

Chief executive's report

Purpose

1. This paper provides an update on work undertaken and issues that have arisen since the date of the last board meeting on 3 February 2022, to the extent that they are not covered in other board papers.

Recommendations/Decisions required by the board

2. The board is invited to:
 - a. Note the updates contained in this paper.
 - b. Note the OfS communications overview at Annex A.
 - c. Note the risk report at Annex B.
 - d. Approve the recommendation in paragraphs 25 and 26.

Further information

3. Available from Nicola Dandridge.

Summary of main activity

4. On 2 February 2022, the Secretary of State for Education confirmed the appointment of Susan Lapworth, currently Director of Regulation, as interim chief executive of the OfS. Her appointment starts on 1 May 2022 and continues until 31 December 2022. Meantime, the Department for Education have now started the recruitment process for a permanent chief executive. Susan's appointment was the focus of articles in THE and University Business. Jean Arnold and David Smy, currently working as Head of Monitoring and Intervention and Head of Competition and Market Entry, will be appointed as interim directors (Director of Quality and Director of Monitoring and Intervention) to backfill Susan's current role.
5. We published the outcomes of our consultation on quality and standards conditions on 2 March 2022. In brief, we have decided to implement revisions to ongoing conditions of registration B1, B2, B4 and B5, as well as initial conditions of registration B7 and B8. The new conditions will come into effect from 1 May 2022 and will give us a strong basis for our future regulation of quality and standards. Meanwhile, our consultations on a new approach to regulating student outcomes, the Teaching Excellence Framework, and on constructing student outcome and experience indicators for use in OfS regulation closed on 17 March 2022. During the consultation period, we conducted a series of webinars and student workshops to inform and assist with stakeholders' responses.
6. Our consultation on the OfS strategy for 2022-25 closed on 6 January 2022. We have now concluded our analysis of the responses received and adjusted the proposed strategy to provide clarification on certain issues and respond to concerns raised by respondents. The updated strategy will be launched at a parliamentary event on 23 March 2022. A number of board members will be joining the event and it will be hosted by the Minister of State for Higher and Further Education.
7. The Department for Education published proposals for higher education reform on 24 February 2022. These proposals and the OfS's role in relation to them, are set out in more detail in paper 5.1. The announcements drew significant coverage, with the OfS mentioned in articles from The Times, University Business, Wonkhe and HEPI.
8. The appalling events unfolding in Ukraine have impacted on our work. We are liaising closely with the Department for Education to support their coordination of responses to Ukrainian students and staff fleeing the country. We have also been in touch with providers who have partnerships or other arrangements to deliver Transnational Education provision in Russia and who wish to suspend those arrangements in the light of the sanctions. We have made it clear that although we will not suspend our usual regulatory requirements, nonetheless given the exceptional circumstances created by the sanctions currently in place, we would not expect to enforce our usual regulatory requirements in relation to any suspension of provision.
9. Exempt from publication.

Participation

10. In February, John Blake made his first speeches as Director for Fair Access and Participation at events hosted by the OfS and Impetus. In these speeches he outlined his planned approach to access and participation – as discussed with the board at the previous board meeting and as

further described in paper 6.1. John also wrote a supplementary There was coverage of John's speech at the OfS event in a range of regional and local newspapers, including the Evening Standard, the Daily Express, Metro, and Times Higher Education, and he also wrote a blog for Wonkhe. John has also been quoted in several articles about fair access and participation, including in The Times and Press Association on the rates of students from state schools studying at Russell Group universities.

11. On 7 March 2022, Universities UK and Guild HE published a new fair admissions code with which they expect their members to comply. The code emphasises the importance of transparency and fairness, and in particular is explicit in rejecting the use of conditional unconditional offers. This aligns with the OfS's previous temporary condition of registration which banned conditional unconditional offers during the pandemic, but which has since expired. The OfS has welcomed the code and made clear that we expect UUK and GuildHE members to comply with the code's provisions. We remain willing to consider further regulatory interventions if providers continue to use admissions practices that are unfair, in line with the provisions of the regulatory framework.

Experience

12. On 17 March 2022 we announced our review into blended learning, which will enable us to understand the different approaches to blended learning being implemented across the sector. This review will enable us to draw judgments and report on the approaches that we think are likely to be compliant or non-compliant with new conditions B1 and B2. Having reviewed a range of regulatory intelligence, including notifications, public enquiries, NSS responses and provider growth rates, we have identified 5 providers to participate in the review voluntarily. We are currently appointing a review panel of academic experts, that will be led by Professor Susan Orr, Pro-Vice Chancellor: Learning and Teaching at York St John University. The review team will carry out fieldwork at participating providers from April to June 2022. Their review activity and reporting will then be translated into a report in summer 2022.
13. Industrial action continues to roll out across the sector, with variable impact on students. We continue to call on providers to take action to ensure that the disruption to students is minimised.
14. The window for students to complete the National Student Survey 2022 opened on 6 January 2022 and remains open until 30 April 2022.

