

Ofqual Board

Paper 46/14

Date:

24 September 2014

Title:

Chief Operating Officer's Report

Report by:

Mike Bird, Interim Chief Operating Officer

Responsible Director:

Mike Bird

Paper for information

Open paper (paragraph 32 closed)



Issue

1. This report updates the Board on operational performance and progress since the Board met in ordinary session in July 2014.

Recommendation

2. Board members are asked to note:
 - a. current financial position
 - b. current status of the new operating model programme
 - c. current status of IT, Communications and HR activity
 - d. regulatory performance, including project progress on accreditation of new GCSE and A levels
 - e. current status of legal activity
3. This report forms the reporting mechanism to the Board on operational matters.

Finance and business planning

4. We report on two budgets separately. We report on our rolling delegated budget (the Comprehensive Spending Review (CSR)) settlement and then we report on programme budgets.

Rolling delegated budget (CSR) to date

5. Our quarterly management accounts to August 31st shows a net underspend of £316,000, a 4% variance against a year-to-date budget of £7,465,000.
6. The bulk of this underspend results from unfilled permanent vacancies in Research and Evaluation, Regulatory Operations and Strategic Reform. Our current full-time-equivalent (FTE) permanent complement is 175 against a budget of 190. This shortfall results in part from the senior team's decision to freeze permanent recruitment during the transition to the new operating model. We have done so because it offers the fairest approach for current staff and is normal public sector practice during such change. Some of the resultant savings are reduced through our continued use of interim and contract staff to give us the additional capacity needed to meet our objectives. This continues to be managed closely through the change control process and monthly budget reporting.
7. We are now recruiting for senior permanent positions following the first phase of this programme; this will reduce our reliance on some interim and contract staff. Recruitment to permanent positions outside the Leadership Team continues to be largely held until the end of the calendar year while implementation of the new operating model programme continues at an appropriate pace.
8. Non-Pay costs to date overall are in line with budget.

Onward CSR plan

9. In July we conducted 'star chamber' reviews of budgets and forecast spend for each cost centre. These indicated that we were tracking towards a £444,000 underspend against our year-end CSR budget of £16,589,000. The star chambers also enabled the Research and Evaluation team to propose a programme of strategic research which we are funding from the underspend. As a result, we are now tracking towards a year-end underspend of £221,000 against our year-end CSR budget of £16,589,000. Given the degree of change envisaged between now and the end of the year, this represents a reasonable contingency reserve; by the same token, we are actively managing our spend profile so that our underspend for the year is proportionate.
10. The Star Chamber reviews enabled us to reprofile our planned and likely use of interim and contract resources, reducing the financial risk identified in the last COO report concerning delay in use of interim resources.

11. On 8th September, we moved formally to the new tier 1 and 2 management structures as part of the first phase of the new operating model programme. As of September month-end, budgets will be reported in line with this new structure and budget delegations will reflect this. These changes will enable greater ownership of budgets by Executive Directors and directors and enable more effective decision-making and control at the right levels down within the organisation.

The 2014/15 Reform budget to date

12. The Reform Programme to the end of August shows a £161,000 overspend, a 10% variance against a plan of £1,591,000. The majority of this variance results from the the work this summer on GCSE accreditation being more concentrated and intensive than originally planned. We envisage spend returning to plan in the coming months.
13. Paragraph redacted – contains personal information

Reform programme plan 2014/15

14. The Reform programme has also been subject to the Star Chamber process. Our forecast for the remainder of the year indicates that we are tracking to an overspend of £84,000 (2%) against a budget of £4,000,000. This reflects that while we continue to deliver efficiency savings in programme and project management, we have also identified additional spend required to deliver the regulatory strategy.
15. We are shortly to issue an invitation to tender for a supplier to design and operate National Reference Tests. We plan to be able to recommend a supplier for the Board's consideration in December so that the Strategic Design phase of the programme can begin in January.
16. We have submitted a revised bid of £670,000 to BIS for additional funding to support the development of the Regulatory Platform and further development of the Regulatory Strategy. While we have firm plans for delivery against this bid, these funds are, as yet, not formally committed, albeit we understand funding will be forthcoming. We continue to manage our Reform programme commitments against our confirmed budget of £4m.

People

17. Staff turnover as a 12 month rolling average remains at 1%. Absence on the same basis is running at 3%, compared with a civil service target of 5%.
18. Work continues on plan to implement the new operating model. We are recruiting now against unfilled vacancies on our new leadership structure. We are working across the organisation to develop new working processes and to refine the proposed structures for the new organisation below the Leadership Team.

19. We began working to our new leadership structure from 8th September. The new Leadership Team (the Chief Regulator, Executive Directors and Associate Directors) are working together in an unprecedented way, to develop and begin implementation of a people strategy aimed at addressing known issues and ensuring that the new operating model meets its objectives.
20. We have changed how we are refreshing and implementing HR policies to ensure that they are more effective, build greater engagement with our people and enable better management. The first policy being implemented under this process is our Dignity at Work policy, which covers (amongst other things) harassment, discrimination and bullying.

