

Chief executive's report

Board's primary role in relation to this paper:

- A. Set strategy
- B. Set risk appetite
- C. Oversee performance
- D. Understand context

Purpose

1. This paper provides an update on work undertaken and issues that have arisen since the last board meeting on 8 February 2024 to the extent that they are not covered in other board papers.
2. The paper is structured around the headings and goals of the OfS strategy 2022-2025 and therefore provides a progress report in delivering those goals.¹

Decisions requested

3. The board is invited to:
 - a. Note the updates contained in this paper.
 - b. Note the media and communications update provided in Annex B.

Paper publication

4. To be published externally along with the board papers with appropriate exemptions.

For further information, please contact Susan Lapworth, Chief Executive.

¹ See: <https://www.officeforstudents.org.uk/about/our-strategy/>

Quality and standards

Our strategic goal is:

Students receive a high quality academic experience that improves their knowledge and skills, with increasing numbers receiving excellent provision.

Quality investigations

5. We have continued to make progress with our 11 investigations into courses in business and management or computing. We have been progressing work to reach judgements about compliance with conditions of registration and decide whether we should take further action for four providers where the report sets out areas for concern. We have made and published decisions to close the investigations for the four providers where reports did not set out areas for concern.
6. We have so far met with seven of these providers to discuss the reports' findings and to provide opportunities to feedback to us on the process, with a further meeting planned shortly. We are also gathering feedback from other sources, including a roundtable with sector representative groups, to inform our future approach to this work.
7. We are progressing the work on the three assessments for which reports have not yet been published. Draft reports have been sent to each provider. Next steps with those assessments will be determined by a range of factors including the report content, the interests of partner providers and the scale and complexity of the responses from providers.

Student outcomes

8. We have made provisional decisions in relation to all 12 assessments of compliance with condition B3. All the providers received their provisional decisions by the end of April. Six providers have so far made representations. We have made final decisions in relation to two providers and there are further representations to consider in relation to publication matters. At the time of writing, the representations window is still open for the remaining cases.
9. When we publish the outcomes of the assessments, we plan to publish a research report as part of the first phase of our evaluation of the revised condition B3. The evaluation is assessing the impact of our revised B3 requirements on providers' behaviour.

Teaching Excellence Framework (TEF)

10. Having completed publication of all the TEF 2023 outcomes and supplementary information, we commissioned two thematic reports to inform providers' improvement activity.² The first was published in April and explores how providers' submissions to the TEF described the 'educational gains' they deliver for their students.³ The report found that providers viewed students' educational gains to be core to their mission and that articulation of educational gains can include a set of core graduate skills and attributes. The second report explores how the

² See: <https://www.officeforstudents.org.uk/advice-and-guidance/the-tef/tef-2023-ratings/>

³ See: <https://www.officeforstudents.org.uk/publications/approaches-to-identifying-and-measuring-educational-gains-in-tef-2023/>

TEF submissions describe providers' approaches to quality improvement, and was published on 14 May.⁴

11. We are now planning to evaluate the TEF 2023 process and its impact, to inform development of proposals for the next TEF exercise, due in 2026-27.

Our strategic goal is:

Students are rigorously assessed, and the qualifications they are awarded are credible and comparable to those granted previously.

Credibility of awards

12. Our investigations into the credibility of awards at three providers are continuing. Exempt from publication.

Apprenticeship end-point assessments

13. Since February we have opened further monitoring checks for 12 providers, bringing the total number of open monitoring assessments to 17. We have conducted nine onsite provider visits. We have rescheduled five monitoring assessments due to external factors, for example, clashes with Ofsted inspections, inaccurate ESFA data and a change in availability of the apprenticeship assessors. We have approved teams, and scheduled assessments, for a further 10 providers. The first report for a monitoring assessment has been shared with the provider for comments.

Exempt from publication

14. Exempt from publication.

15. Exempt from publication.

⁴ See: <https://www.officeforstudents.org.uk/publications/tef-2023-approaches-to-strategic-improvement/>

Our strategic goal is:

Providers secure free speech within the law for students, staff and visiting speakers.