Value for money

15. As part of the review into specialist provider funding, we have now published the outcomes of the specialist funding consultation, invited submissions from eligible providers, and sought nominations for the expert panel. The panel, chaired by Lord Wharton, is set to meet for the first time in early April and will be responsible for assessing which providers are 'world-leading' and therefore eligible for specialist provider funding.
16. The report from the National Audit Office (NAO) entitled 'Regulating the financial sustainability of higher education providers in England' was published on the 9 March 2021. I will give evidence to the Public Accounts Committee (PAC) with Susan Acland-Hood (Permanent Secretary, DfE) in relation to this report on 21 March 2022.

17. We welcomed the NAO's acknowledgement of the OfS's good use of financial data. We will reflect on the NAO's recommendations that could do more in our engagement with providers. We are currently taking forward work to capture providers' perspectives on a range of issues, and we will take the NAO's views into account in that context. Once the PAC has finalised its report we will share with the board our action plan to address the NAO, and any PAC, recommendations.
18. I will also be giving evidence to the Education Committee on 22 March 2022 on the impact of the coronavirus pandemic on universities, and on our activities as a regulator.

Efficient and effective

19. Our OfS hybrid working pilot will commence on 4 April 2022 and run for three months. The pilot sets out a balance between office-based and remote working, with flexibility to work outside core hours. The pilot is being supplemented by briefings and advice for staff. Our permanent policy will then be determined after the pilot.

20. Exempt from publication.

21. We published a digital version of the OfS Register on 3 February 2022. Details of registered providers had previously been available publicly only as a spreadsheet. The new digital version recreates this information in a much more accessible form as a searchable set of web pages, enabling easier understanding of the implications of the information presented for a wide range of potential audiences.

22. Exempt from publication.

23. Our consultation on Data Futures and data collection closed on 3 February 2022. We received 150 responses to the consultation which we are currently considering. We intend to announce decisions on the approach to collecting in-year individualised data in early April to allow providers and HESA time to prepare for any new arrangements.
24. The regular risk report is attached at Annex B of this report, for the board's information. We are in the process of reviewing our strategic risks, to ensure they align with our new strategic plan. This work was considered by the Risk and Audit Committee at its meeting in February, alongside the internal audit of risk management. We are currently considering the advice of the Committee and the internal audit, before taking revised risk proposals to the Committee in May, and then to the next board meeting on 26 May 2022.
25. Following the Secretary State's decision to appoint Susan Lapworth as the OfS's interim chief executive, she has asked me to create two temporary OfS director roles to take over the current responsibilities of the director of regulation from 1 May to 31 December 2022. Susan would not be able to make this decision herself until her appointment starts on 1 May 2022 and we need to act more quickly to put appropriate arrangements in place. I have therefore made this decision in accordance with Part 8 of the published scheme of delegation which gives me delegated authority in respect of "Determining the number of OfS staff and how the OfS is organised to deliver its aims and objectives (including, but not limited to, the roles performed by staff)". I have also decided, on Susan's recommendation, to appoint Jean Arnold and David Smy to the two temporary director roles.

26. To ensure that the new directors appointed to these roles have the same (concurrent) delegated authority as the director of regulation on a temporary basis and that Susan Lapworth can resume her role as director of regulation at any time if that is expedient, I am recommending that the board makes the following decisions:
- a. A decision to make the following temporary changes to delegation arrangements with effect on and from 1 May 2022 until 31 December 2022:
 - i. All references to “director” and “director of regulation” (other than references to the “director for fair access and participation” and “director of resources and finance”) in the published scheme of delegation and any other delegation arrangements are to be treated as a reference to the following three directors: the “director of regulation”, “director of quality”, and “director of monitoring and intervention”;
 - ii. Any provisions in part 9 of the published scheme of delegation which relate to the interpretation of that scheme (for example, provisions that relate to interpreting and determining the scope of reserved matters) apply to the delegated authority of the “director of quality” and the “director of monitoring and intervention” in the same way as they apply to the “director of regulation” and any other reference to “director”.
 - b. A clarificatory decision that these temporary changes to delegation arrangement are made in addition to, and do not in any way restrict or limit, any existing delegated authority of the director of regulation (for example, if any time during the period of the temporary changes, an existing employee of the OfS resumes the role of director of regulation) or any other director.