research Act (HERA) 2017. Within that legislative framework, this Scheme of Delegation sets out how the OfS makes decisions, either through the OfS board itself, through its committee structure, or through a structure of delegations through the chief executive to directors and to staff. It also sets out how material decisions taken under that delegated decision-making structure are reported back to the board.

## Why is it important?

2. It is important because it outlines how decisions are taken and how staff are accountable for these decisions. It ensures that staff know what is expected of them, and if asked by external agencies (such as the National Audit Office) how a decision has been made, we can clearly demonstrate the process. Ensuring that there is clarity on decision making is an important aspect of appropriate use of public funds as set out in Managing Public Money<sup>1</sup>.

## Who has the authority to take decisions in the OfS?

### The board

3. Matters reserved to the OfS board are:
  - Consideration and approval of the 'Approach to Corporate Governance' including the terms of reference of its committees
  - Consideration and approval of the OfS's strategic objectives
  - Changes to the regulatory framework<sup>2</sup>
  - Approval of risk management arrangements and consideration of reports of the Risk and Audit Committee.
4. However, it is not practical for the board to make every decision necessary to fulfil the OfS's role. It therefore delegates the authority to make certain decisions to the OfS chair, the chief executive, the Director for Fair Access and Participation, other directors and the board committees, taking into account the advice of the OfS's senior executive team or others as appropriate.
5. A member, officer or committee to whom a power, duty or function is delegated by the board may nominate or authorise an officer of the OfS to exercise that power, duty or function, provided that the nomination or authorisation is in writing and the officer directly reports to or is responsible to the member, officer or committee in question.

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<sup>1</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/454191/Managing\\_Public\\_Money\\_AA\\_v2\\_-jan15.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_-jan15.pdf)

<sup>2</sup> Section 75 of HERA

6. Any functions which the board has delegated can be exercised or reassumed by it either generally or on a case by case basis.
7. Functions, matters, powers, authorisations, delegations, duties and responsibilities within this scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.

## **Urgent decisions between board meetings**

8. Should scheduling issues preventing the board from meeting face-to-face, it can consider issues and take decisions via correspondence or a special meeting. If this is not possible, the board delegates authority to the chair and chief executive to take urgent decisions on any matter that could have been decided by the board between board meetings provided any such decisions are reported to the board at its next meeting.

## **The chair**

9. The chair has particular responsibility for providing strategic leadership. The board may delegate decisions to the chair as circumstances dictate. The board delegates authority to the chair to appoint board members/independent members to OfS committees.
10. In respect of any matter where the chair of the board has a conflict of interest, the chair's authority will be exercised by the deputy chair of the board.
11. There may be instances where the chair is absent or unable to fulfil his functions, with or without prior notice. In these circumstances the chair's authority will be exercised by the deputy chair.

## **The chief executive**

12. The chief executive is the accounting officer, which means she is the OfS staff member who ultimately takes responsibility for the proper and regular use of public funds and ensuring value for money.
13. It is not practical for the chief executive to make every day-to-day operational decision necessary for the smooth running of the OfS. Operational decision-making is therefore cascaded down through directors to senior managers and to others as necessary.
14. Where the chief executive has a conflict of interest, the chair or a member of the OfS's senior team will exercise her function.
15. There may be instances where the chief executive is absent or unable to fulfil her functions, with or without prior notice. In these circumstances the chief executive's functions will be exercised by a director as acting chief executive. This will enable urgent decisions to be taken during such periods of absence.
16. The chief executive and directors are authorised to sign contracts and formal documents such as Memoranda of Agreement or funding documentation on behalf of the OfS that have been approved by the appropriate body within the OfS in accordance with this scheme of delegation.

## The Director for Fair Access and Participation (DFAP)

17. HERA makes provision for the OfS board to delegate responsibility to the DFAP for the OfS's access and participation functions. The OfS board delegates the responsibilities set out in paragraph 3 of schedule 1 of HERA to the DFAP:

- a. To issue guidance as to the matters to which the OfS will have regard in deciding whether to approve access and participation plans
- b. Decisions to approve or refuse access and participation plans
- c. Decisions to refuse to renew an access and participation plan
- d. Monitoring of access and participation plans (including access agreements agreed by the OFFA Director of Fair Access and penalties arising from this)
- e. To issue guidance on good practice in preparing access and participation statement(s)
- f. Reporting to the board on access and participation and preparation of any reports relating to access and participation required by the Secretary of State
- g. To identify and give advice to registered providers about good practice relating to the promotion of equality of opportunity.

