

Draft minutes of the OfS Board meeting, 26 March 2019

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
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 representative

Apologies: Elizabeth Fagan

Officers: Ed Davison
Josh Fleming
Yvonne Hawkins, Director of Teaching Excellence and Student Experience
Paul Huffer, Head of Legal
Susan Lapworth, Director of Competition and Registration
Paula McLeod, Corporate Governance Senior Adviser (clerk)
Richard Puttock, Head 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. Following their recent appointment to the board, the chair formally welcomed Verity Hancock and Kathryn King to their first meeting. He also welcomed Ian Coates from the DfE. He noted apologies from Elizabeth Fagan.
2. He reported that, since the last meeting, Martha Longdon had agreed to join the Remuneration and Nominations Committee. Kathryn King would become a member of the Provider Risk Committee.
3. In introducing the meeting, he advised the board that the registration process is progressing well and noted how much the organisation had achieved to get it to this point. He felt that the OfS's media profile was hitting an appropriate level and he had received good feedback on this. Internally, the OfS transformation was continuing with a focus now on developing the organisational culture.
4. The chair updated members on his recent meetings and visits:
 - i. There had been a number of discussions related to the Augar review, including with the Secretary of State and Universities Minister. The review was also discussed at the UKRI board which he had attended recently.
 - ii. He had undertaken a number of visits to providers including Trinity Laban, University of Essex, Royal College of Art, Imperial College and King's College London. He encouraged board members to also do some provider visits.
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 January minutes (paper 2.1)

6. The minutes of the meeting held on 28 January 2019 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 board meeting on 28 January 2019. The following issues were highlighted:
 - i. Based on our current understanding, the view of the OfS is that the higher education providers that have been registered are financially viable and sustainable as defined in our regulatory framework, though there is variation between providers and some are clearly under pressure. However, in an uncertain external environment, particularly in relation to a challenging external funding environment, it will be made clear that this assessment of viability and sustainability is subject to change.
 - ii. She highlighted the process to be followed in relation to providers that the OfS was minded not to register. Following a previous board discussion,

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an action plan has been produced on the steps that would need to be taken to protect the interests of the students if a final decision were taken not to register an individual provider. As part of this action plan, the intention would be to name providers whose applications to register had been unsuccessful, subject to an appropriate consultation and decision about this with each provider.

- iii. The OfS is continuing its investigation of matters at De Montfort University to ensure that issues of concern are identified and addressed.
- iv. Some follow up work is underway with HESA to consider how to improve response rates to the Graduate Outcomes survey.
- v. Further work will be done to determine the impact of the current requirement for providers to make disclosures about the remuneration of the head of the provider before extending requirements to the remuneration of senior staff. This will include looking at the justification provided about the remuneration of the head of provider and, where this is considered to be weak, further investigation of the decision-making process may be necessary.
- vi. The OfS is undertaking significant work, alongside other stakeholders, to support student mental health through its Challenge Fund. The sector's Mental Wellbeing working group, led by UUK, is also encouraging the sector to be transparent about the work being done in individual universities and is building up a body of evidence in this area, and there was also a commitment from the Universities Minister to work with the NHS. The key was being able to spot problems at an early stage and reach out to students appropriately.
- vii. Exempt from publication.
- viii. It is proposed to amend the terms of reference for the Remuneration and Nominations Committee to enable recruitment of an independent member.

8. The board:

- i. Noted the updates contained in the paper.
- ii. Noted the report on delegated decision making.
- iii. Approved the revised terms of reference for the Remuneration and Nominations Committee.
- iv. Received the report.

2019-20 business plan (paper 4.1)

9. The chief executive introduced the paper setting out a draft of the OfS business plan covering the period April 2019 to April 2020. She noted that the plan had been produced with substantial input from OfS colleagues. Whilst ensuring the capacity to fulfil all statutory obligations, the plan also builds in flexibility to respond to developments during the year.

10. The board:
 - i. Noted and supported the contents of the draft 2019-20 business plan.
 - ii. Noted that there could be a role for the Risk and Audit Committee in receiving initial reports on performance against business plan objectives and measures.

Prioritisation Framework (paper 5.1)

11. The chief executive introduced the paper setting out a proposed prioritisation framework for the OfS which sets out the broad principles the organisation will use to decide which regulatory enquiries and investigations it conducts in order to make best use of its resources.
12. The following points were made in discussion:
 - i. The prioritisation principles have deliberately not been weighted but this will be kept under review.
 - ii. There may be interdependencies between the different factors, and some of them may have systemic impact beyond the factor itself, and this needs to be recognised.
13. A measure of the success of this framework will be evidence that the OfS decided not to undertake activities. Such instances should be recorded.
14. The board:
 - i. Approved the adoption of the proposed prioritisation framework.
 - ii. Noted the paper.

