



Department  
for Education

# Office for Students (OfS)

**Framework document between the  
Department for Education and the Office for  
Students**

**January 2023**

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## Definitions

In this document, unless otherwise stated, the following definitions shall apply.

"the Accounting Officer"	The person appointed by the Department to be accountable for the operations of the Office for Students (OfS) and the preparation of its accounts. For the purposes of this Framework Document this is the Chief Executive of the OfS.
"the Act" <sup>1</sup>	The Higher Education and Research Act 2017
"ALB"	Arms-Length Body of a government department
"the Annual Report and Accounts"	The single document audited by the National Audit Office that contains the annual report required to be prepared by the OfS under paragraph 13 of Schedule 1 to the Act, including the strategic report and the accounts
"the Board"	The OfS members appointed by the Secretary of State
"the Chair"	The OfS member appointed by the Secretary of State to serve as a Chair
"the Chief Executive"	The OfS member appointed to serve as the Chief Executive Officer by the Secretary of State
"the DFAP"	The OfS member appointed by the Secretary of State to serve as the Director for Fair Access and Participation
"the C&AG"	The Comptroller & Auditor General
"Delegated Authority Letter"	Letter issued by the Principal Accounting Officer to the Accounting Officer, to sub-delegate a range of financial and non-financial authorities as detailed at Appendix 1.
"the Department"	The Department for Education
"the sponsor department"	The government department which currently oversees the OfS

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<sup>1</sup> [Higher Education and Research Act 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

“the FReM”	Government Financial Reporting Manual
“the Government”	The UK Government
“the Minister”	The Minister for Higher and Further Education
“Parliament”	The UK Parliament
“the PAO”	The Principal Accounting Officer - the Department's Permanent Secretary
“the Secretary of State”	The Secretary of State for Education
“the Senior Sponsor”	A named official, the relevant Director in the Department, who acts as the senior point of liaison between the Arm's Length Body, the Department, Secretary of State and Ministers
“OfS”	The Office for Students
“HMT”	Her Majesty's Treasury
“ordinary members”	Non-Executive Members of the OfS Board
“Student Representative”	An OfS Board member with experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers
“UKRI”	United Kingdom Research and Innovation

# Introduction and background

## 1. Purpose of document

**1.1** This Framework Document has been agreed between the Department, as sponsor department, with the OfS in accordance with HMT's handbook [Managing Public Money](#) (as updated from time to time) and has been approved by HMT.

**1.2** This Framework Document sets out the broad governance framework within which the OfS and the Department will operate. It sets out the OfS's core responsibilities; describes the governance and accountability framework that applies between the roles of the OfS, and the Department; and sets out how the day-to-day relationship works in practice, including in relation to governance and financial matters.

**1.3** The OfS is a Non-Departmental Public Body (NDPB) of the Department, established by the Act as the independent regulator of higher education in England.

**1.4** The document does not convey any legal powers or responsibilities. It sets out agreed expectations as to how the parties intend to operate and handle day to day interactions.

**1.5** References to the OfS include all its subsidiaries and joint ventures that are classified to the public sector and central government for national accounts purposes. If the OfS establishes a subsidiary or joint venture, there shall be a document setting out the arrangements between it and the OfS agreed with the Department.

**1.6** Copies of the Framework Document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public on the gov.uk website and [www.officeforstudents.org.uk](http://www.officeforstudents.org.uk).

**1.7** This Framework Document should be reviewed and updated at least every three years unless there are exceptional reasons that render this inappropriate that have been agreed with HMT and the Principal Accounting Officer (PAO) of the sponsor department. The latest date for review and updating of this document is December 2025.

## 2. Objectives

**2.1** The Department and the OfS share the common objective of ensuring that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers. To achieve this the OfS and the Department will work together in recognition of each other's roles and areas of expertise, establishing an operating environment that enables the OfS to achieve its objectives through the

promotion of partnership and trust. Both parties will also work together to ensure that the OfS has regard to guidance given to it by the Secretary of State under section 2(3) of the Act and to ensure alignment with relevant strategic aims and objectives of the Department and wider government.

### **3. Classification**

**3.1** The OfS has been administratively classified by the Cabinet Office as an NDPB and classified as a central government organisation by the ONS/HM Treasury Classifications Team.

# Purposes, aims and duties

## 4. Purposes

**4.1** The OfS was established under the Act as the independent regulator of higher education in England. The OfS's aim is to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers.

## 5. Powers and duties

**5.1** The OfS's powers and duties derive principally from the Act. The Act also makes provision in relation to the issue of guidance by the Secretary of State to the OfS (see section 9.3) and for the Secretary of State to make grants to the OfS subject to terms and conditions; and to give directions to the OfS.

**5.2** Section 2 of the Act describes the general duties of the OfS. The Act requires the OfS, when performing its functions, to have regard to:

- The need to protect the institutional autonomy of English higher education providers;
- The need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers;
- The need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers;
- The need to promote value for money in the provision of higher education by English higher education providers;
- The need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers;
- The need to use the OfS's resources in an efficient, effective and economic way; and
- So far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be:
  - Transparent, accountable, proportionate and consistent; and
  - Targeted only at cases in which action is needed.



## Responsibility of the OfS to allocate grants

**5.3** The OfS will allocate grants from the Secretary of State to eligible higher education providers, for the purposes of education and/or the provision of facilities and other activities in connection with education. The Secretary of State may make grants to the OfS subject to such terms and conditions as the Secretary of State considers appropriate.

**5.4** The particular functions of the OfS under the Act include:

- to enable the OfS to regulate English higher education providers through a system of registration and registration conditions (sections 3 to 22 of the Act). As well as functions regarding the establishment of a register, the OfS has functions in relation to setting initial and ongoing registration conditions and applying those conditions to providers on a risk-based approach. The OfS has powers to impose sanctions on a registered provider where it appears to the OfS that there is, or has been, a breach of the provider's ongoing registration conditions. Sanctions include monetary penalties, suspension of registration or de-registration;
- assessing (or making arrangements to assess) the quality and standards of higher education, in relation to the designated quality body and enabling the OfS to operate the Teaching Excellence and Student Outcomes Framework (TEF); (sections 23 to 28 of the Act);
- improving access and participation, in particular in relation to access and participation plans and their enforcement (sections 12, 21 and 29 to 37 of the Act). The OfS is also required to comply with any direction given by the Secretary of State to report on matters relating to equality of opportunity in connection with access and participation;
- powers to provide grant, loan and other funding to registered eligible higher education providers or other persons under sections 39 to 40 of the Act and to impose terms and conditions in accordance with section 41 of the Act);
- powers to award, vary or revoke Degree Awarding Powers and to authorise or revoke the use of "university title" (sections 42 to 60 of the Act);
- powers and duties relating to information. The OfS has powers to require information from registered providers (through a mandatory registration condition – see section 8 of the Act) and unregistered English higher education providers (under section 62). It has functions as regards cooperation and information sharing (section 63), as well as duties (alongside the designated data body) in relation to the publication of information that would be helpful to students and registered providers, and in relation to compiling and making available information to the OfS, UKRI and the Secretary of State (sections 65 and 64 respectively);

- other functions, including a duty to report on the availability and uptake of student transfer arrangements and a power to facilitate, encourage or promote awareness of such arrangements (section 38), a duty to monitor and report on financial sustainability (section 68), power to arrange for studies for improving economy, efficiency and effectiveness (section 69).

**5.5** The OfS has a number of functions conferred by legislation other than the Act, including:

- the OfS has the role of Principal Regulator under the Charities Act 2011 for registered providers that are charities exempt from registration and direct regulation by the Charity Commission;
- the OfS has responsibility for monitoring the 'Prevent duty' in the higher education sector, as set out in the Counter Terrorism and Security Act 2015.

## 6. Aims

**6.1** The OfS regulatory framework, first published in February 2018 and with subsequent amendments, sets out how it intends to exercise its functions and including guidance for registered higher education providers on the general ongoing registration conditions. The OfS must have regard to its regulatory framework when carrying out its functions.

**6.2** As set out in the OfS's regulatory framework, the OfS seeks to ensure that students, from all backgrounds (particularly the most disadvantaged), can access, succeed in, and progress from higher education. The OfS is concerned with all students within its remit: from the UK and beyond; undergraduate and postgraduate; studying full time or part time and campus based or distance learners.

**6.3** The OfS has four primary regulatory objectives:

- **Participation:** all students, from all backgrounds, with the ability and desire to undertake higher education are supported to access, succeed in, and progress from, higher education.
- **Experience:** all students, from all backgrounds, receive a high-quality academic experience, and their interests are protected while they study or in the event of provider, campus or course closure.
- **Outcomes:** all students, from all backgrounds, can progress into employment or further study, and their qualifications hold their value over time.
- **Value for Money:** all students, from all backgrounds, receive value for money.