## Delegated authority for OfS legal function

18. The Head of Legal has delegated authority to:

- a. in accordance with any general or specific strategic direction which may be provided by the board, chief executive or relevant director, defend any form of legal claim, application or challenge brought against the OfS (including where the OfS is named as a respondent or party to proceedings)
- b. with the agreement of, and in accordance with any general or specific strategic direction which may be provided by, the board, chair, deputy chair or chief executive:
  - i. bring, manage and conduct any form of legal claim or appeal on behalf of the OfS
  - ii. make an application for, and if granted exercise, a search warrant under section 61 of HERA 2017 on behalf of the OfS
  - iii. make any other form of legal application on behalf of the OfS, including but not limited to an application for a declaration, injunction, disclosure and award of costs.
- c. in accordance with any guidance provided by the chief executive or supervising director on procurement and ensuring value for money, to procure and instruct external lawyers of any description or other specialist or professional support for the purposes of, or in connection with, the provision of legal representation, advice and/or support for any of the OfS's functions and/or any form of legal proceedings or application as described in 18. a. or b.
- d. to disclose information externally in accordance with section 63 of HERA 2017 for any purposes connected with a. to c. and to e.
- e. to do anything which is calculated to facilitate, or is conducive or incident to paragraph 18. a. to d.

19. Acting under the supervision and direction of the Head of Legal, an employee or contractor of the OfS with the appropriate legal qualifications and experience has delegated authority to:

- a. assist the Head of Legal Services with any matters set out or described in 18 a. and b.
- b. in accordance with a procurement decision of the Head of Legal, instruct external lawyers of any description or other specialist support for the purposes of, or in connection with, the provision of legal representation, advice and/or support for any of the OfS's functions and/or any form of legal proceedings or application as described in 18. a. or b.
- c. to disclose information externally in accordance with section 63 of HERA 2017 for any purposes connected with a. b. and d.
- d. to do anything which is calculated to facilitate, or is conducive or incident to, 18. a. to c.

20. For the purposes of this delegation:

'Head of Legal' means, irrespective of a person's job title from time to time, the lawyer employed by the OfS, at the grade of pay band 12 or above, with the principal role of leading the provision of legal services;

'relevant director' means the employee or member of the OfS whose normal areas of responsibility cover the functions or matters in question; and

'supervising director' means the employee or member of the OfS the Head of Legal normally reports to.

## **Regulation of individual providers**

### **Applications to register with the OfS**

21. The Registration team will assess all applications for registration and make recommendations on the following matters:

- a. Whether the provider is eligible for registration (that is whether the provider is a provider of higher education in England)
- b. Whether the provider satisfies the initial conditions of registration
- c. The risk of a future breach of each of the ongoing conditions of registration
- d. Actions (if any) that are necessary to mitigate areas of increased risk.

22. The OfS board delegates to the Provider Risk Committee (PRC), chief executive and Director of Competition and Registration the following decisions relating to the initial registration of providers on the OfS Register including, where judged necessary, the application, amendment or imposition of one or more specific conditions of registration.

23. The Director of Competition and Registration will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:

- a. The provider satisfies the initial conditions of registration; and
- b. The risk category for each condition is no higher than yellow; or
- c. The risk category for only condition A1 is amber.

24. The Director of Competition and Registration may decide upon recommendations to disapply the initial condition of registration B3 for a provider that meets these criteria.

25. The Director of Competition and Registration may refer any case to the chief executive or to the PRC in which case the chief executive or PRC will make a decision in that case.
26. The chief executive will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
  - a. The provider satisfies the initial conditions of registration; and
  - b. The risk category for each condition is no higher than amber; or
  - c. The risk category for only one condition is red unless that red condition is condition D (financial viability and sustainability) or E2 (management and governance).
27. The chief executive may decide upon recommendations to disapply initial condition of registration B3 for a provider that meets these criteria.
28. The chief executive may refer any case to the PRC in which case the PRC will make a decision in that case.
29. The PRC will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
  - a. The provider is not eligible for registration; or
  - b. The provider does not satisfy the initial conditions of registration; or
  - c. The risk category for two or more conditions is red or the risk category for condition D (financial viability and sustainability) or E2 (management and governance) is red.
30. The PRC, or the chair of the PRC, may decide upon recommendations to disapply one or more initial or ongoing conditions of registration for a provider.
31. The PRC may refer any case to the board in which case the board will make a decision in that case.

