

## Minutes of the OfS board meeting – 2 December 2024

### Location: 12 Bloomsbury Square, London

Present members:	Sir David Behan (Chair) Arif Ahmed (Director for Freedom of Speech and Academic Freedom) John Blake (Director for Fair Access and Participation) Martin Coleman Elizabeth Fagan Katja Hall Verity Hancock Rachel Houchen Susan Lapworth (Chief Executive) Simon Levine (items 1-10 and 17) Dayo Olukoshi Michael Spence Caleb Stevens
Attendee:	Patrick Curry, Director Higher Education, Quality and Education from the Department for Education
Apologies:	None
Officers:	Jean Arnold, Deputy Director of Quality Amanda Charters, Chief of Staff Josh Fleming, Director of Strategy and Delivery Paul Huffer, Head of Legal Katherine Jacob, Corporate Governance Senior Officer (clerk) Lynne Mace, Head of HR (item 1) Meg Matthews, Head of Development and Effectiveness Sophie McIvor, Head of Communications Philippa Pickford, Director of Regulation Graeme Rosenberg, Head of Student Outcomes (item 5) Nolan Smith, Director of Resources and Finance David Smy, Deputy Director of Enabling Regulation Mike Spooner, Senior Adviser to the CEO and Chair Emma Stowell, Chief Data Officer

### **Item 1. Restricted: Report from the Remuneration and Nominations Committee**

1. There is a separate confidential minute for this item.

### **Item 2. Chair's welcome**

2. Board members and the Department for Education (DfE) representative were welcomed.
3. Amanda Charters, interim Chief of Staff was welcomed.
4. No apologies were received.

### **Item 3. Minutes of the last meeting**

5. The minutes and the restricted minutes of the board meeting on 9 October 2024 were approved.

### **Item 4. Draft OfS strategy for consultation**

6. The draft strategy and foreword to the consultation was shared with the board, alongside proposed 'I statements' describing what delivery of the strategic objectives will look and feel like to different stakeholders.
7. The draft strategy has three major shifts from the current strategy: a shift in tone towards collaboration and partnership with the sector, a focus on providers' management and governance, and a shift towards continuous improvement in quality.
8. The communications will make it clear that the strategy represents a continuation of the new approach to engagement.
9. The board welcomed the draft strategy. The following comments were made:
  - a. There should be a clear link to the contribution of the sector and students to the government's growth agenda and wider mission. The role of the OfS in the skills agenda should also be brought out.
  - b. The centrality of students and the strong emphasis on equality of opportunity was welcomed. A question was raised as to whether, even at its best, the sector is working well for students from 'all' backgrounds, and for this language to be re-examined.
  - c. An appropriate balance should be struck between supportive engagement with the sector and robust regulation. Some positive statements in the draft strategy are generalisations about the sector and should not be interpreted to reflect individual providers.
  - d. It should be acknowledged that the draft OfS strategy will be published in advance of the government's own strategy for higher education. The consultation should signal that amendments to the OfS strategy may be made once the government's strategy is published.
  - e. The strategy should reference other approaches that are being developed, such as the proposals for an integrated approach to quality and the approach to data and insight.
  - f. The proposed 'I statements' are helpful and could include more statements from the perspective of taxpayers and employers.

- g. The plurality of the sector and the balance between teaching and research should be emphasised.
- 10. The comments of the board will be taken into account and the draft will be finalised before the consultation is launched in mid-December.