# OfS governance and structure

## 7. Governance and accountability

**7.1** The OfS shall operate corporate governance arrangements that, so far as practicable and in the light of the other provisions of this Framework Document or as otherwise may be mutually agreed, accord with good governance practice and applicable regulatory requirements and expectations.

**7.2** In particular (but without limitation), the OfS should:

- comply with the principles and provisions of the Corporate Governance in Central Government Departments Code of Good Practice (as amended and updated from time to time) to the extent appropriate and in line with their statutory duties or specify and explain any non-compliance in its annual report;
- comply with [Managing Public Money](#);
- in line with Managing Public Money have regard to the relevant [Functional Standards](#) as appropriate and in particular those concerning Finance, Commercial and Counter Fraud; and
- take into account, the codes of good practice and guidance set out in Appendix [2] of this Framework Document, as they apply to ALBs.

**7.3** In line with [Managing Public Money](#) Annex 3.1, the OfS shall provide an account of corporate governance in its annual governance statement including the Board's assessment of its compliance with the Code (to the extent to which it is relevant to the OfS as a non-departmental body) with explanations of any material departures. To the extent that the OfS does intend to materially depart from the Code, the Senior Sponsor should be notified in advance as also specified in the annual allocation letter.

## Role of the department

### 8. The Responsible Minister

**8.1** The Secretary of State has ultimate accountability for the OfS in Parliament and the Minister of State for Higher and Further Education has lead responsibility for oversight of the OfS on a day-to-day basis.

**8.2** The Secretary of State's powers in respect of the OfS are set out in the Act.

**8.3** Through the exercise of these powers the Secretary of State:

- may guide the OfS in its priorities and strategic aims through published guidance as set out in the Act.
- may issue directions to the OfS through regulations.
- must have regard to the need to protect the institution autonomy of English higher education providers.
- has a power of appointment in relation to the OfS Chair in line with the [Governance Code on Public Appointments](#).
- has a power of appointment in relation to ordinary members of the OfS Board in line with the Governance Code on Public Appointments.
- has a power of appointment in relation to the OfS Chief Executive
- has a power of appointment in relation to the DFAP.

### Appointments to the board

**8.4** The Chief Executive of the OfS is appointed by the Secretary of State under Schedule 1, 2(1) of the Act.

**8.5** The Minister shall have the following appointment and approval rights in relation to the OfS Board:

- The Chair is appointed by the Secretary of State under Schedule 1, 2(1) of the Act. This appointment is subject to the Public Appointments Order in Council and as such must comply with the Governance Code on Public Appointments.
- At least seven and not more than twelve non-executive members are appointed by the by the Secretary of State under Schedule 1, 2(1) of the Act. These appointments are subject to the Public Appointments Order in Council and as such must comply with the Governance Code on Public Appointments.

- The DFAP is also appointed by the Secretary of State under Schedule 1, 2(1) of the Act.
- All such appointments should have regard to the principle that appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds.

**8.6** In line with the Act, the Secretary of State, must in appointing the Chair and the ordinary members, have regard to the desirability of the OfS' s members (between them) having experience of:

- representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers;
- providing higher education on behalf of an English higher education provider or being responsible for the provision of higher education by such a provider;
- employing graduates of higher education courses provided by higher education providers covering a range of academic and practical disciplines;
- promoting choice for consumers or other service users, and encouraging competition, in industry or another sector of society, creating, reviewing, implementing or managing a regulatory system in industry or another sector of society
- managing or auditing the financial affairs of an organisation; and a broad range of the different types of English higher education providers.

**8.7** At least one of the ordinary members must be a Student Representative with experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.

**8.8** All such appointments should have regard to the principle that appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint Boards which include a balance of skills and backgrounds

## **Secretary of State's guidance**

**8.9** Section 2(3) of the Act requires the OfS to have regard to guidance given to it by the Secretary of State, alongside its other general duties. The expectation is that the guidance will be issued annually, although it may be more frequent. The guidance will set out the government's strategic and policy priorities for higher education and how it wishes the OfS to address these. The Department's officials will provide advance sight of any guidance issued to the OfS. The OfS will publish the guidance on their website.

## Secretary of State's power to make grants

**8.10** Section 74 of the Act allows the Secretary of State to make grants to the OfS, and to set terms and conditions on those grants. The Secretary of State will usually set out the annual funding for the OfS in guidance, which will cover strategic priorities for funding, policy and OfS operations.

## Secretary of State's powers to give directions

**8.11** The Secretary of State, through regulations, can give the OfS general directions about the performance of its functions. This is a power which the Department does not anticipate will be used frequently. The Secretary of State can also give the OfS 'financial support directions' in relation to a particular registered higher education provider, but only in very limited circumstances where it appears that there has been financial mismanagement at that provider.

## Institutional autonomy of English higher education providers

**8.12** In issuing guidance, setting terms and conditions of grants or giving directions, the Act requires the Secretary of State to have regard to the need to protect the institutional autonomy of English higher education providers. The Act also places limits on how the Secretary of State's guidance, terms and conditions, and directions can be framed in order to safeguard the institutional autonomy of English higher education providers.

## 9. The Principal Accounting Officer (PAO)

**9.1** The PAO is the Permanent Secretary of the Department.

**9.2** The PAO of the Department designates the Chief Executive as the Accounting Officer for the OfS and ensures that they are fully aware of their responsibilities. The PAO issues a letter appointing the Accounting Officer, setting out their responsibilities and delegated authorities.

**9.3** The respective responsibilities of the PAO and Accounting Officers for ALBs are set out in Chapter 3 of [Managing Public Money](#).

**9.4** The PAO is accountable to Parliament for the issue of any grant-in-aid to the OfS.

**9.5** The PAO is also responsible, usually via the sponsorship team, for advising the responsible Minister on:

- an appropriate framework of objectives and targets for the OfS in the light of the Department's wider strategic aims and priorities;

- an appropriate budget for the OfS in the light of the sponsor department's overall public expenditure priorities;
- how well the OfS is achieving its strategic objectives and whether it is delivering value for money; and
- the exercise of the Ministers' statutory responsibilities concerning the OfS as outlined above.

**9.6** The PAO via the sponsorship team is also responsible for ensuring arrangements are in place in order to:

- monitor the OfS's activities and performance;
- address concerns that arise with the work of the OfS, making such interventions as are judged necessary;
- periodically and at such frequency as is proportionate to the level of risk carry out an assessment of the risks both to the Department and the OfS's objectives and activities in line with the wider departmental risk assessment process;
- inform the OfS of relevant government policy in a timely manner; and
- bring Ministerial or departmental concerns about the activities of the OfS to the full OfS Board, and, as appropriate to the departmental Board requiring explanations and assurances that appropriate action has been taken.

## 10. The role of the sponsorship team

**10.1** The OfS sponsor team in the Department is the primary contact for the OfS. The Department's Senior Sponsor for the OfS will be supported by a sponsorship team. The Department and the OfS will have an open and honest, trust-based partnership supported by the principles set out in the [Partnerships between Departments and Arm's Length Bodies: Code of Good Practice](#). As such, both parties will ensure they clearly understand the strategic aims and objectives of the other party. Both partners will also commit to keeping each other informed of any significant changes, risks, issues and concerns.

**10.2** The Senior Sponsor will:

- act as the senior point of liaison between the OfS, the Department, Secretary of State and Ministers;
- be the main source of advice to Ministers on the discharge of his or her responsibilities in respect of the OfS;
- support and advise the PAO on his or her responsibilities toward the OfS;

- hold quarterly performance reviews with the leadership of the OfS as part of performance monitoring and accountability; the Senior Sponsor, may be supported by a non-executive director from the Department's Board, to undertake the review;
- ensure that, where reasonably possible, the OfS's Chief Executive has advance notice of wider government announcements on higher education;
- aid the flow of information and nurture relationships, facilitating OfS's relationships with officials in other government Departments where reasonably possible;
- work collaboratively with the OfS's Chief Executive to facilitate the smooth operation of the arrangements set out in this Framework Document; and
- ensure requests for approval of expenditure are dealt with promptly and proportionately, and that departmental approval is not unreasonably delayed and/or withheld for any reason, except where the Secretary of State reasonably considers that the proposed expenditure does not represent value for money.

**10.3** If a Machinery of Government change results in the OfS being sponsored by a new department before the Framework Document is due for review, the Department will notify the OfS of the relevant relationship changes. The provisions of the Framework Document will continue to have effect until the Framework Document is replaced, unless otherwise stated by the new sponsor department.

**10.4** Officials of the OfS sponsorship team in the Department will liaise regularly with OfS officials to review performance against plans, achievement against targets and expenditure against its Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME) allocations. The sponsor team will also take the opportunity to explain wider policy developments that might have an impact on the OfS.