Implementation of the Higher Education (Freedom of Speech) Act 2023

16. We continue to undertake extensive stakeholder engagement in relation to our recent consultations on free speech matters. This has included events for mission groups and a series of webinars for a diverse mix of stakeholders, which attracted over 300 attendees.⁵ Those events provided attendees with an opportunity to discuss and ask questions about our proposals in our consultations.
17. Our consultations on the new free speech complaints scheme and regulation of students' unions closed on 10 and 17 March 2024 respectively.⁶ We received more than 270 responses across those consultations, including from students and students' unions. We are currently analysing responses and will reflect carefully on the feedback that we received. We are working to publish the outcomes of those consultations before 1 August 2024, which is when the relevant provisions in the Higher Education (Freedom of Speech) Act 2023 come into force.⁷
18. On 14 May, the Students' Unions (Freedom of Speech) (Monetary Penalties) (England) Regulations 2024 were laid in draft before Parliament.⁸ These Regulations are subject to the affirmative resolution procedure and following debates in both Houses will then be signed. The Regulations prescribe the maximum monetary penalty which the OfS may impose on a students' union if we determine that it is breaching or has breached one of its new free speech duties, and the matters to which the OfS must have regard when exercising the power to impose a monetary penalty. The maximum monetary penalty is set at £50,000. We will consider these Regulations alongside responses to the consultation on our regulation of students' unions, as we develop our final approach to the regulation of students' unions on free speech matters.
19. On 26 March, we published a third consultation on free speech matters.⁹ This sets out proposed guidance on securing freedom of speech within the law and on maintaining a code of practice. The consultation also concerns proposed revisions to the OfS's regulatory framework to make reference to our new free speech functions and our proposed approach to the recovery of costs related to free speech matters.

⁵ See: <https://www.officeforstudents.org.uk/news-blog-and-events/events/freedom-of-speech-consultation-webinars/>

⁶ See: <https://www.officeforstudents.org.uk/consultations-on-free-speech/>

⁷ Commencement regulations have now been published, bringing the provisions on the new free speech duties, the OfS's regulation of students' unions and the free speech complaints scheme into force on 1 August 2024. Those regulations also bring the remaining provisions relating to new conditions of registration on free speech matters and OfS monitoring of overseas funding, into force on 1 September 2025. We had expected, and have been working towards, these dates.

⁸ The Regulations are available at: [The Students' Unions \(Freedom of Speech\) \(Monetary Penalties\) \(England\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/2024/1000/1)

⁹ See: <https://www.officeforstudents.org.uk/consultations-on-free-speech/consultation-on-proposed-regulatory-advice-and-other-matters-relating-to-freedom-of-speech/>

20. The proposed guidance sets out hypothetical examples where a provider or students' union may not have taken steps to secure free speech. It also sets out a non-exhaustive list of steps that it may be reasonably practicable for providers and students' unions to take to secure free speech within the law. This includes steps relating to their free speech code of practice. The consultation received good media coverage, including on national radio.
21. This third consultation closes on 26 May. We recognise the sector's keenness for us to publish the outcomes of the consultation before the expected 'switch on' date of the new free speech duties on 1 August. We are encouraging providers and students' unions to continue planning for the implementation of their new duties. We have said publicly that this could include, for example, reviewing existing policies and processes, including free speech codes of practice as already required by providers' existing free speech duties under current legislation.

Free speech investigation

22. Our investigation into free speech matters at the University of Sussex is ongoing. We will provide a fuller update at the board meeting.

Our strategic goal is:

Graduates contribute to local and national prosperity, and the government's 'levelling up' agenda.

23. In February we published an independent evaluation of the OfS postgraduate conversion course (PGCC) AI and Data Science programme, with findings showing that programme outcomes in two key areas were being met.¹⁰ Courses developed for the programme are expected to produce at least 6,000 new graduates in total, far exceeding the 2,500 target. The data demonstrates that cohorts on these courses are more diverse than cohorts on broadly equivalent UK taught postgraduate courses. Overall, we funded 37 courses, and awarded more than 950 scholarships to students from underrepresented backgrounds.
24. We announced mid-year allocations of recurrent OfS funding for 2023-24 including £11m to encourage greater provision of courses leading to level 4 and 5 qualifications with an additional weighting to reflect the number of students taking Higher Technical Qualifications.¹¹ In total, 275 providers are receiving this funding.

¹⁰ See: <https://www.officeforstudents.org.uk/publications/final-evaluation-of-data-science-and-artificial-intelligence-conversion-masters-courses/>

¹¹ See: <https://www.officeforstudents.org.uk/publications/mid-year-allocations-of-recurrent-funding-for-2023-24/>

Equality of opportunity

Our strategic goal is:

Students' access, success and progression are not limited by their background, location or characteristics.