## **Scheme of delegation for individual registered providers**

32. The Registration Team will assess all evidence and make recommendations on the following matters:
  - a. Whether the provider remains eligible for registration (that is whether the provider is a provider of higher education in England)
  - b. The risk of a future breach of any of the ongoing conditions of registration
  - c. Actions (if any) that are necessary to mitigate areas of increased risk.
33. The Director of Competition and Registration will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
  - a. No change to the risk category for any ongoing condition is required;
  - b. A change to the risk category for one or more ongoing conditions is required and the new risk category for all conditions is no higher than yellow, or no higher than amber for condition A1; and
  - c. It is not necessary to remove a specific ongoing condition.

34. The Director for Competition and Registration may refer any case to the chief executive or to the PRC in which case the chief executive or PRC will make a decision in that case.
35. The chief executive will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
  - a. A change to the risk category for one or more ongoing conditions is required and the new risk category for all conditions is no higher than amber; or
  - b. The new risk category for only one condition is red unless that red condition is condition D (financial viability and sustainability) or E2 (management and governance); and
  - c. It is not necessary to remove a specific ongoing condition from condition D (financial viability and sustainability) or E2 (management and governance).
36. The chief executive may refer any case to the PRC in which case the PRC will make a decision in that case.
37. The PRC will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:
  - a. The provider is no longer eligible for registration; or
  - b. A change to the risk category for one or more ongoing conditions is required and the new risk category for two or more conditions is red or the risk category for condition D (financial viability and sustainability) or E2 (management and governance) is red.
  - c. It is necessary to remove a specific ongoing condition from condition D (financial viability and sustainability) or E2 (management and governance).
38. The PRC, or the chair of the PRC, may decide upon recommendations to disapply one or more ongoing conditions of registration for a provider.
39. The PRC, or the chair of the PRC, may refer any case to the board in which case the board will make a decision in that case.

## **Quality and standards**

### **Assessing the quality of, and standards applied to, higher education**

40. Section 23 of HERA makes provision for the OfS to assess, or make arrangements for the assessment of, the quality of, and the standards applied to, higher education provided by English higher education providers.
41. The board has established a Quality Assessment Committee (QAC) as required by section 24 of HERA. The board must approve the committee's terms of reference, which must comply with section 23 of HERA including giving advice to the board and chief executive on the exercise of the OfS's quality functions by the Designated Quality Body (DQB).
42. A delegation is made to the chair of QAC, following consultation with the OfS chief executive, to take decisions on the board's behalf in relation to general directions about the performance of any of the assessment functions (under schedule 4 paragraph 10 of HERA), and formal requests for the DQB to provide information to the OfS under section 27(4) of HERA.

43. Any other decisions relating to the approach to be taken by the DQB are delegated to the chief executive.

## **University college and university title**

### **The OfS's advice on university college and university title applications under the old system**

44. For applications received before or on 31 March 2019, approval of advice provided to the Secretary of State in respect of the creation of a university or the use of university or university college title is delegated to the chief executive.

## **Degree awarding powers**

### **The OfS's advice on degree awarding powers under the old system**

45. For applications received before or on 31 March 2018, approval of advice provided to the Secretary of State in respect of the awarding of degree awarding powers (DAPs) is delegated to the chief executive.

### **Decision-making for the authorisation of degree awarding powers from 1 August 2018**

46. For New DAPs, the Market Entry Team will assess all applications and make recommendations on the following matters:

- a. Whether the provider has submitted a correct application
- b. Whether the provider is eligible for New DAPs as set out in paragraph 211 of the regulatory framework
- c. Whether the provider is suitable for DAPs as set out in paragraphs 228-229 of the regulatory framework
- d. Whether the provider's student protection plan is suitable
- e. Whether the provider has provided a satisfactory progression statement as part of an application for foundation degree only authorisation.

47. The Director for Competition and Registration will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:

- a. The provider is eligible for New DAPs; and
- b. The provider may be referred to the designated quality body for an initial assessment (the 'New DAPs test'); and
- c. The risk category for each ongoing condition of registration is no higher than yellow.

48. The Director for Competition and Registration may refer any case to the chief executive or to the PRC in which case the chief executive or PRC will make a decision in that case.