## **11. Resolution of disputes between the OfS and department**

**11.1** The Department and the OfS will take a pragmatic and issue-based approach to dispute resolution.

**11.2** Any disputes between the Department and the OfS will be resolved in as timely a manner and in such a way that any potential disruption to on-going projects or operations is limited as much as and possible.

**11.3** The Department and the OfS will seek to resolve any disputes through an informal process in the first instance. If this is not possible, then a formal process, overseen by the Senior Sponsor, will be used to resolve the issue. Failing this, the Senior Sponsor will ask the relevant policy Director General to oversee the dispute. They may then choose to ask the Permanent Secretary to nominate an ordinary member of the Department's Board to



review the dispute, mediate with both sides and reach an outcome, in consultation with the Secretary of State.

## 12. Freedom of information requests

**12.1** Where a request for information is received by either party under the [Freedom of Information Act 2000](#), or the Data Protection Act 1998<sup>2</sup> or 2018<sup>3</sup>, the party receiving the request will consult with the other party prior to any disclosure of information that may affect the other party's responsibilities.

## 13. Reporting on litigation risk

**13.1** The OfS shall provide a quarterly update to the sponsor on the existence of any active litigation, and any reasonably anticipated litigation. The parties acknowledge the importance of ensuring that such litigation risks are communicated appropriately to the sponsor in a timely manner.

**13.2** In respect of each substantial piece of litigation involving the OfS, the parties will agree a litigation protocol which will include specific provisions to ensure appropriate and timely reporting on the status of the litigation, and the protection of legally privileged information transmitted to the Sponsor to facilitate this. Until such time that a protocol is agreed, the parties will ensure that;

- material developments in the litigation are communicated to the Sponsor in an appropriate and timely manner;
- legally privileged documents and information are clearly marked as such;
- individual employees handling the legally privileged documents are familiar with principles to which they must adhere to protect legal privilege; and
- circulation of privileged information within government occurs only as necessary.

## 14. The Chief Executive

**14.1** The Chief Executive of the OfS is appointed by the Secretary of State under paragraph 2 of Schedule 1 to the Higher Education and Research Act 2017.

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<sup>2</sup> [Data Protection Act 1998 \(legislation.gov.uk\)](#)

<sup>3</sup> [Data protection: The Data Protection Act - GOV.UK \(www.gov.uk\)](#)

## Responsibilities of the OfS's Chief Executive as Accounting Officer

**14.2** The Chief Executive, as Accounting Officer of the OfS, is personally responsible for safeguarding the public funds for which they have charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day operations and management of the OfS. In addition, they should ensure that the OfS as a whole is run on the basis of the standards, in terms of governance, decision-making and financial management, that are set out in Chapter 3 Box 3.1 of [Managing Public Money](#). These responsibilities include those set out below and those that are set out in the Accounting Officer appointment letter issued by the PAO of the sponsor department.

## Responsibilities for accounting to Parliament and the public

**14.3** Responsibilities to Parliament and the public include:

- signing the accounts and ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State as set out in Schedule 1, paragraph 12(2) of the Act;
- preparing and signing a Governance Statement covering corporate governance, risk management and oversight of any local responsibilities, for inclusion in the annual report and accounts;
- ensuring that effective procedures for handling complaints about the OfS in accordance with Parliamentary Principles of Good Complaint Handling are established and made widely known within the OfS and published on the OfS's website;
- acting in accordance with the terms of Managing Public Money and considering guidance from Cabinet Office;
- ensuring that as part of the above compliance they are familiar with and act in accordance with:
  - any governing legislation;
  - this framework document;
  - any delegation letter issued to the OfS as set out in section 19;
  - any elements of any allocation letter issued by the sponsor department that is relevant to the operation of the OfS (where informed of it by the sponsorship team); and
  - any elements of any settlement letter issued to the OfS from the sponsor department.

- ensuring they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding compliance any conditions arising from the above documents; and
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee on the OfS's stewardship of public funds.

## Responsibilities to the department

### 14.4 Responsibilities to the Department include:

- establishing the OfS's business plan having had regard to the Department's wider strategic aims and agreed priorities;
- informing the Department of progress in helping to achieve the Department's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the Department; that the Department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the Department in a timely fashion.

## Responsibilities to the OfS Board

### 14.5 The Chief Executive is responsible for:

- advising the Board on the discharge of the OfS's responsibilities as set out in this document, in the founding legislation and in any other relevant instructions and guidance that may be issued from time to time;
- advising the Board on the OfS's performance compared with its aims and objectives and promoting the efficient and effective use of staff and other resources;
- ensuring that financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that appropriate financial appraisal techniques are followed;

## Managing conflicts

**14.6** The Chief Executive should follow the advice and direction of the Board, except in very exceptional circumstances with a clear cut and transparent rationale for not doing so.

**14.7** If the Board, or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety or regularity or does not represent prudent or economical administration, efficiency or effectiveness, is of questionable feasibility, or is unethical the Chief Executive in their role as Accounting Officer should reject that course of action and ensure that the Board have a full opportunity to discuss the rationale for that rejection.

**14.8** Such conflicts should be brought to the attention of the Principal Accounting Officer and the Minister as soon as possible.

**14.9** Furthermore and if agreed with the responsible Minister, the Accounting Officer must write a letter of justification to the Chair of the Board setting out the rationale for not following the advice and recommendation of the Board and copy that letter to the Treasury Officer of Accounts.

**14.10** If the responsible Minister agrees with the proposed course of action of the Board it may be appropriate for the Minister to direct the Accounting Officer in the manner as set out in [Manging Public Money](#) Chapter 3 section 3.6.6 onwards.

## **15. The Board**

### **Composition of the board**

**15.1** The OfS will have a Board in line with good standards of Corporate Governance and as set out in its establishing statute and in guidance as set out in Appendix 2. The role of the Board shall be to oversee the running of the OfS, and to deliver the objectives, in accordance with the purposes as set out above, and comply with their statutory, regulatory, common-law duties, together with their responsibilities under this Framework Document. The OfS scheme of delegation sets out those matters which are reserved to the Board for decision, and the Board proceedings and code of conduct sets out the arrangements and standards through which the OfS Board will conduct itself and carry out its business. Remuneration of the Board will be disclosed in line with the guidance in the Government Financial Reporting Manual. (FReM)

**15.2** It is the responsibility of the Secretary of State to make appointments to the OfS Board. The Board composition is set out at paragraph 8.5 of this agreement.

**15.3** These arrangements ensure that ordinary members will always be in a majority on the OfS Board, to ensure that OfS executives are supported and constructively challenged in their roles. The Department will actively monitor the equality and diversity of the OfS Board.

**15.4** Appointment and reappointment processes for the Chair and members will be carried out in line with the Act and the [Governance Code for Public Appointments](#) (where applicable). Appointment terms are generally made for between three and five years. The Department's policy is that ordinary members can be reappointed, with a presumption that no individual should serve more than two terms or serve in any one post for more than ten years.

**15.5** The grounds on which the Secretary of State may remove a person from office as a member of the OfS Board are set out in paragraph 5(2) of Schedule 1 to the Act. These grounds are absence from the OfS's meetings for a continuous period of more than six months without the OfS's permission, inability or unfitness to carry out the functions of the office, or such other grounds as the Secretary of State considers appropriate.

## **Board committees**

**15.6** The Board should set up such committees as necessary for it to fulfil its functions. As a minimum this should include a committee to consider audit and risk (to be known as the Risk and Audit Committee) in accordance with the [Government's Code of Good Practice for Corporate Governance](#) and the [Audit and Risk Committee Handbook](#). The Committee shall be chaired by an independent and appropriately qualified non-executive member of the Board.

**15.7** While the Board may make use of committees to assist its consideration of appointments, succession, audit, risk and remuneration it retains responsibility for, and endorses, final decisions in all of these areas. The Chair should ensure that sufficient time is allowed at the Board for committees to report on the nature and content of discussion, on recommendations, and on actions to be taken.

**15.8** Where there is disagreement between the relevant committee and the Board, adequate time should be made available for discussion of the issue with a view to resolving the disagreement. Where any such disagreement cannot be resolved, the committee concerned should have the right to report the issue to the sponsor team, PAO and responsible Minister. They may also seek to ensure the disagreement or concern is reflected as part of the report on its activities in the annual report.

**15.9** The authority delegated to committees of the Board is set out in the scheme of delegation. The Chair should ensure Board committees are properly structured with appropriate rules of procedure. The Chair should ensure that committee membership is periodically refreshed and that individual independent non-executive directors are not over-burdened when deciding the Chairs and membership of committees.