Student information, advice and guidance strategy (paper 6.1)

15. The Director of External Relations introduced the paper updating the board on the OfS's Information, Advice and Guidance strategy aimed at improving students' higher education choices. He noted that:
 - i. The aims of the strategy were to add value, ensure more accurate information on provider's websites, to work in partnership with other stakeholders and to improve students' career choices.
 - ii. It was particularly looking to address three key areas: meeting the needs of mature students and those from disadvantaged backgrounds, ensuring effective advice was available in relation to the full diversity of providers, and making better use of data, including explaining its limitations and strengths.
16. In response to questions raised by the board he commented as follows:

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- i. The OfS is ensuring that it does not duplicate the work that others are doing, and is talking to partners to ensure effective linkages to their work. It will have a particular focus on developing an information resource that is effective for different groups of students, including students from disadvantaged backgrounds or mature students.
- ii. The first stage of the information resource should be ready in September and a budget of £0.5 million has been allocated to complete this work. In response to feedback from students, more visual data and video content will be used.
- iii. The OfS is trialling a taught postgraduate survey. This could be used to develop the information resource for this group of students.

17. The board:

- i. Approved the strategy for implementation and delivery to September 2019.
- ii. Agreed it should return to the board at that point for consideration of the next stage.

Degree awarding powers (paper 7.1)

University Title (paper 8.1)

18. The Director of Competition and Registration introduced these papers as a joint item, setting out the approach being taken by the OfS under its powers to:

- i. Authorise, vary or revoke degree awarding powers (DAPs).
- ii. Authorise or revoke permission for a provider to use the word 'university' in its title.

19. In both cases, these powers also extend to varying or revoking an authorisation that has previously been made under an Act or Royal Charter.

20. She noted that.

- i. This approach has been designed to fit with the OfS's duties for competition and student choice but this is balanced with its general duty for quality. It would be important to ensure that applicants for DAPs were able to demonstrate that they would be able to continue to deliver high quality courses.
- ii. There are choices for providers on their route to achieving DAPs and university title.
- iii. The new DAPs route allows a new provider without a track record of delivering higher education to gain the ability to award its own degrees. In making decisions about such cases, the OfS will need to ensure that it identifies and mitigates the risks to a provider's students.

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- iv. The decision making process for DAPs will be risk-based and mirrors that for monitoring and intervention. Any decision to revoke DAPs would be delegated to the board or the Provider Risk Committee. The board will also be involved in decisions on university title.

21. The following points were made in discussion:

- i. Getting these decisions right was critical for students and for the higher education sector as a whole.
- ii. If a provider had its DAPs varied or revoked, this could impact on the perceived value of a degree previously awarded by it.
- iii. The new approach to DAPs provided more coherence than under the previous arrangements, with the OfS's routine judgements about regulatory risk being integrated into the DAPs process. However, it was still critical to balance the need for innovation and student choice against the risk of a provider failing to meet the DAPs criteria.
- iv. The governance process acknowledges the need for independence in relation to regulatory decisions and decisions on DAPs.

22. In relation to DAPs, the board:

- i. Noted the approach to authorisation, variation and revocation of DAPs.
- ii. Agreed the additions and amendments to the scheme of delegation set out in the paper.

23. In relation to University Title, the board:

- i. Noted the approach to authorisation and revocation of university title.
- ii. Agreed that the OfS should itself conduct the consultation about a provider's proposed name.
- iii. Agreed the additions and amendments to the scheme of delegation set out in the paper.

OfS Scheme of delegation (paper 9.1)

24. The Director of Resources, Finance and Transformation introduced the paper setting out revisions to the OfS scheme of delegation in addition to the changes set out in papers 7.1 and 8.1.

25. In discussing the proposed changes, some suggestions were made about parts of the scheme of delegation that would benefit from further clarification:

- i. Whilst the Head of Legal is not specifically mentioned as part of the arrangements for decision-making by the Director's Group process, it should be clear that decisions should only be made "...having had regard to legal advice."

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- ii. Should the chief executive be unavailable, then it should be clear on the process for authorising a director to act as the chief executive and what decisions could be taken in those circumstances.
- iii. There needed to be clarity over the circumstances when decisions can be taken by the chair and chief executive on behalf of the board, e.g. on matters of urgency when it is not possible to convene the board in between scheduled meetings.
- iv. In relation to the recommendations for DAPs, the scheme of delegation makes provision for independent input from the PRC on the most challenging cases as a way of securing an external perspective to the decision-making process.

26. The board:

- i. Agreed the revised scheme of delegation in principle.
- ii. Agreed a revised version, taking into account the points raised, would be circulated in due course.