25. We published the review conducted by Public First of the Uni Connect collaborative outreach programme.¹² The review highlighted the strong case for collaborative outreach and the positive impact of the most intensive elements of the programme to date.
26. The review also highlighted some areas for improvement. These included the funding arrangements (particularly the need for a longer-term funding settlement from DfE), the relationship between the OfS and partnerships, and the consistency of quality outputs and outcomes between partnerships. We are considering and responding to the Public First report in the reformulation of the programme for 2025 onwards.
27. We confirmed funding for The Centre for Transforming Access and Student Outcomes (TASO) to continue to support the sector with evaluation and to develop a strong evidence base. TASO undertakes and uses research and evaluation to determine what works in eliminating equality gaps in higher education.
28. We updated the OfS website with further information on risks to equality of opportunity through the Equality of Opportunity Risk Register.¹³ These updates will support providers to develop effective plans that draw on the latest evidence about the challenges students may face.

Our strategic goal is:

Prospective students can choose from a diverse range of courses and providers at any stage of their life, with a wide range of flexible and innovative opportunities.

Registration

29. Since the board last met, we have received six new registration applications and registered two providers. One provider has withdrawn its application and we have closed six others. The total number of open cases has reduced from 50 on 31 March 2023 to 33 on 31 March 2024.
30. Since February we have opened a further two assessments of quality and standards for providers seeking registration, bringing the total open to 15. The first report for an assessment conducted under our new approach to assessing the initial quality and standards conditions has been completed and can now be used to finalise our registration decision.

¹² See: <https://www.officeforstudents.org.uk/publications/uni-connect-a-review-of-collaborative-support-in-access-to-higher-education/>

¹³ See: <https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/equality-of-opportunity-risk-register/>

Degree Awarding Powers (DAPs)

31. Since February we have opened nine further DAPs quality assessments, which takes the total number of open DAPs quality assessments to 25. This reflects significant demand for DAPs and we are currently dealing with more than three times the number of cases that the QAA would have dealt with in a typical year when it was operating as the designated quality body.
32. This high demand is presenting some sequencing challenges. Providers also continue to have issues meeting planned deadlines for submitting evidence or accommodating visits within our timelines. We are seeking to mitigate these issues with additional emphasis, at earlier stages in assessments, on planned timelines and submission deadlines.
33. The OfS Quality Assessment Committee (QAC) considered its first detailed DAPs assessment report at its meeting on 29 April, and provided advice on that case. We are expecting further cases to reach this stage before summer 2024.

Degree apprenticeship funding

34. We are offering a further £14m of funding to support growth in degree apprenticeships. The focus of this funding competition includes providers not currently delivering degree apprenticeships, as well as a focus on increasing equality of opportunity for underrepresented groups.

Expansion of medical training for 2025-26

35. We have allocated an additional 350 medical training places for courses starting in 2025-26 in support of the NHS Long Term Workforce Plan. We invited bids in January for these additional places¹⁴ and have now offered places to 34 providers.

Our strategic goal is:

Providers act to prevent harassment and sexual misconduct and respond effectively if incidents do occur.

Our consultation on regulating harassment and sexual misconduct

36. We gave evidence to the Women and Equalities Committee inquiry into Misogyny in Music on 3 May and discussed our consultation on regulating harassment and sexual misconduct in higher education.¹⁵ We are expecting to publish the outcomes of our consultation and the results of the prevalence survey before the end of May.

Events in the Middle East

37. The chair wrote to chairs of providers' governing bodies on 22 March about the recent increase in harassment of Jewish and other students. His letter reminded governing bodies of the important role universities and colleges play in supporting students who experience unlawful harassment during their studies. We set out our expectations of providers when dealing with

¹⁴ See: www.officeforstudents.org.uk/publications/increase-in-undergraduate-medical-maximum-fundable-limits/

¹⁵ See: <https://committees.parliament.uk/event/20787/formal-meeting-oral-evidence-session/>

unlawful harassment and encouraged chairs to discuss these issues with their vice-chancellors or principals, to ensure that providers had effective plans in place. A copy of the letter is provided in the 'resources' section of Diligent.

38. We understand the challenges that the events in the Middle East may be creating for providers, their staff and their students. We are now seeing protests across a number of university campuses, as staff and students express strongly held views about events in the Middle East. On 10 May, we wrote to all accountable officers on this subject. The letter recognises that, in the context of the protests and more broadly, providers may face difficult decisions when balancing the right to freedom of speech within the law against the need to protect students from unlawful harassment and intimidation. We acknowledge that providers may have to take these decisions quickly, on the basis of incomplete or conflicting reports, and in the presence of extensive media and public interest.
39. At the time of writing, we are expecting ministers to publish guidance for the higher education sector about tackling antisemitism. **Exempt from publication.**

Our strategic goal is:

Providers encourage and support an environment conducive to the good mental health and wellbeing that students need to succeed in their higher education.