## **Duties of the board**

**15.10** The Board, including the Chair, is specifically responsible for:

- establishing and taking forward the strategic aims and objectives of the OfS consistent with its overall strategic direction and within the policy and resources framework determined by the Secretary of State;
- ensuring that the responsible Minister is kept informed of any changes that are likely to impact on the strategic direction or targets, and determining the steps needed to deal with such changes;
- providing effective leadership of the OfS within a framework of prudent and effective controls which enables risk to be assessed and managed;
- ensuring the financial and human resources are in place for the OfS to meet its objectives;
- reviewing management performance;
- ensuring that the Board receives and reviews regular financial and management information concerning the management of the OfS;
- ensuring that it is kept informed of any changes which are likely to impact on the strategic direction of the OfS Board or on the attainability of its targets, and determining the steps needed to deal with such changes and where appropriate bringing such matters to the attention of the responsible Minister and PAO via the executive team, sponsorship team or directly;
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor department, and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account guidance issued by the sponsor department;
- ensuring that as part of the above compliance they are familiar with:
  - this Framework Document,
  - any delegation letter issued to body as set out in paragraph 18.1
  - any elements of any allocation letter issued to the sponsor department that is relevant to the operation of the OfS;
  - any separate allocation letter that is issued to the OfS from the sponsor department;
  - any statutory guidance issued by the Secretary of State; and
  - that they have appropriate internal mechanisms for the monitoring, governance and external reporting regarding any conditions arising from the above documents and ensure that the Chief Executive and OfS as a whole act in accordance with their obligations under the above documents.

- demonstrating high standards of corporate governance at all times, including by using the independent audit committee to help the Board to address key financial and other risks;
- determining all such other things which the Board considers ancillary or conducive to the attainment or fulfilment by the OfS of its objectives.

**15.11** The Board should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control.

**15.12** The Board should make a strategic choice about the style, shape and quality of risk management and should lead the assessment and management of opportunity and risk. The Board should ensure that effective arrangements are in place to provide assurance over the design and operation of risk management, governance and internal control in line with the [Management of Risk – Principles and Concepts \(The Orange Book\)](#). The Board must set up an Audit and Risk Assurance Committee chaired by an independent and appropriately qualified non-executive member to provide independent advice and ensure that the Department’s Audit and Risk Assurance Committee are provided with routine assurances with escalation of any significant limitations or concerns. The Board is expected to assure itself of the adequacy and effectiveness of the risk management framework and the operation of internal control.

## **16. The Chair’s role and responsibilities**

**16.1** The Chair is responsible for leading the Board in the delivery of its responsibilities. Such responsibility should be exercised in the light of their duties and responsibilities as set out in the Chair’s contract of employment, any appointment letter, the statutory authority governing the OfS, this document and the documents and guidance referred to within this document.

**16.2** The Chair will account to the PAO and the responsible Minister. He or she is responsible for ensuring that the OfS’s policies and actions have regard to the Secretary of State’s wider strategic policies as laid down in the Secretary of State’s guidance and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the OfS. The Chair will support the Senior Sponsor in discharging their role in respect of the OfS and in advising Ministers on its performance. The Chair’s performance will be reviewed annually by the PAO or the responsible Director General (as delegated by the PAO). The Senior Sponsor will also support the annual appraisal process. Communications between the OfS Board and the responsible Minister should normally be through the Chair.

**16.3** The Chair is bound by the [Code of Conduct for Board Members of Public Bodies](#), which covers conduct in the role and includes the [Nolan Principles of Public Life](#).

**16.4** In addition, the Chair and the Board are responsible for:

- formulating the OfS strategy;
- ensuring that the Board, in reaching decisions, has regard to the Secretary of State's guidance;
- promoting the efficient and effective use of staff and other resources
- providing scrutiny of the OfS's performance and risks, including escalating any issues to the PAO or Ministers as deemed appropriate
- ensuring, including by monitoring and engaging with appropriate governance arrangements, that the OfS's affairs are conducted with probity;
- delivering high standards of regularity and propriety; and
- representing the views of the Board to stakeholders and the general public.

**16.5** The Chair also has an obligation to ensure that:

- the work of the Board and its members is reviewed and they are working effectively, including ongoing assessment of the performance of individual Board members with a formal annual evaluation and more in-depth assessments of the performance of individual Board members when being considered for re-appointment;
- that in conducting assessments that the view of relevant stakeholders including employees and the sponsorship team are sought and considered;
- that the Board has a balance of skills appropriate to directing the OfS's business, and that all Directors including the Chair and Chief Executive continually update their skills, knowledge and familiarity with the OfS to fulfil their role both on the Board and committees. This will include but not be limited to skills and training in relation to financial management and reporting requirements, risk management and the requirements of Board membership within the public sector;
- Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- they, together with the other Board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the responsible Minister is advised of the OfS's needs when Board vacancies arise;
- there is a framework in place (consisting of the OfS scheme of delegation, Board proceedings and code of conduct) setting out the role and responsibilities of the



Board consistent with the Government Code of Good Practice for Corporate Governance; and

- that there is a code of practice for Board members in place, consistent with the Cabinet Office Code of Conduct for Board Members of Public Bodies.

## 17. Individual Board members' responsibilities

**17.1** Section 12.2 of the [Civil Service Management Code](#) will apply to Board and Committee members. All Board and Committee members, including those co-opted from outside the OfS and who are not OfS Board members will be indemnified as set out in Annex 5.4, section A5.4.20 of [Managing Public Money](#).

**17.2** Individual Board members should:

- comply at all times with the Code of Conduct for Board Members of Public Bodies, which covers conduct in the role and includes the Nolan Principles of Public Life as well as rules relating to the use of public funds and to conflicts of interest;
- demonstrate adherence to the [12 Principles of Governance for all Public Body Non-Executive Directors](#) as appropriate;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the Board's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the OfS;
- ensure they are familiar with any applicable guidance on the role of Public Sector non-executive directors and Boards that may be issued from time to time by the Cabinet Office, HMT or wider government.

## DFAP and access and participation

**17.3** The access and participation functions of the OfS are set out in the Act and relate to access and participation in higher education (including retention and helping students succeed and progress from higher education). They cover the following:

- approving access and participation plans for providers with a mandatory access and participation plan condition (those with a fee limit wishing to charge higher fees):

- taking action when necessary to monitor and enforce registration conditions concerning access and participation (including compliance with access and participation plans), including exercising statutory sanction powers where appropriate:
- providing advice on good practice in relation to access and participation activities: and
- responding to a request from the Secretary of State for a report on matters relating to equality of opportunity in connection with access and participation in higher education.

**17.4** When performing its functions relating to access and participation plans, the OfS has a duty to protect academic freedom. In addition, the OfS will have responsibilities for the mandatory transparency condition.

**17.5** The DFAP is a member of the OfS Board and appointed by the Secretary of State, through the public appointments process.

**17.6** The Act requires that, if, for any reason, the OfS does not delegate the access and participation functions to the DFAP (excluding the general duty regarding equality of opportunity) it must set out in its annual report both the reasons and the length of time that these functions were not delegated.

**17.7** The DFAP is also specifically responsible for:

- overseeing the performance of the OfS's access and participation functions; and
- reporting to the other members of the OfS on the performance of the OfS's access and participation functions.

**17.8** The DFAP should be internally championing and challenging for equality of opportunity in connection with access and participation to ensure the Board is sufficiently sighted on the performance of its wider duty.

# Management and financial responsibilities and controls

## 18. Delegated authorities

**18.1** The OfS's delegated authorities are set out in the delegation letter (see Appendix 1). This delegation letter may be updated and superseded by later versions which may be issued by the sponsor department in agreement with HMT.

**18.2** In line with [Managing Public Money](#) Annex 2.2, these delegations will be reviewed on an annual basis.

**18.3** The OfS shall obtain the Department's and, where appropriate, HMT's prior written approval before:

- entering into any undertaking to incur any expenditure that falls outside the delegations or which is not provided for in the OfS's annual budget as approved by the Department;
- incurring expenditure for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
- making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by the Department;
- making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
- carrying out policies that go against the principles, rules, guidance and advice in [Managing Public Money](#).

**18.4** Any proposals by the OfS to make severance payments must comply with the rules in chapter 4 of [Managing Public Money and Cabinet Office guidance on severance payments](#).

**18.5** The OfS does not have delegated authority to make special severance payments. Any proposal for special severance payments (i.e., non-contractual) must be submitted to the Department first, for prior approval before making payment. This is because special severance payments require Treasury approval because they are often novel, contentious and potentially repercussive. Departments should therefore always consult the Treasury in advance when considering a Special Severance Payment.