49. The chief executive will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:

- a. The provider is eligible for New DAPs; and
- b. The provider may be referred to the designated quality body for an initial assessment (the 'New DAPs test'); and

- c. The risk category for only one condition is red unless that red condition is condition D (financial viability and sustainability) or E2 (management and governance) or B1-B5 (quality and standards).

50. The chief executive may refer any case to the PRC in which case the PRC will make a decision in that case.

51. The PRC will, under delegated authority, consider and decide upon recommendations for providers where the recommendation is that:

- a. The provider is not eligible for New DAPs; or
- b. The provider is eligible for New DAPs; and
- c. The provider may be referred to the designated quality body for an initial assessment (the 'New DAPs test'); and
- d. The risk category for two or more conditions is red or the risk category for condition D (financial viability and sustainability) or E2 (management and governance) or B1-B5 (quality and standards) is red.

52. The PRC, or the chair of the PRC, may refer any case to the board in which case the board will make a decision in that case.

## **Specific course designation**

53. The OfS will provide an assessment to DfE on applications for specific course designation and monitoring of compliance with conditions of designation. The board delegates the task of providing this analysis to DfE to the chief executive.

## **Advice on the designation of a provider as a further education institution**

54. Section 28 of the Further and Higher Education Act (1992) sets out the Secretary of State's powers to designate a provider as a further education institution. Where this designation is because of a merger with a higher education institution, the OfS provides advice to the Secretary of State on the case for further education designation submitted by the higher education institution. Approval of advice in respect of further education designation is delegated to the chief executive who may delegate it to a director.

## **Teaching Excellence Framework and Student Outcomes Framework**

55. Under the HERA 2017 section 25 the OfS may make arrangements for a scheme to give ratings. The OfS has adopted the Teaching Excellence Framework and Student Outcomes Framework (TEF) as the scheme.

56. The OfS board delegates to the chief executive the authority to take decisions necessary to manage and implement the TEF such as decisions about: eligibility; the use of data and data amendments; and the appointment of assessors and members of the TEF Panel. The TEF Panel chair is appointed by the OfS board. TEF assessors and TEF Panel members are appointed by the OfS chief executive for their standing with higher education providers and

students. The role of assessors is to assess individual applications while the TEF Panel has the role of taking independent decisions on the final judgement of a provider's rating.

## Terms and conditions of OfS funding

57. The board delegates to the chief executive the authority to approve the OfS terms and conditions of funding<sup>3</sup>. The board delegates to the chief executive authority to agree any specific terms and conditions of funding with individual providers.
58. The board also delegates to the chief executive responsibility for monitoring progress against conditions of funding and taking action where there are instances of non-compliance.
59. Under the 'Terms and conditions of funding'<sup>4</sup> a provider may be considered to be 'at higher risk' or 'not at higher risk'. At any point in the year the chief executive can agree a change to a provider's risk categorisation or may requiring increased engagement with the provider under "focused dialogue" to take place. Any changes in risk category are reported to the board.

## Applications for an approval of borrowing beyond a financial commitment threshold

60. Under 'Terms and conditions of funding'<sup>5</sup> we require higher education institutions to:
- “...get prior written approval from us to increase its financial commitments threshold, before it agrees to any new financial commitment meeting either of the following criteria:
- a. where it is assessed by us as being 'at higher risk'
  - b. where it is in 'focused dialogue' with the OfS.”
61. The board delegates to the chief executive the power to make a decision on any applications from providers taking advice from the board where she feels necessary.

## Accounts Direction

62. Approval of the Accounts Direction may be undertaken by the chief executive.

## The Prevent duty

63. Under the Counter-Terrorism and Security Act 2015 the OfS has delegated responsibility from the Secretary of State for monitoring compliance with the Prevent duty in the higher education sector in England, and for advising the Secretary of State on levels of compliance. In practice, this means the OfS gathers evidence from providers and makes an assessment of this evidence as to whether they are demonstrating due regard. Where a provider cannot show sufficient evidence of compliance with the duty the OfS will work with them to agree any changes needed. If we conclude that the provider's response has been inadequate in any area of this monitoring framework, and it does not agree to take further action, we will consider

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<sup>3</sup> <https://www.officeforstudents.org.uk/publications/terms-and-conditions-of-funding-for-higher-education-institutions/>

<sup>4</sup> See note 3 above

<sup>5</sup> See note 3 above

whether to ask the Department for Education (DfE) to consider whether further formal action is needed. Decisions about whether the provider is not demonstrating due regard to the duty, and so should be referred to the DfE, are taken by the chief executive and reported to the board.