OfS and its designated bodies (paper 10.1)

27. The chief executive introduced the paper describing the roles of the designated quality body (DQB) and the designated data body (DDB), their relations with the OfS and recent developments in relation to each. She noted that both designated bodies play pivotal roles which are embedded in the Higher Education and Research Act. The OfS has made its expectations clear and the appropriate arrangements and mitigations are in place to ensure that these are delivered.

28. The following points were made in discussion:

- i. The chair of the Quality Assessment Committee agreed the OfS should seek to continue to work positively with the DQB and confirmed he was supportive of the proposed way forward.
- ii. In relation to the DDB, if Data Futures was paused, the current arrangements would be rolled over for 12 months. It was suggested this should be clarified in the paper.
- iii. The higher education sector is world-leading on school to university data. The DDB must enable us to remain at the cutting edge.

29. The board:

- i. Noted the relationship between the OfS and its two designated bodies, and in particular the implications of the QAA's fee charging arrangements.
- ii. Proposed that the OfS should remain committed to the development by the DDB of a programme that allows for triannual data collection from providers to support its regulatory responsibilities.

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- iii. Agreed that support for a modified Data Futures programme will be subject to a fresh agreement with HESA which provides assurances that the modified programme will deliver the specified outcomes, and will be subject to new and more robust governance arrangements on the Data Futures programme board.
- iv. Subject to these conditions of effective assurance and revised governance, approved continued funding of a modified version of the Data Futures programme.

Funding overview and budgets for academic year 2019-20 (paper 11.1)

30. The Director of Resources, Finance and Transformation and the Director of Teaching Excellence and the Student Experience gave a presentation covering the key points in the paper on the financial implications of the government's strategic letter to OfS of 27 February 2019. Some headlines were:
 - i. The figures include an estimate of funding from financial year 2020-21. This is subject to change.
 - ii. The high-cost teaching funding budget has been protected in real terms.
 - iii. The rate of funding for students on courses not eligible for masters loans has been maintained. As the board had signalled last year, funding for students on courses eligible for these loans ceases.
 - iv. Student premium has been maintained in cash terms. This funding is a key part of how the OfS fulfils its duties to promote greater choice and opportunities for students, and it is important to protect it as far as we are able.
 - v. The total capital funding is a reduction of £50 million compared to FY2018-19, however £36 million of the total available for that year was used to meet previous HEFCE commitments which have come to an end.

31. The DfE representative noted that 2020-21 grant would be subject to the spending review.

32. The following points were made in discussion:
 - i. As set out in the business plan, a review of the approach to funding is planned to support the duties and regulatory objectives of the OfS. This will need to take account of the outcomes of the review of post-18 education and funding.
 - ii. Following the introduction of Masters loans in 2016-17, there had been a significant increase in both full-time and part-time postgraduate student numbers. Providers had been made aware last year that the postgraduate taught supplement would cease for students on courses eligible for these loans.

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33. The board:

- i. Agreed the recurrent grant budgets and the overall approach to distributing teaching funding for the academic year 2019-20.
- ii. Agreed the capital grant budgets and allocation methods for the financial year 2019-20.
- iii. Noted the responses to the recent OfS consultation.
- iv. Noted the expected administration budget for financial year 2019-20

Report from the Provider Risk Committee (paper 12.1)

34. Exempt from publication.

35. Exempt from publication.

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

Report from the Quality Assessment Committee (paper 13.1)

37. The chair of the Quality Assessment Committee updated the board on the outcomes of the meeting held on 26 February 2019. He reported that the committee had met with representatives from the DQB and discussed their key performance measures and draft annual report. A further iteration of the annual report is awaited.

38. The board received the report from the Quality Assessment Committee.

Report from the Risk and Audit Committee (paper 14.1)

39. The chair of the Risk and Audit Committee updated the board on the outcomes of the meeting held on 28 February 2019. She reported that:

- i. The internal audit reports on data privacy and cyber security had demonstrated positive outcomes.
- ii. The committee had agreed they wanted the independence an external firm could bring in providing OfS with its internal audit services. To that end, KPMG have been appointed to this role from 1 April 2019.
- iii. It was noted that some changes on the risk register had been the result of a recalibration of our assessment. Others were linked to the continuing pressure on resources.

40. The board received the report from the Risk and Audit Committee.

Report from the Horizon Scanning Panel (paper 15.1)

41. The chair updated the board on the outcomes of the Horizon Scanning Panel meeting held on 11 February 2019. He reported that:

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- i. The meeting had considered the risks and opportunities over the next 5 years. It would also need to think about demographics and planning for 2022 onwards.

42. The board received the report from the Horizon Scanning Panel and agreed it would be helpful for it to engage in some of these issues further.

Closing remarks

43. In closing the meeting the chair noted that the board would meet next on 15 May 2019.

The meeting concluded at 16.48.

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

Exempt from publication.