## 19. Spending authority

**19.1** Details of funding will be issued before the end of the financial year preceding the one to which the funding applies. Ministers may change funding levels or profiles at any time and will do this through issuing supplementary funding information to the OfS. If these changes increase or decrease funding from the original amount, or change existing funding profiles, they may need clearance from HMT. The Department will also provide the OfS with a budget for its running costs via a separate budget allocation letter.

**19.2** Once the budget has been approved by the sponsor department and subject to any restrictions imposed by statute, the OfS shall have authority to incur expenditure approved in the budget without further reference to the sponsor department, on the following conditions:

- the OfS shall comply with the delegations set out in the delegation letter. These delegations shall not be altered without the prior agreement of the sponsor department and as agreed by HMT and Cabinet Office as appropriate;
- the OfS shall comply with [Managing Public Money](#) regarding novel, contentious or repercussive proposals;
- inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed;
- the OfS shall provide the sponsor department with such information about its operations, performance, individual projects or other expenditure as the sponsor department may reasonably require.

## 20. Banking and managing cash

**20.1** The OfS must maximise the use of publicly procured banking services (accounts with central government commercial banks managed centrally by Government Banking).

**20.2** The OfS should only hold money outside Government Banking Service accounts where a good business case can be made for doing so and HMT consent is required for each account to be established. Only commercial banks which are members of relevant UK clearing bodies may be considered for this purpose.

**20.3** Commercial Accounts where approved should be operated in line with the principles as set out in [Managing Public Money](#).

**20.4** The Accounting Officer is responsible for ensuring the OfS has a Banking Policy as set out in [Managing Public Money](#) and ensuring that policy is complied with.

## 21. Procurement

**21.1** The OfS shall ensure that its procurement policies are aligned with and comply with any relevant UK or other international procurement rules and in particular the [Public Contracts Regulations 2015](#).

**21.2** The OfS shall establish its procurement policies and document these in a Procurement Policy and Procedures Manual.

**21.3** In procurement cases where the OfS is likely to exceed its delegated authority limit, procurement strategy approval for the specific planned purchase must be sought from the Department's sponsor team.

**21.4** Goods, services, and works procured above the value of £5,000 should be acquired by competition. As part of this, a full options appraisal and value for money assessment should be used for purchases above £100,000. For purchases between £5,000 and £100,000 the value for money (VfM) assessment and option appraisal should be proportionate to the value, scale and level of risk involved in the procurement.

**21.5** The OfS shall

- engage with Department and Government wide procurement initiatives that seek to achieve VfM from collaborative projects,
- have regard to all relevant Procurement Policy Notes issued by Cabinet Office
- co-operate with initiatives to improve the availability of procurement data to facilitate the achievement of VfM.

**21.6** The OfS shall comply with the [Commercial](#) and [Grants Standards](#). These standards apply to the planning, delivery, and management of government commercial activity, including management of grants in all departments and ALBs, regardless of commercial approach used and form part of a suite of functional standards that set expectations for management within government.

## 22. Risk management

**22.1** The OfS shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance, and develop a risk management strategy, in accordance with [HMT guidance Management of Risk: Principles and Concepts](#).

**22.2** The OfS will share risk information with the Senior Sponsor and notify the Department's Audit and Risk Committee, via the sponsor team, of risks that need or may

need action. The OfS's Risk and Audit Committee will provide independent advice on the effectiveness of risk management to the OfS Board. The OfS will:

- respond to departmental commissions for information on performance and risk as appropriate to support the Senior Sponsor in carrying out their role;
- maintain robust contingency and business continuity plans and will review and test these frequently; and
- report bi-monthly to the Senior Sponsor on policy, significant organisational, and delivery risks.

## 23. Counter fraud and theft

**23.1** The OfS should adopt and implement policies and practices to safeguard itself against fraud and theft.

**23.2** The OfS should act in line with guidance as issued by the Counter Fraud Function and in compliance with the procedures and considerations as set in in [Managing Public Money](#) Annex 4.9 and the [Counter Fraud Functional Standard](#). It should also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter a contract or to provide grant or grant-in-aid.

**23.3** The OfS should keep records of and prepare and forward to the Department an annual report on fraud and theft suffered by the OfS and notify the sponsor department of any unusual or major incidents as soon as possible. The OfS should also report detected loss from fraud, bribery, corruption and error, alongside associated recoveries and prevented losses, to the counter fraud centre of expertise in line with the agreed government definitions as set out in Counter Fraud Functional Standard.

## 24. Staff

### Broad responsibilities for staff

**24.1** Within the arrangements approved by the Secretary of State and HMT the OfS will have responsibility for the recruitment, retention and motivation of its staff. The broad responsibilities toward its staff are to ensure that:

- the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit: there is no discrimination on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation in line with the [Equality Act 2010](#);

- the level and structure of its staffing, including grading and staff numbers, are appropriate to its functions and the requirements of economy, efficiency and effectiveness;
- the performance of its staff at all levels is satisfactorily appraised and the OfS performance measurement systems are reviewed as required;
- its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the OfS's objectives;
- proper consultation with staff takes place on key issues affecting them, including with any recognised union;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place;
- a code of conduct for staff is in place based on the [Cabinet Office's Model Code for Staff of Executive Non-departmental Public Bodies](#)

## Staff costs

**24.2** Subject to its delegated authorities, the OfS shall ensure that the creation of any additional posts does not incur forward commitments that will exceed its ability to pay for them.

## Pay and conditions of service

**24.3** The Department should have regard to chapter 5 of the Cabinet Office's [Public Bodies: A Guide for Departments](#) that provides guidance on staff issues in public bodies.

**24.4** The Act grants OfS the power to determine staff terms and conditions with the approval of the Secretary of State. The OfS requires Secretary of State's approval for staff remuneration, including annual sign off for the pay remit. The OfS has no delegated power to amend these terms and conditions without Secretary of State's approval.

**24.5** OfS staff cannot be civil servants - the OfS can determine staff terms and conditions with the approval of SoS.

**24.6** Staff terms and conditions should be set out in an Employee Handbook, which should be provided to the Department together with subsequent amendments.

**24.7** The OfS shall abide by public sector pay controls, including the relevant approvals process dependent on the organisation's classification as detailed in the [Senior Pay Guidance](#) and the [public sector pay and terms guidance](#).

**24.8** The OfS shall operate a performance-related pay scheme that shall form part of the annual aggregate pay budget approved by the Department or the general pay structure approved by the Department and HMT whichever is applicable, where relevant with due regard to the senior pay guidance.

**24.9** The travel expenses of Board members shall be tied to the rates allowed to senior staff of the OfS. Reasonable actual costs shall be reimbursed.

## **Pensions, redundancy and compensation**

**24.10** Compensation scheme rules and pension scheme rules should reflect legislative and HMT guidance requirements regarding exiting payments.

**24.11** OfS staff shall normally be eligible for a pension provided under the Civil Service Pension Arrangements and employees will be enrolled into the applicable scheme at the time of joining. Staff may opt out of the occupational pension scheme provided by the OfS, but that employers' contribution to any personal pension arrangement, including stakeholder pension shall normally be limited to the national insurance rebate level.

**24.12** Any proposal by the OfS to move from the existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the Department. Proposals on severance must comply with the rules in chapter 4 of [Managing Public Money](#).



# Business plans, financial reporting and management information

## 25. Business plans

**25.1** The OfS shall keep the Department informed about the development of its strategic plans and the timetable for its preparation. The plan shall have regard to the OfS's general duties and the guidance given to it by the Secretary of State. The plan shall demonstrate how the OfS contributes to the achievement of the Department's priorities for the OfS and higher education more broadly and cover objectives and associated key performance targets for the three years ahead, and the strategy for achieving those objectives.

**25.2** The OfS will also produce an annual business plan. This will comprise targets and milestones for the year immediately ahead. Resources shall be clearly allocated to objectives. Subject to any commercial considerations, the strategic and business plans will be published by the OfS on its website and made available to staff.

**25.3** The following key matters should be included in the plans:

- key objectives and associated key performance targets for the forward years, and the strategy for achieving those objectives;
- key non-financial performance targets;
- other matters as agreed between the Department and the OfS.

**25.4** A review of performance in the preceding financial year and outcomes with comparative data from prior years where this provides context will be included in the OfS Annual Report and Accounts for each relevant year.

**25.5** The OfS will give the Senior Sponsor advanced sight of its draft strategic and business plans, so that the responsible Minister can be assured that the OfS has had due regard to the Secretary of State's guidance.

**25.6** The OfS will provide information for the Main and Supplementary Estimates each year as advised by the Department as well as other data as required for HMT's Online System for Central Accounting and Reporting (OSCAR).

**25.7** The OfS will support the Department's quarterly business planning process, as appropriate updating detailed templates covering admin (including payroll information), programme and capital budgets for the year immediately ahead and future years as advised by the Department. This will include providing evidence to support any assumptions made. The OfS will work with the Department to meet any efficiency targets

and to respond to any challenges arising as a result of this business planning work as agreed by the Department's Leadership Team.