### **Item 5. An integrated approach to quality**

- 11. The board considered a preliminary proposal for an integrated approach to quality, which was recommended in the OfS Public Bodies Review. This will be a core component of the next strategy, as the OfS moves from an approach focused on minimum requirements to an expectation of continuous improvement for all providers. The focus on students' outcomes and experience would be retained, and it would drive comparability across the diverse sector. The approach would retain a risk-based element, for example, using regulatory intelligence to determine how frequently a provider is assessed. The proposal for regular assessments of all providers means that the approach would be likely to align with European Standards and Guidelines. Engagement with the sector and students is planned.
- 12. The board was broadly supportive of the proposal. The following comments were made:
  - a. It is clear that work on quality has progressed since the OfS was established.
  - b. It was confirmed that we are working with regulators that have a similar approach to inform thinking about how it might work in practice.
  - c. The approach could represent significant additional work for the OfS and would be likely to capture an increased number of providers, particularly those with small student cohorts. This must be feasible in terms of resourcing, for both the OfS and providers, especially at a time when resources are stretched. The impact on different parts of the sector should therefore be considered. Providers may not support a proposal to pay fees for regular quality assessments.
  - d. It should be clear that the intention is not to assess all individual courses, but to bring courses at all levels into the scope of assessment. The OfS's regulation works in tandem with a provider's own obligation to assure the quality of its courses.
  - e. The principles behind the approach should be set out clearly, alongside an explanation of what a risk-based approach might mean for the frequency with which individual providers may be assessed. The proposal should set out the steps the OfS could take if quality falls below the requirements set out in conditions of registration.
  - f. While providers may not always welcome additional assessment, they may recognise that a positive judgement by the regulatory is a competitive advantage and that quality assessment is important for students.
- 13. The board agreed that a more detailed proposal should be developed for consideration at its February meeting.

### **Item 6. OfS data strategy**

- 14. The OfS's emerging data strategy was presented to the board. It aims to develop the in-house data function to support our regulation. It has three pillars:

- a. To become a data-led organisation.
  - b. To transform ways of working through agile methodologies.
  - c. Technical revolution.
15. The aim is to free up staff time to allow focus on strategic data analysis in partnership with regulation teams and to increase data literacy across the organisation.
16. In the year ahead there will be three main themes to explore: accountability for data returns, generating intelligence from data and the OfS's relationship with Jisc.
17. The board welcomed the reflections and the priorities and made the following comments:
- a. More timely data is vital for the OfS to be able to robustly regulate quality and financial sustainability. However, this may be challenging to deliver, given that providers' data systems are often outdated.
  - b. Providers must take responsibility for producing quality data, in real time, and sharing it in a transparent way. The OfS should clearly set out the consequences if a provider does not meet data requirements and should be ready to enforce these.
  - c. A pilot could explore a number of issues, including understanding whether providers are able to produce the data required, due to the limits of many providers' data collection systems. We should also consider whether it is possible to stimulate the development of more fit for purpose student record systems.
  - d. The strategy should encompass gaining insight from data, so that the OfS can generate and publish insight about the sector as a whole. Accessible analysis of the published data would be welcomed and would be particularly helpful to students.

#### **Item 7. Independent review of Data Futures**

18. The board received the final draft of PwC's independent review of Jisc's delivery of Data Futures. The board noted the Executive's views that:
- a. More timely data is vital for effective regulation, especially in the current challenging environment for the sector. We should therefore require Jisc to move to in-year collection of student data through the Data Futures platform, with the first collection in autumn 2027.
  - b. A rapid piloting process should be carried out, including in partnership with Jisc, to prepare for and deliver in-year data successfully.
  - c. In parallel, we should consider whether and how it might be possible to stimulate modernisation of student record systems across the sector.
  - d. The next steps set out above should be communicated alongside the publication of PwC's independent review in January 2025.
19. The following comments were made:

- a. The final PwC report should be published, and at the same time the OfS should be clear about the next steps and the rationale for these.
- b. Exempt from publication.
- c. Exempt from publication.
- d. It would be important for all parties – Jisc and the four funders – to agree the requirements for in year collection at the outset of the next phase of the programme. Tangible results should be visible through piloting at an early point, in order to demonstrate the deliverability of the approach.
- e. The OfS should consider whether all data items need to be collected at multiple points in a year, or whether there should be a differentiated approach.
- f. An agile approach should be taken to piloting. Exempt from publication.
- g. The OfS's Risk and Audit Committee should continue to provide oversight of the delivery of Data Futures and escalate any matters of concern to the board.