## OfS financial management

64. All staff are required to operate under the financial management principles described above and set out in *Managing Public Money*<sup>6</sup>. Guidance is provided to staff in guidance for budget holders and managers, the Staff guide, and the Procurement guide. These detail the authority limits, thresholds and procedures to be followed. The most effective controls over expenditure are those that operate at the point that expenditure is committed. Budget holders and budget managers, therefore, need to be able to track commitments, and not just what has been paid against their budgets.
65. The power to commit the OfS to expenditure is assigned to specific individuals. Other staff are not normally permitted to order goods or services. Guidance is supplemented by Government's spending controls which apply to some categories of spend such as that on advertising, marketing and communications; digital and technology, consultancy, and property and facilities management.

## Programme budgets

66. Programme budgets are agreed by the OfS board, normally on an academic year basis (with the exception of capital funding). The programme budget refers to the grant paid to the OfS that is available for distribution to providers of higher education and other organisations in order to achieve the OfS's strategic objectives. The OfS board will agree funding principles.
67. The board delegates to the chief executive the authority to agree the specific allocations to providers or to funded organisations from within these programme budgets and following any agreed funding principles.
68. The board delegates to the chief executive the ability to make changes to individual funding allocations or virements between budgets.
69. Other decisions in relation to programme funds have been delegated to the chief executive as follows:
- a. Decisions on the recovery of grant. This will include: acceptance or rejection of appeals against holdback where student numbers have not been delivered or where recruitment has exceeded levels permitted e.g. for medical and dental intake targets recoveries from the outcomes of data audits or data reconciliations; or where providers have not delivered the activities for which the grant funding was provided, or used the full allocation of funding in delivering those activities.
  - b. Decisions on medical and dental intake student number allocations. Regarding medical and dental intake allocations, the chief executive will take advice from the Department of Health and Social Care, Health Education England and the DfE to ensure that the

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<sup>6</sup> <https://www.gov.uk/government/publications/managing-public-money>

supply of medical students meets the needs of the NHS, and is aligned with the support available for clinical placements and foundation training places.

70. Without prejudice to her general power to delegate conferred above, the chief executive may delegate to the appropriate director the responsibility for management of programme budgets that relates to their strategic responsibilities. Each director will be provided with a delegation to manage a specified amount of the OfS's resources in accordance with authorisation limits set by the board or a lower limit set by the chief executive. The director as budget holder is responsible for ensuring it is effectively managed and delivers value for money, and these responsibilities cannot be delegated further.
71. A director may be assisted in the day-to-day management of budgets under their control by a budget manager. These arrangements must be documented and must be within defined parameters. This arrangement does not absolve the director from their responsibility for the budget.
72. The director must ensure that all budget managers within their responsibility:
- a. Have a clear view of their budget management objectives and the means to assess and measure outputs or performance in relation to those objectives.
  - b. Have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

## **Payment of monies**

73. Budget holders or budget managers cannot commit expenditure where this will exceed the remaining uncommitted funds for any particular budget line. Where this is the case authority needs to be sought from the chief executive or board to increase the budget, with a clear rationale for the increase, and subject to funds being available. Budget holders need to agree these cases with the OfS finance team before they are submitted to the chief executive or board.
74. The Director of Resources, Finance and Transformation will have authority for agreeing the profile of payments between academic and/or financial years for all programme budgets. This includes variations to payment or repayment profiles for individual providers as may be appropriate for their circumstances; suspension of payment to providers, pending those providers meeting any conditions or criteria that the OfS may wish to specify for them; and cancellation of payments where those conditions are not met within a reasonable timeframe.
75. The OfS's finance team is authorised to make payments once the allocations are agreed by the chief executive or through the relevant delegation.

## **Decisions on the repayment of Exchequer Interest**

76. As a public sector organisation providing capital funds to providers to acquire or develop assets, the OfS is required to take steps to protect the Exchequer Interest by making sure that these funds are used for the intended purposes for which the grant was made. Our terms and conditions of OfS grant set out our processes for monitoring Exchequer Interest, and the steps we would take if we needed to reclaim funding. The OfS has the right, but not the obligation, to

request repayment of Exchequer Interest from providers where a 'trigger event' occurs, as set out in the terms and conditions of OfS grant. The OfS also has the discretion to waive the requirement for repayment. Decisions on proposals to request or waive the Exchequer Interest repayment following a trigger event should be taken by the OfS board.