## **26. Budgeting procedures**

**26.1** Each year, in the light of decisions by the Department on the updated draft plan, the Department will send to the OfS by the end of May each year.

- a formal statement of the annual budgetary provision allocated by the Department in the light of competing priorities across the Department and of any forecast income approved by the Department; and
- a statement of any planned change in policies affecting the OfS.

**26.2** The approved annual business plan will take account both of approved funding provision and any forecast receipts and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year. These elements form part of the approved business plan for the year in question.

**26.3** The OfS will work with the Department regarding information/evidence that can support the Spending Review process in the Department.

## **27. Grant-in-aid and any ring-fenced grants**

**27.1** Any grant-in-aid provided by the Department for the year in question will be voted in the Department's Supply Estimate and be subject to Parliamentary control.

**27.2** The grant-in-aid will normally be paid in monthly instalments on the basis of written applications showing evidence of need. The OfS will comply with the general principle, that there is no payment in advance of need. Cash balances accumulated during the course of the year from grant-in-aid or other Exchequer funds shall be kept to a minimum level consistent with the efficient operation of the OfS. Grant-in-aid not drawn down by the end of the financial year shall lapse. Subject to approval by Parliament of the relevant Estimates provision, where grant-in-aid is delayed to avoid excess cash balances at the year-end, the Department will make available in the next financial year any such grant-in-aid that is required to meet any liabilities at the year end, such as creditors.

**27.3** When the Department provides the OfS separate grants for specific (ring-fenced) purposes, it will issue the grant as and when the OfS needed it on the basis of a written request. The OfS will provide evidence that the grant was used for the purposes authorised by the Department. The OfS shall not have uncommitted grant funds in hand, nor carry grant funds over to another financial year without prior agreement.

## 28. Annual report and accounts

**28.1** The OfS Board must publish an annual report of its activities together with its audited accounts after the end of each financial year. The OfS shall provide the Department its finalised (audited) accounts following an agreed timetable each year in order for the accounts to be consolidated within the Department. A draft of the report should be submitted to the Department two weeks before the proposed publication date. The accounts should be prepared in accordance with the relevant statutes and specific accounts direction issued by the Department as well as the HMT's Financial Reporting Manual (FreM).

**28.2** The annual report must:

- cover any corporate, subsidiary or joint ventures under its control;
- comply with the FreM and in particular have regard to the [illustrative statements for an NDPB](#);
- outline main activities and performance during the previous financial year and set out in summary form forward plans; and
- provide information on the financial sustainability of registered higher education providers, as set out in Section 68 of the Act.

**28.3** Information on performance against key financial targets is included within the annual report and subject to the auditor's consistency opinion. The report and accounts shall be laid in Parliament and made available on the OfS website, in accordance with the guidance in the FReM.

## 29. Reporting performance to the department

**29.1** The OfS shall operate management, information and accounting systems that enable it to review in a timely and effective manner its financial and non-financial performance against the budgets and targets set out in the corporate and business plans.

**29.2** The OfS shall inform the Department of any changes that make achievement of objectives more or less difficult. It shall report financial and non-financial performance, including performance in helping to deliver Ministers' policies, and the achievement of key objectives regularly.

**29.3** The OfS's performance shall be formally reviewed by the Department quarterly. The Senior Sponsor will chair the strategic quarterly performance review with the OfS Chair and Chief Executive. Furthermore, the Secretary of State will normally meet the Chair and Chief Executive at least once a year.

**29.4** The PAO will meet the Chief Executive and Chair at least once a year.

## **Engagement with the Secretary of State**

**29.5** The Secretary of State shall maintain regular engagement with the Chair, Chief Executive and DFAP of the OfS as appropriate to ensure an effective working relationship. The Chair, Chief Executive and DFAP may ask for a meeting with the Secretary of State at any time.

**29.6** The Senior Sponsor will attend OfS Board meetings as the Secretary of State's representative.

## **Engagement with the minister**

**29.7** The Minister shall maintain regular engagement (currently monthly) with the Chair, Chief Executive and DFAP as appropriate to ensure an effective working relationship.

## **Engagement with the sponsor team and the finance business partner team**

**29.8** The Department's sponsor team and relevant Finance Business Partner will meet the OfS Director of Resources and Finance, or their representative, at least every two months to discuss high level strategic operational and policy issues. The escalation of any issues arising from these meetings will be via the quarterly strategic performance review meetings.

**29.9** The Finance Business Partner team of the Department will meet with the Head of Finance of the OfS and the wider OfS Finance team weekly, which will also incorporate a monthly review of financial performance against plans, achievement against targets and expenditure against budget allocations.

**29.10** There will be periodic meetings, as required, held between the Department's central finance team, the Finance Business Partner(s) and the OfS Finance team

**29.11** The meetings mentioned in 29.8, 29.9 and 29.10 do not replace day-to-day reporting, working and meetings between the sponsor team and the appropriate OfS officials, such as are needed to explain wider policy developments that might have an impact on the OfS.

**29.12** The OfS will be required to report their monthly outturn via the Department reporting systems and in line with Departmental reporting deadlines; as well as providing a monthly report summarising variances (and explanations of these variances) against budget, forecast and expected run rates for resources and capital budgets in a template agreed with the Department's Finance Business Partner team. This will enable the

Department to report the monthly forecast outturn information and other data required by HMT.

**29.13** The OfS will publish its transparency data according to Cabinet Office requirements.

**29.14** The OfS is required to provide monthly cash forecasts and other requested cash flow and bank balance information in line with the Department's cash management deadlines to accurately forecast their cash flows in accordance with HMT monthly and daily targets and support the grant-in-aid cash requirements for the following month. This will enable the Department to monitor cash usage against forecasts and report up to date cash information to HMT.

**29.15** The OfS will support the Department in developing new policy and monitoring the effectiveness of existing policy by providing information, analysis, and advice on HE providers, as requested by the Department.

## **30. Information sharing**

**30.1** The OfS and the Department have put in place standing arrangements for sharing information requested by the Department under section 78 of the Act. These arrangements are set out in Appendix 3 to this Document.

**30.2** The Department may request the sharing of data held by the OfS in such a manner as set out in the Act except insofar as it is prohibited by law.

**30.3** As a minimum, the OfS shall provide the Department with information monthly that will enable the Department satisfactorily to monitor:

- the OfS's cash management;
- its draw-down of grant-in-aid;
- forecast outturn by resource headings;
- other data required for the Online System for Central Accounting and Reporting (OSCAR).
- data as required in respect of its compliance with any Cabinet Office Controls pipelines or required in order to meet any condition as set out in any allocation letter

# Audit

## 31. Internal audit

**31.1** The OfS shall:

- Maintain arrangements for internal audit;
- ensure that any arrangements for internal audit are in accordance with the [Public Sector Internal Audit Standards \(PSIAS\)](#) as adopted by HMT
- ensure the Department is satisfied with the competence and qualifications of OfS's internal auditors and the requirements for approving appointments in accordance with PSIAS;
- maintain an audit committee of its Board in accordance with the Code of Good Practice for Corporate Governance and the Audit and Risk Assurance Committee Handbook;
- forward the audit strategy, periodic audit plans and annual audit report, including the OfS's Head of Internal Audit opinion on risk management, control and governance as soon as possible to the sponsor department;
- keep records of and prepare and forward to the Department an annual report on fraud and theft suffered by the OfS and notify the sponsor department of any unusual or major incidents as soon as possible;
- share with the sponsor department information identified during the audit process and the Annual Audit Opinion Report (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department's responsibilities in relation to financial systems within the OfS.

## 32. External audit

**32.1** The Comptroller & Auditor General (C&AG) audits the OfS's annual accounts. Once the C&AG audit certificate has been issued and incorporated into the annual accounts, the Secretary of State will lay the accounts together with the C&AG's report before parliament.

**32.2** In the event that the OfS has set up and controls subsidiary companies, the OfS will in the light of the provisions in the [Companies Act 2006](#) ensure that the C&AG has the option to be appointed auditor of those company subsidiaries that it controls and/or whose accounts are consolidated within its own accounts. The OfS shall discuss with the sponsor department the procedures for appointing the C&AG as auditor of the companies.

### **32.3 The C&AG:**

- will consult the Department and the OfS on whom – the National Audit Office (NAO) or a commercial auditor – shall undertake the audit(s) on his or her behalf, though the final decision rests with the C&AG;
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the OfS;
- will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the Department's responsibilities in relation to financial systems within the OfS;
- will consider requests from departments and other relevant bodies to provide Regulatory Compliance Reports and other similar reports at the commencement of the audit. Consistent with the C&AG's independent status, the provision of such reports is entirely at the C&AG's discretion;

**32.4** The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the OfS has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the [National Audit Act 1983](#). In addition, the OfS shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

**32.5** Subject to any data protection or other legal requirements, the Department has the right of access to all OfS records and personnel for any purpose in relation to external audit.