IT

21. The revised support contract with Lockheed Martin for RITS has operated without incident from 1st August. The process of letting a new contract to support RITS for a maximum of two years from January 2015 is proceeding to plan.
22. We have received a letter from the Cabinet Office rejecting our proposal to operate www.ofqual.gov.uk independently of the Government Data Service. A separate paper explaining the situation is on the Board agenda.
23. In July, the Board approved the award of a contract to Lockheed Martin for maintenance, support and then decommissioning of the regulatory IT platform between January 2015 and January 2017. We published a voluntary ex-ante transparency (VEAT) notice in the European Journal announcing our intentions. We are now working at pace with our lawyers and Lockheed Martin to draw up and agree the contract. There remains a risk of legal challenge until the point the contract is signed, but the probability of receiving a challenge, which was already small, has diminished further since the VEAT notice challenge period ended.
24. External consultancy, Methods, is completing high level designs for the new IT infrastructure and systems. The last of the designs will be completed following some workshops with business representatives, ending early October.
25. In the meantime, we are preparing for the procurement of components for which high level designs are already finished. Awarding of supplier contracts will be subject to securing additional funding from BIS as mentioned above and to Board approval for contract costs exceeding £250,000. The work will be governed within Ofqual through the governance structure that is being put in place for the regulatory strategy.

Strategic Communications and Engagement

26. A level and GCSE awarding in August predictably provoked some media interest. Our key messages around volatility, standards and

changes to the cohort, were taken up well by the media and Ofqual was seen as having maintained standards. While some stakeholders commented on the drop in results for English, interest died down without generating significant momentum.

27. Glenys, Michelle, Dennis and Janet all appeared at the Science and Technology Parliamentary Select Committee this month; this generated limited media interest. Comments made by CBI about the removal of science practicals and changes to speaking and listening in English stimulated some interest on Twitter. We issued tweets in response and directed people to our blog posts on the subjects.
28. Our announcement about new grade standards on September 12th generated a range of media interest but relatively little controversy.
29. In the next few weeks we are undertaking a number of communication activities. We will launch the second of our 2016 reform consultations; release the results from our MFL consultation; and publish our report on grading in A level MFL subjects. In addition, we will be launching a second consultation on assessments in the GCSE sciences, releasing details of our perceptions survey and issuing our London Economics report on essay writing.

Delivery

30. We have started to make progress against the new requirements set out in the Corporate Plan 2014/15. A report on progress against these commitments will be presented separately.

Regulatory delivery

Recognition

31. In contrast with the state of affairs in the last COO report, Recognition applications have reduced considerably.

New GCSE and A Level Accreditation Panels

32. Redacted – contains commercially confidential information.
33. Qualifications accredited so far:
 - a. 6 GCSE's from 36 originally submitted:
 - i. English Language 3
 - ii. English Literature 1
 - iii. Mathematics 2
 - b. 16 A/AS levels across a range of subjects from 92 originally submitted. We are expecting to accredit a further 6 at AS and 6 at A level in w/c 15 September.
34. We are expecting more (GCSE and A level) to go through by the end of September with the majority completed by the end of October.

35. In October, we begin planning the process of accreditation for the next tranche of GCSE and A level qualifications, due to begin in spring 2015.

Evaluation / audit / investigation

36. We have conducted a thematic review of functional skills, focused on the 13 AOs actively delivering Level 2 English and Maths. We have identified a range of issues with these VQs. Some of these issues are systemic and some are specific to a qualification or AO. We are engaging BIS, DfE and SFA about what we have found and discussing findings and next steps with AOs individually.
37. Statement of compliance: 59 AOs declared non-compliance. We have scored each AO with regard to how assured we are about its processes for self-evaluation. The detailed data set is being used for entity risk assessment to help shape our audit and monitoring plans for next year.
38. We are developing the way we regulate to put a greater focus on the validity of qualifications through their life cycle. We have just completed our first validity audit programme. We completed 18 validity audits in August and September. We focused on those AOs submitting KS4 and KS5 qualifications to DfE for inclusion in performance tables from 2017.
39. These validity audits focused on the design and development stage for these qualifications. The expectation is that we may - depending on risk - revisit the same organisations at a later stage to review the delivery, awarding and review stages of the qualification lifecycle. Internal reporting is currently being completed, and this includes useful lessons learned about the method of approach. We will be reporting our findings to awarding organisations in October.
40. On 8 September we met with exam boards to offer feedback on a sample of 77 of their malpractice investigation case files that we reviewed in May 2014. The meeting was convened in part to address concerns raised by their responsible officers at a meeting with the Chief Regulator in June 2014. We used anonymised examples of good and bad compliance identified in the review to explain where and how exam boards are currently non-compliant. We agreed what exam boards would do to achieve compliance in time for the summer 2015 exam series. Regulators in Northern Ireland and in Wales were invited to the meeting and are aware of the approach we are taking.
41. We will meet individually with exam boards in October 2014 to provide detailed feedback from our review, and agree formal action plans or undertakings that address common and individual areas of non-compliance.