## Administration budgets

77. Administration budgets relate to the costs of the OfS's operation, such as staff salaries and premises. The board delegates to the chief executive the authority to agree administration budgets in discussion with directors. Without prejudice to her general power to delegate conferred above the chief executive may delegate to the appropriate director (or senior member of staff) the responsibility as budget holder for managing administration funds that relates to their strategic responsibilities. The director may be assisted by a budget manager in the day-to-day management of the budget. This arrangement does not absolve the director (or senior member of staff) from their responsibility for the budget.

## Approval of payments

78. Where invoices are against a contract or purchase order that has been approved in accordance with the requirements set out above, these can be approved by the budget holder or the budget manager having been satisfied that the invoice is in accordance with the contract or purchase order, and that the goods or services have been received.

79. The following limits apply for payments (subject to budget availability):

Up to £9,999	budget manager
£10,000 to remaining uncommitted budget	budget holder/director

## Write-off of debts

80. The write-off of debts will need to be compliant with any guidance from our sponsor department. The board delegates responsibility to the chief executive to take decisions in line with departmental guidance.

## Communication management

81. The chief executive is responsible for the identification of major communication issues or publications which should be considered by the board. In such cases the board approves in principle the communication of any matters of major public, political or reputational significance but delegates the finalisation and publication of key plans, reports or statements to the OfS chief executive.

## Staffing and remuneration decisions

82. The board delegates to the chief executive the authority to determine the numbers of posts and how the OfS is organised to deliver its aims and objectives. This will include any changes to the formal organisational structure which may result in increases or decrease in the number and nature of posts.

83. The OfS's pay policy which determines pay levels, pay bands and annual pay settlements is decided by the chief executive, in discussion with the directors. The OfS is required to submit to the DfE an annual pay remit, based on Treasury pay guidance that has to be approved by the Secretary of State and the sponsor department. The approved remit then sets the parameters for negotiations with any recognised trade union. The Remuneration and Nominations Committee (a committee of the OfS board) will review the aims of the annual pay remit, delegating the details to the chief executive.

84. The Remuneration and Nominations Committee carries out an annual review of remuneration of the chief executive and the DFAP, making recommendations to the DfE on these matters. The committee also has a role in agreeing the terms and conditions of employment of other OfS directors and carrying out an annual review of their remuneration, making decisions about changes to basic pay and levels of performance related pay, involving DfE where required.

## **Internal policies and procedures**

85. The board delegates its authority for the approval of OfS internal policies and procedures to the chief executive. However, the chief executive can seek board approval for a policy, and the board can request to approve a policy, should it wish to do so.

## **Business continuity**

86. In the event of an emergency that causes a major disruption to business or prevents access to the OfS's Bristol or London offices, the agreed business disruption actions will be implemented. The Crisis Management Group is empowered by the chief executive to take the necessary actions.

## **Use of the OfS seal**

87. The use of the seal to 'seal' a deed or other formal document requires approval by both the chair and chief executive.

## **Internal information management and security practices**

88. The board delegates the responsibility for the appointment of the role of OfS senior information risk officer (SIRO) to the chief executive. The SIRO has delegated responsibility for approving policies that relate to the OfS's internal information management and security practices.

## **Data protection officer (DPO)**

89. The role of the OfS's data protection officer (DPO) is defined predominantly in Articles 37-39 and associated articles of Regulation (EU) 2016/679 ['EU General Data Protection Regulation' or 'GDPR']. From 25 May 2018 it is a legal requirement that the DPO does not receive any instructions from the OfS regarding the exercise of the tasks of the DPO listed in Article 39. The DPO is required to act independently in their role and must directly report to the highest management level, the chief executive and/or chair, and co-operate with the Supervisory Authority. The DPO may take legal advice to assist them in carrying out their statutory duty and must be provided with the resources necessary to carry out those tasks. The board delegates the appointment of the DPO to the chief executive.

## **Making decisions on use of data**

90. The board delegates to the chief executive the responsibility to determine the most appropriate processes to consider how data is obtained, assessed and used, including judgements about the acceptability of data which are used in its functions. The chief executive should take advice from the data asset owner within the OfS.
  
91. The data provided to us by or in connection with provider students and other organisations is assessed and may be used to inform the publication of data by us or on our behalf for a variety of purposes. In publishing data, there is a need at times for the OfS to make judgements about the acceptability of data, and a decision may be taken not to publish data in some circumstances. The board delegates to the chief executive the responsibility to make these judgements.