## Reviews and winding up arrangements

### 33. Review of OfS's status

**33.1** The OfS will be reviewed in line with the Cabinet Office's Public Bodies Review programme, or in the event of a significant change in scope or direction of their statutory purpose and aims. These reviews ensure *intra alia* that the OfS is delivering effectively against their aims and objectives. The date of the next review is yet to be determined.

### 34. Arrangements in the event the OfS is wound up

**34.1** The Department shall put in place arrangements to ensure the orderly winding up of the OfS. In particular it should ensure that the assets and liabilities of the OfS are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the sponsor department.) To this end, the Department shall:

- have regard to [Cabinet Office guidance on winding up of ALBs](#).
- ensure that procedures are in place in the OfS to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body; specify the basis for the valuation and accounting treatment of the OfS's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass to the C&AG for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding ALB Accounting Officer should sign the closing accounts. In the event that the Department inherits the role, responsibilities, assets and liabilities, the sponsor department's Accounting Officer should sign.

**34.2** The OfS shall provide the Department with full details of all agreements where the OS or its successors have a right to share in the financial gains of developers. It should also pass to the Department details of any other forms of claw-back due to the OfS.



## **35. Machinery of Government**

**35.1** If a Machinery of Government change results in the OfS being sponsored by a new department before the framework document is due for review, the Department will notify the OfS of the relevant relationship changes. The provisions of the framework document will continue to have effect until the framework document is replaced, unless otherwise stated by the new sponsor department.

## **36. Procedure for public complaints**

**36.1** The OfS has established, and published on its website, a procedure to investigate and deal with complaints from providers and members of the public, including students, about the OfS's actions. This shall be in accordance with [Parliamentary and Health Service Ombudsman's Principles of Good Complaint Handling](#).

## **37. Subsidiary companies**

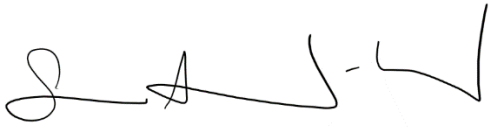
**37.1** The OfS does not have delegated authority to establish any subsidiary companies without prior written agreement from the Department.

## **38. Better regulation, consultation, and impact assessments**

**38.1** The OfS shall have regard to the Government's commitment to efficient and effective regulation. Where possible and certainly whenever necessary the OfS shall follow the [Consultation Principles](#) and comply with the Government's Better Regulation agenda and the Regulator's Code. Where necessary the OfS shall produce Impact Assessments on any proposal that imposes or reduces costs on businesses, community, and voluntary bodies. Impact Assessments and any related material should be produced in accordance with statutory guidance produced by the Better Regulation Executive.

## Signatures

Signed:

A handwritten signature in black ink, appearing to be 'S. A. V. L.', written in a cursive style.

Date: 22/12/22

**Permanent Secretary, Department for Education**

Signed:

A handwritten signature in black ink, appearing to be 'S. A. V. L.', written in a cursive style.

Date: 22/12/22

**Chief Executive Officer, Office for Students**

# Appendix 1 – delegation letter



Paul Kett  
Director General, Skills Group  
Department for Education  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

Susan Lapworth  
c/o Office for Students  
Finlaison House  
15 - 17 Furnival Street  
London  
EC4A 1AB

06 April 2022

## Letter of Delegation

Dear Susan,

### DELEGATION OF FINANCIAL AUTHORITY

1. As the Director General – Skills Group, the Department's Accounting Officer has given me delegated authority, to exercise a range of financial and non-financial authorities and to sub-delegate these as appropriate. I am writing to you to set out your delegated authority as detailed below and in the enclosed Annex A.
2. In delegating this authority to you, I direct your attention to the matters of principle and responsibility documented in the Office for Students (OfS) Framework Document which covers aspects such as Governance and Accountability; Engagement; Annual Report and Accounts; Audit; Risk; Management and Financial Responsibilities; Corporate and Business Plans; Budgeting Procedures; Grant-in-Aid and Ring-fenced Grant; Reporting Financial and non-Financial performance; and Staff. By accepting this Delegation of Financial Authority (DFA), plus your responsibility as Chief Executive and Accounting Officer (AO) of the OfS, you assume full accountability and responsibility for ensuring that any public funds under your control are managed in an economic, efficient and effective manner.
3. You have delegated authority, to commit, certify and authorise expenditure and payments for grants, grant-in-aid, and the purchase of goods and services, and to raise invoices, collect and accept receipts of monies for fees and charges, appropriations-in-aid, and the sales of goods and services, against budgets you are accountable and responsible for administering, or against allocations made to your post from other budgets for the primary purpose of delivering your contribution to Departmental plans, policies and priorities. Furthermore, all income and expenditure should withstand scrutiny against the principles of HM Treasury and Cabinet Office's requirements, including [Managing Public Money](#) guidance, and demonstrate Value for Money. You must retain all records of receipts and spending and any related decision-making documents for internal/external audit review(s).

4. This DFA is effective from 1 May 2022 and will remain in force until further notice, or such time that you personally cease to be the post holder.
5. This DFA supersedes any other financial authorities previously issued to you and is applicable to your current post. In addition to the conditions set out above, you are required to adhere to the relevant policies, procedures and guidance issued by the Department for Education (DfE) and/or published on its GOV.UK website. This includes all financial matters relating to accounting, budgeting, estimates, contracting, procurement, purchasing and sales, including matters of corporate governance, fraud avoidance, and risk management. You are also required to carry out an annual review of the internal controls, financial and otherwise, operating within your area of responsibility and to sign a formal statement to that effect in support of the Department's Governance Statement.
6. There are some specific matters which you will be personally held accountable for ensuring that they are complied with in full and in line with HMT's guidance:

**i) Spending Reviews, Budget Allocations and Transfers**

As part of the Spending Review process, your active engagement is required in determining the resource planning requirements for your area of business. Following this your agreed and detailed Budget Allocations will be formally delegated to you by me, necessarily being reviewed and updated, from time to time, principally as a result of the Main and Supplementary Estimates process. However, you may choose to exercise your authority to manage your combined resources more flexibly and to transfer budgets between programme lines within your plans and policies, but in all such cases, you must first seek and receive my prior agreement via the sponsorship team and finance business partner team, before any budgets, records and systems are formally updated.

**ii) Transfer Limitations**

HM Treasury's [Consolidated Budgeting Guidance](#), places limitations on both the nature and types of possible transfer between different budgets. You should note that it is not possible to transfer from Annually Managed Expenditure (AME) to Departmental Expenditure Limits (DEL), from Ring-fenced to Non-Ring-fenced budgets, from Capital to Resource DEL or from Programme to Admin without a Derogation or specific authority from HM Treasury, and in all such cases, you should first seek and receive my agreement before any such budget transfer. It is, however, possible to transfer funds in the other direction [for example, admin to programme], but in all such cases, you should first seek and receive my agreement before any such budget transfer. Where a transfer is permissible within the Department's overall Budget and my Delegation of Financial Authority, I should be able to accommodate your request, but outside of these tolerances, I would have to seek and receive formal approval from HM Treasury.

**iii) Forecasting**

You are responsible for the preparation and accountable for the product of your budget profile for the financial year and for providing accurate and consistent monthly cash management and accruals based forecasts, based on your best estimates, reflecting the changing nature of your business area. I expect this

requirement, together with the general stewardship of the resources under your control, to be reflected in your annual performance and assessment review. Moreover, I or a member of my team, will continue to hold regular meetings with you as set out in the OfS Framework Document to discuss your forecast outturns, risks and opportunities and emerging pressures and priorities, the outcome of which will help inform our update to the Management Board of the Department's overall financial position.

**iv) Losses, Special payments, Acceptance of Late Claims, Waiving/ Abandoning of Claims and Donation of Gifts**

You have no authority to make special payments (including compensation and ex-gratia payments), waive claims or to donate any gifts. In all cases, you must seek and receive my formal approval to your proposal before proceeding with any action about these matters. You have delegated authority for small losses and write offs as per Annex A. However, where you have low value/high volume transactions or a regular requirement to perform such tasks, you may apply to me for an additional and specific delegation in this regard.