40. We announced additional funding for Student Minds to support a significant increase in the number of providers that have signed up for the Mental Health Charter. We continue to work with Student Minds to ensure it has credible plans to deliver this activity. We have also commissioned it to work with GuildHE and Independent HE to explore how the Charter could be adapted to support small and specialist providers.¹⁶
41. On University Mental Health Day we published the final evaluation of the Mental Health funding competition that we launched in 2021 and which funded 18 projects.¹⁷ The evaluation shows that more than 3,000 students received targeted support through this programme and students reported that support was more tailored to their needs.

¹⁶ See: <https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/funding-boost-to-support-student-minds-university-mental-health-charter/>

¹⁷ See: <https://www.officeforstudents.org.uk/publications/mental-health-funding-competition-final-evaluation-reports/>

Enabling regulation

Our strategic goal is:

Providers are financially viable and sustainable and have effective governance arrangements.

Financial sustainability

42. We have been analysing the annual financial returns for 242 providers that submitted their data before 8 April. We have been triaging individual providers for additional assessment in a risk-based way and engaging closely with a small group that we have identified as being at increased financial risk in the medium to long term. Our aggregate analysis informed our annual report on financial sustainability, which we published on 16 May.
43. Our analysis shows an overall worsening financial position for the sector as a whole in the short term as operating costs continue to increase. Providers have forecast a slow recovery to more typical levels towards 2027-28. However, in aggregate, the sector is expecting significant growth in student recruitment from both the UK and international markets. Latest application data suggests these forecasts are not realistic and we are concerned that many providers will miss their recruitment expectations by a large margin. The challenge of managing the consequences of material under-recruitment is likely to be significant. Many providers appear to be focusing on cash management and, at this time, we do not consider there to be a material risk to the viability of the great majority of providers over the coming 12 months. However, risks in recruitment for 2024-25 are potentially significant and providers will need to adjust, quickly and robustly, to a changing financial landscape to secure their sustainability into the longer term.
44. The board will have an opportunity to discuss these issues at its meeting.

Protecting public funding

45. I gave evidence to the Public Accounts Committee (PAC) on 26 February, alongside the DfE Permanent Secretary and the chief executive of the Student Loans Company (SLC). The hearing was a useful opportunity for us to discuss the work that we have been doing in relation to the risks to SLC funding that arise from subcontractual partnerships. The PAC [published its report](#) on 24 April.¹⁸
46. Separately, I have written to senior DfE officials to set out the views expressed by the board about the OfS's role in relation to safeguarding SLC funding; a copy of that letter is provided in the 'resources' section of Diligent.

¹⁸ See: <https://committees.parliament.uk/work/8143/investigation-into-student-loans-issued-to-those-studying-at-franchised-higher-education-providers/publications/>

Our strategic goal is:

Students receive the academic experience they were promised by their provider and their interests as consumers are protected before, during and after their studies.

47. We have referred [number exempt from publication] further registered providers to National Trading Standards. Exempt from publication. We identified the following concerns about their student contracts:

- a. Terms which appear to allow a broad discretion to significantly alter aspects of a course, including methods, location and delivery of the course.
- b. Unclear, ambiguous clauses relating to additional costs students are likely to incur.
- c. Relevant terms which do not appear to be publicly available or easily located.
- d. A broad discretion for the provider to limit its liability to students for events outside its control without including examples of such events.

48. Exempt from publication.

49. We are continuing to monitor the progress of the Student Group Claim (SGC) and its implications for individual providers and the sector. The SCH is a class action brought by students against 21 universities in response to the impact of the coronavirus pandemic and industrial action. The SGC has developed a website outlining its campaign and there is simple form which students can use to join the claim. 18 universities have submitted a reportable event to us about the letter before claim. Media reporting suggests that over 140,000 students have joined the claim and the cost to providers should the claim succeed is estimated to exceed £500 million. The SCG is seeking damages of approximately £5,000 per student for the alleged breach of contract.

50. The claim against University College London (UCL) is the test case involving nearly 1000 individual students. The first court hearing took place in May 2023, with the SGC seeking a Group Litigation Order (GLO) so that the multiple claims could be dealt with as a single claim. The GLO was not granted, and the case will be considered again at the High Court in June: this should give a clearer sense of the potential shape and timelines of the case and we will update the board at the July meeting.

Our strategic goal is:

The OfS minimises the regulatory burden it places on providers, while ensuring action is effective in meeting its goals and regulatory objectives.