Customer Services and Complaints

42. It has been a relatively quiet results period for customer services in comparison to last year. This no doubt has been due to better media handling and the Chief Regulator writing to schools beforehand to

inform how the pattern of results for this year may have differed from last year.

43. A routine theme in every results period is that we receive a significant proportion of queries concerning the possibility of making appeals about exam results. This year, we have improved the positioning and clarity of our messaging about this topic on our website and actively managed messaging on our automated telephony systems. As a result, we have received far fewer queries on this topic.
44. Our complaints function has seen a trend of concerns about special consideration, and how the linearization of examinations has put some pressure on students with serious health or personal issues. This issue was escalated by customer services to complaints. We asked JCQ to consider whether they had fully assessed the impact of linearization on their special consideration process. As a result, exam boards reduced the minimal requirements for a special consideration GCSE award (in terms of the % of GCSE units already completed).
45. A few complainants have escalated concerns to the Parliamentary and Health Services Ombudsman and to the Information Services Commissioner. To date this year, no such escalated complaints have been upheld.

Legal

46. We have been defending an Employment Tribunal case brought by a former employee. In August, the Tribunal found strongly in our favour. No appeal has been lodged and we do not anticipate that one will be.
47. We took the decision to withdraw recognition from AABPS in March 2014. This took effect in July. At the time of the last Board, AABPS had applied for a judicial review of this decision. This application has been refused. We have since been engaged in pre-action correspondence related to a 4th threatened application for judicial review, this time against our independent reviewer. We have taken a firm stance that any such proceedings are wholly misconceived and at the time of writing proceedings have not been issued. We will update the Board should they be.
48. The Information Commissioner has previously upheld our decision not to release previous subject matter experts' personal information in response to a Freedom of Information request. This decision has now been challenged before the First Tier Tribunal (Information Rights) and we have joined the case as an interested party. The hearing is scheduled to be heard in November.
49. A complainant has requested a Judicial Review of the Parliamentary Ombudsman's decision not to uphold a complaint that had been made against Ofqual / QCA by an individual. We have joined the case as an interested party. The claim is currently stayed by the Court pending a

mediation between the claimant, the PHSO and Ofqual. We are waiting for the other parties to confirm dates for when this will happen.

Finance and Resource

50. Finance implications are discussed at relevant paragraphs

Impact Assessments

Equality Analysis

51. Equality Analysis will be completed as relevant work progresses

Financial risks

52. The organisation is undergoing a significant period of change between now and the end of the year. These could result in unplanned demands for resources. We are mitigating such risks by continuing to tighten financial controls through the Star Chamber process and by introducing more effective monthly management reporting in order to keep costs under control and maintain a sensible reserve as evidenced in the projected underspend.
53. While we understand that our request for additional funds from BIS for additional monies is likely to be approved, these remain to be committed. If these funds do not materialise or are significantly delayed, then we will have to scale down our ambitions for the regulatory platform this year; we will seek to make use of reserves and redirect other resources to make some progress but in such a case we will deliver less than we had planned.
54. The Reform programme is currently forecasting an overspend of £84,000. If this overspend is not addressed, then we run the risk of exceeding our budget limits for Reform by the end of the year. We are mitigating this risk by careful monitoring of project spend by month and through the Star Chamber process.
- ### New operating model risks
55. Our programme to implement a new operating model for Ofqual is progressing on plan. We are now moving to a phase where we are developing new operating processes and a new organisation design below the new leadership team structure.
56. Risks to this programme include possible disengagement of our people and unnecessary delays due to poor planning or programme control.
57. To address possible disengagement of our people, we are ensuring that new processes are being developed with the involvement of people at every level across the organisation; we are putting sustained effort to explaining our approach and ensuring that the Union is regularly informed; and we are using this programme as a vehicle for introducing the people strategy.

58. Delay due to poor planning or control we are handling through steady and continuous implementation, with the programme plan tracked weekly by the Strategic Management Group.

Regulatory Impact Assessment

59. Regulatory Impact Assessments, especially in relation to the RITS and regulatory strategy will be completed as relevant work progresses.

Timescale

60. Timescales are discussed at relevant paragraphs

Paper to be published	YES (apart from paragraphs 13 and 32)
Publication date (if relevant)	After the meeting
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA), please include references to specific paragraphs	Paragraph 13 to be withheld as it contains personal information. Paragraph 32 to be withheld on the basis of commercial sensitivity

ANNEXES LIST:-

ANNEX ONE: Financial Report (withheld_