**v) Lending, Guarantees, Indemnities, Letters of Comfort and Contingent Liabilities**

Except where the OfS is exercising its powers to make loans under sections 39 or 40 of the Higher Education and Research Act 2017<sup>1</sup>, you do not have delegated authority to engage in the provision of loans, guarantees, indemnities or letters of comfort or to enter into any transactions that may give rise to a contingent liability. In cases where there is no delegated authority, you must seek and receive my formal approval, and that of HM Treasury (where necessary) via the Finance Business Partner and Sponsorship team, to your proposal before proceeding with any action on these matters. In addition, in all cases, irrespective of whether there is delegated authority, Parliament may need to be informed, dependent upon the specific circumstances as per provisions set out in Managing Public Money. The provision of interest-free loans to staff that are consistent with current OfS HR policies are valid and reasonable. These loans will be, for example, for the purchase of bus/train season tickets, and pedal bicycles. As they are an advance of salary and part of normal business, this is different from the reference to loans above.

**vi) Novel, Contentious or Repercussive Proposals**

You do not have delegated authority for these. My formal approval and, through me, that of HM Treasury should be obtained, before incurring any expenditure or receiving any income from any activity or for any purpose which is or might be considered novel, contentious or repercussive.

---

<sup>1</sup> Section 39 confers a power on the OfS to provide financial support (through grants, **loans** and other payments) in relation to the provision of education by registered higher education providers of a description prescribed by regulations under this section. Section 40 confers a power on the OfS to provide financial support (through grants, **loans** and other payments) for the purposes of higher education courses prescribed by regulations under this section where such courses are provided by certain institutions (further education providers and those maintained or assisted by local authorities)

**vii) Recruitment of Retired Civil Servants**

You should also note that HM Treasury approval is specifically required for the engagement of retired civil servants who are not re-employed as civil servants, e.g. as employed or self-employed consultants or contractors. If you plan to engage the services of a retired civil servant, please first consult with HR and prepare a submission for HM Treasury, which should also be agreed with and submitted through the Department's Finance Business Partner and Sponsorship team.

**viii) Cabinet Office Controls**

For the avoidance of doubt, you must comply with the provisions of the [Cabinet Office's Efficiency & Reform Group Controls](#).

Any case requiring HMT's formal approval must be submitted to the Department's Finance Business Partner and Sponsorship team, who in turn will work with the DfE's Financial Governance & Central Strategic Finance teams, to obtain the relevant approval.

7. Finally, I know you will appreciate that any breach of the conditions laid down in this, and any sub-delegated Letter of Financial Delegation, will be taken seriously and could result in disciplinary action being taken against you and any other members of staff associated with the chain of authority.

Delegation made by:

**Paul Kett**  
**Director General, Skills Group**



---

Acknowledged/signed by:

**Susan Lapworth**  
**Interim Chief Executive Officer, Office for Students**  
**(electronic signature)**



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**Annex A: Delegations for Office for Students**

Nature of Delegation		OfS delegated limit
<b>Policies and programmes agreed and announced at the Spending Review</b>	Resource DEL	<p>Delegated up to the limits set out in the annual grant letter from the Secretary of State and approved by HMT and the annual budget allocation letter apart from the specific restrictions in para 6 above and those set out below.</p> <p>The OfS should discuss these issues with its DfE sponsor team in any case where it is unclear whether a new delegation authority is required.</p> <p>For the avoidance of doubt, this delegation does not restrict the OfS' statutory powers to distribute grant funding between HE providers.</p>
	Capital DEL	<p>Delegated up to the limits set out in the annual grant letter from the Secretary of State and approved by HMT and the annual budget allocation letter apart from the specific restrictions in para 6 above and those set out below as for resource DEL above</p> <p>The OfS should discuss these issues with its DfE sponsor team in any case where it is unclear whether a new delegation authority is required.</p>
<b>All new announcement, policies and programmes creating one off or on-going expenditure</b>	Resource and Capital DEL	£0m. Not delegated and Departmental approval required
<b>Operational expenditure</b>	Admin	Delegated up to the limits set out in the annual budget allocation letter issued by DfE
<b>Spending commitments beyond current spending review period</b>	All expenditure	£0m. Not delegated and Departmental approval required.

<b>Internal funding allocations</b>	Resource and Capital	£0m. Not delegated. This relates to the restrictions in para 6(ii) above on the transfer of funding between different categories of expenditure, not to the distribution of funding within those categories of expenditure.
<b>Write offs and losses (para 6 iv)</b>	All expenditure	Delegated to cover small amounts to maximum of £1,000 per case



## Appendix 2 – compliance with government -wide corporate guidance and instructions

The OfS shall comply with the following guidance, documents and instructions as appropriate:

### Corporate governance

- this framework document
- [Corporate Governance Code for Central Government Departments \(relevant to Arm's Length Bodies\) and supporting guidance](#)
- [Code of conduct for Board members of Public Bodies](#)
- [Code of practice for partnerships between Departments and Arm's Length Bodies.](#)

### Financial management and reporting

- [Managing Public Money \(MPM\)](#)
- [Government Financial Reporting Manual \(FReM\)](#)
- [Relevant Dear Accounting Officer \(DAO\) letters](#)
- [relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts](#)
- the most recent letter setting out the delegated authorities, issued by the parent department

### Management of risk

- management of risk – the [orange book](#) and the [management or risk in government framework](#)
- [Public Sector Internal Audit Standards](#)
- [HM Treasury approval processes for major projects above delegated limits](#)
- the government [cyber security strategy](#) and [cyber security guidance](#)

### Commercial management

- [procurement policy notes](#)
- [Cabinet Office spending controls](#)

- [transparency in supply chains - a practical guide](#)

## Public appointments

The following are relevant where public bodies participate in public appointments processes:

- [guidance from the Commissioner for Public Appointments](#)
- [governance code on public appointments](#)
- [Procurement Policy Note 08/15 – tax arrangements of public appointees](#)

## Staff and remuneration

- [HM Treasury guidance on senior pay and reward](#)
- [whistleblowing guidance and code of practice](#)
- the [Equalities Act 2010](#)

## General

- [Freedom of Information Act - guidance and instructions](#)
- the [Parliamentary and Health Service Ombudsman's principles of good administration](#)
- other relevant instructions and guidance issued by the central departments (Cabinet Office and HM Treasury)
- recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the government and are relevant to [the ALB]
- guidance from the [public bodies team](#) in Cabinet Office
- the [Civil Service diversity and inclusion strategy](#) (outlines the ambition, to which arm's length bodies can contribute)
- guidance produced by the [Infrastructure and Projects Authority \(IPA\) on management of major projects](#)
- the [Government Digital Service](#)
- the government [fraud, error, debt and grant efficiency function](#) and [grants standards](#)
- [code of practice for official statistics](#)

- [accounting officer system statements](#) (AOSS are produced by departments with input from ALBs)
- [arm's length body boards: guidance on reviews and appraisals](#)

## Appendix 3 – information requests under Section 78



Department  
for Education

### Section 78 of the Higher Education and Research Act 2017

#### Working arrangements

This document has been drawn up by the Department for Education (“the Department”) in consultation with the Office for Students (“the OfS”).

This document sets out the standing arrangements which will be followed in relation to requests for information made by the Department under section 78 of the Higher Education and Research Act 2017 (“the Act”).

This document should be read in line with section 31 ‘Information Sharing’ of the Framework Document dated 22 December 2022.

The purpose of this document is to clarify procedure only.

The standing arrangement is as follows:

1. A request for information under section 78 of the Act can be made by a member of the Department who is Grade 7 or above and named on the authorised requestors list issued to the OfS (see para 4).
2. The OfS will treat a request for information as a section 78 request, in line with the Act, where it is a request for information regarding any of its functions, or for information obtained in the performance of any of its functions.
3. All requests made under section 78 must include a brief explanation as to why the request is being made. However, the Department may subsequently use the information obtained for purposes not covered by the explanation.
4. The Department will provide OfS with a list of Department staff (at Grade 7 and above) authorised to request information. This will be reviewed regularly and updated to reflect changes to personnel as relevant.
5. The Department and OfS can agree to depart from the procedure set out in paragraphs 1 to 3 above in particular cases.

6. The Department will take reasonable steps to avoid duplicate or disproportionate requests.
7. Where OfS considers that a request is outside the scope of section 78, the OfS should in the first instance raise this with the individual making the request and/or with the DfE sponsor team. If agreement cannot be made the parties should refer to the resolution of disputes process as set out in the framework document.
8. Where a section 78 request relates to information which may contain personal data, the Department will comply with all relevant data protection requirements.
9. Requests from other government departments and agencies fall outside the scope of these arrangements.
10. These arrangements will be reviewed on a bi-annual basis or sooner as required.

Date: 07/06/2022

*Emma Davies*

On behalf of the Department

Emma Davies, Deputy Director,  
Quality Regulation and International  
Division

Date: 16/06/2022



On behalf of the OfS

Nolan Smith, Director of Resources and  
Finance



Department  
for Education

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