20. The board noted and received the findings of the independent report.

21. The board strongly supported the OfS Executive's view about the implementation of in year data collection. It agreed that the specification of the programme should be reset and joint governance mechanisms introduced.

22. The board agreed that the PwC report should be published on the OfS website alongside an action plan. The OfS should engage with Jisc and other stakeholders to ensure a coordinated response.

23. The board requested an update at its next meeting on the next phase of the Data Futures programme.

#### **Item 8. Consultation on changes to requirements for registration**

24. The board considered a summary of proposals for a consultation to change the requirements for entry to the OfS Register. This involves proposals for two new initial conditions of registration and changes to the registration process.

25. The proposed new requirements were designed to ensure that the test applied at registration is appropriate for the types of provider that are now seeking registration.

26. Alongside the OfS's planned consultation, the DfE is preparing to consult on requiring providers delivering courses through a subcontractual relationship with a lead provider to register with the OfS.

27. Exempt from publication.

28. The board noted the proposals.

#### **Item 9. Restricted**

29. Exempt from publication

### **Item 10. Risk report**

30. The board received a report on the current strategic risks and the principal corporate risks that are rated as 'high'. The board's attention had been brought to each of the high risks by separate items on this agenda, and no further matters were raised.

31. Exempt from publication.

32. Exempt from publication.

33. Exempt from publication.

34. The board received the risk report.

### **Item 11. Report from the Risk and Audit Committee**

35. At its meeting in November, the main discussion of the committee was the data strategy and a presentation from PwC on the findings of the independent review of Data Futures.

36. The board received the report.

### **Restricted item 12**

37. There is a separate confidential minute for this item.

### **Item 13. Chief Executive's report**

38. The chief executive gave an oral report on the response to the reprioritisation announcement which had been published that morning.

- a. 19 providers have been particularly affected, and they received individual calls last week.
- b. There has been a range of responses from sector groups. Some groups are supportive but are not making this public.
- c. The sector press has reported the news neutrally.

39. It is expected that ministers will make decisions about the implementation of the free speech legislation in the near future.

### **Item 14. OfS performance report**

40. At its previous meeting, the board had requested a report on the performance of the OfS.

41. The board welcomed the information provided in the report.

42. The next report will link performance reporting with information on finances and headcount.

### **Item 15. Finance and resources report**

43. The board reviewed the finances and resources report.

44. Exempt from publication.

45. Exempt from publication.

46. Exempt from publication.

47. Exempt from publication.

#### **Item 16. Report from the Provider Risk Committee**

48. At its recent meeting, the committee had discussed degree awarding powers (DAPs). When a provider applies for DAPs, we undertake a suitability assessment which includes consideration of its financial position. To date, we have not used the suitability test to prevent an application progressing. The committee supported a firmer view being taken on financial risk in relation to DAPs cases in future and suggested that the decision maker should give greater weight to a provider's financial risk profile when making decisions about whether to authorise DAPs. This is especially important where a provider's business model involves subcontractual provision, or other higher risk activities.

49. The board expressed concern that the interests of students may not be met where a delivery provider, the degree awarding provider and a recruitment agent are each making a profit.

#### **Item 17. Report from the Quality Assessment Committee**

50. At its recent meeting, the committee had reviewed and provided advice on DAPs assessments.

51. There is high demand for DAPs, with many assessments due to come to the committee for consideration in the coming months.

#### **Item 18. Report from the Remuneration and Nominations Committee**

52. The main content of the meeting was reported in restricted item 1.

53. No other matters were drawn to the attention of the board.

#### **Items 19, 20, 21. Understand context**

54. Papers on the political context, student context and sector context were provided to the board, to develop its understanding of the context of the OfS's work.

55. Exempt from publication.

56. Exempt from publication.

57. Exempt from publication.

#### **Annual plan for board business**

58. The board noted the annual plan for board business and the proposed agenda for the upcoming meeting in February.

#### **AOB**

59. There was no other business.