Student data returns

51. Exempt from publication.

52. Since the last board meeting, we have continued to work closely with Jisc to understand data quality for the 2022-23 return. In April we shared with each provider its access, participation and student outcomes data dashboards so it could better understand its data quality and inform us of any issues. We will use this intelligence, along with further analysis, to decide how and when we will publish the student data dashboards this year; we currently expect publication in July.

53. We have commissioned an independent review of Jisc's Data Futures programme, which is being conducted by an independent contractor and supported by a steering group chaired by a member of OfS's Risk and Audit Committee and made up of representatives from across the UK nations, programme funders, providers and other stakeholders.

Changes to financial data collection

54. Last year, we commissioned an independent assessment from PwC of the financial data we collect from providers each year. The report made a number of recommendations to ensure data was more focused on risks and could more effectively support our oversight of providers' sustainability. As a result, we are making changes to the data we collect in the annual financial return (AFR). Some of the changes will increase our data requirements and we consider this to be appropriate in the context of increasing financial risk in the sector. We have also found opportunities to remove some data requirements.

55. We have discussed these plans with sector finance director sand with sector and mission groups. We expect to publish PwC's report, and information about the changes we are making to the data return for 2024 by the end of May.

Provider engagement

56. Since the last board meeting, we have continued our programme of engagement with providers, with 28 visits taking place (see annex A). I also hosted our quarterly briefing for accountable officers, providing updates on our current priorities and reflections on 'wave 1' access and participation plans.

57. On 25 April we published a blog launching a new piece of research on our engagement with the sector.¹⁹ We want to measure the impact of all the actions we have taken since we published our first report on provider engagement in January 2023.²⁰

¹⁹ See: <https://www.officeforstudents.org.uk/news-blog-and-events/blog/help-us-improve-our-engagement-with-the-sector/>

²⁰ See: <https://www.officeforstudents.org.uk/publications/report-on-provider-engagement-with-the-office-for-students/>

Efficient and effective OfS

58. We have now completed the business planning process for the 2023-24 financial year. A separate paper on the board's agenda provides more detail about the approach we have taken to prioritisation and resource allocation.
59. I have been engaging extensively with Sir David Behan and the Department for Education team leading on the Public Bodies Review of the OfS. The final report from the review is due to be published before summer recess. A separate paper with an update on the review is on the agenda for this board meeting.
60. At the end of March we closed our organisational change programme as planned. We have embedded our new four-directorate structure and increased our efficiency by creating more agile and flexible ways of working. We have improved our capacity to manage change, providing training to staff, and reaffirming that our role and the nature of our work means that change is a routine backdrop. Now that the change programme has closed, we have moved into continuous improvement activity, and we are seeking further improvements to how we work.
61. The government's property strategy is seeking to consolidate office space across Whitehall and has included a review of the London location for all DfE arms' length bodies. This means that there will no longer be office space for the OfS in Sanctuary Buildings after the end of the year. It is important that we retain a London office and so we are negotiating to take space on the 7th floor of 10 South Colonnade, which is a government hub in Canary Wharf.
62. On 7 March the Public and Commercial Services (PCS) trade union notified the OfS of its intention to ballot members for industrial action. The trade dispute relates to pay, pensions and jobs across government, and the OfS is not able to influence these issues.

Annex A: Visits to registered providers

The table below lists providers visited as part of our engagement programme between 12 February 2024 and 15 May 2024. Colleagues have also visited providers outside of our engagement programme for a range of reasons and those visits are not listed below.

Provider Name	Names exempt from publication	Date
Royal Academy of Dramatic Art		12 February 2024
David Game College Ltd		15 February 2024
INTO University Partnerships Limited		21 February 2024
University of Lincoln		26 February 2024
Liverpool Hope University		28 February 2024
Dyson Technical Training Limited		6 March 2024
University of Exeter		11 March 2024
The Council of the Inns of Court		11 March 2024
St. George's Hospital Medical School		22 March 2024
The Royal Central School of Speech and Drama		27 March 2024
National Centre for Circus Arts		27 March 2024
Coventry University		10 April 2024
Hartpury University		18 April 2024
Rambert School of Ballet and Contemporary Dance		22 April 2024
Bridgwater and Taunton College		23 April 2024
ACM Guildford Ltd		24 April 2024
Bolton College		29 April 2024
Cranfield University		1 May 2024
Bristol Baptist College		8 May 2024
University of Portsmouth Higher Education Corporation		8 May 2024
University College Birmingham		10 May 2024
Aston University		10 May 2024
ThinkSpace Education Limited		13 May 2024
University of Chester		15 May 2024