



Department
for Education

Terms of reference

Independent Review of the Office for Students

December 2023

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Background on the Office for Students

The Office for Students (OfS) is the independent higher education regulator for England. The OfS was established in 2018 by the Higher Education and Research Act 2017 (HERA). As an independent public body, the OfS reports to Parliament through the Department for Education (DfE).

The OfS's overarching aim is to ensure that every student, whatever their background, has a fulfilling experience of higher education that enriches their lives and careers. The focus of the OfS 2022 to 2025 strategy and business plan is on quality and standards and equality of opportunity, as well as enabling regulation.

As of 24 November 2023, 424 higher education providers are registered with the OfS. The OfS regulates English higher education providers through its regulatory framework, which sets out conditions of registrations. Registration brings significant benefits including access to the Student Loans Company student loans, sponsorship for overseas students, access to government funded grants, degree awarding powers and 'University' title.

The OfS is a non-departmental public body under the sponsorship of the DfE. The DfE and the OfS have an agreed framework document, which sets out the broad governance framework within which the OfS and the DfE operate. It sets out the OfS's core responsibilities and describes the governance and accountability framework that applies between the roles of the OfS and the DfE.

HERA sets out the OfS's general duties including protecting the institutional autonomy of English higher education providers. The OfS must also have regard to the regulatory framework to the general duties when delivering its regulatory functions. It must also have regard to any guidance issued by the Secretary of State under section 2(3).

The OfS's registration conditions cover: Access and Participation for students of all backgrounds; Quality, reliable standards and positive outcomes for all students; Protecting the interests of students; Financial sustainability; Good governance; Information for students; and Accountability for fees and funding.

The OfS is responsible for allocating Strategic Priorities Grant funding to higher education providers (having regard to guidance from SoS and in compliance with any terms and conditions). Funding supports students and teaching at these providers (c. £1.45bn in recurrent funding in financial year (FY) 2023-24 and £450m total capital funding over FY 2022-23 to FY 2024-25).

Most of the OfS's operational income comes from registration fees charged to all registered providers. For the operating year 2023-24, this is £31.84m.

As of 31 March 2023,¹ the OfS employed 399 full-time equivalent staff. Annual staff turnover for 2022-23 was 14.5 percent. Of the 427 total staff headcount, 285 were women and 142 were men.

Scope and purpose of the review

As described in the Secretary of State's Letter of Commencement, the government is committed to delivering brilliant outcomes for the public. To achieve that ambition, public bodies must become more accountable, efficient, effective, and aligned to the government's priorities. No public body exists in isolation and the Review must also consider the efficiency and effectiveness of the DfE's sponsorship team.

The Lead Reviewer will consider the government's Requirements for Reviews of Public Bodies.² The Review will especially consider the quadrants and themes below.

Efficacy

That the OfS:

- Meets the conditions to be an arm's-length body (ALB), with a clear purpose, and in the correct delivery model.
- Performs effectively and delivers services that meet the needs of citizens.

The Review will consider:

- Whether the OfS continues to meet one of the government's 'Three Tests'³ of ALBs.
- If the OfS has:
 - sufficient clarity of purpose,
 - a clearly and transparently defined role, functions, and objectives,
 - an approach for weighting and resourcing these functions to facilitate effective delivery,
 - planned for effectively discharging its role, functions, and duties, and managing changing priorities, and that these are sufficiently future proofed (e.g., following the launch of the Lifelong Learning Entitlement (LLE)).
- The extent to which the OfS's regulatory approach:

¹ <https://www.officeforstudents.org.uk/publications/annual-report-and-accounts-2022-23/>

² [Requirements for Reviews of Public Bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/requirements-for-reviews-of-public-bodies)

³ Three tests are:

- Is this a technical function, which needs external expertise to deliver?
- Is this a function which needs to be, and be seen to be, delivered with political impartiality?
- Is this a function that needs to be delivered independently of ministers to establish facts and/or figures with integrity?

- delivers against its regulatory objectives,
- has regard to its statutory duties,
- is aligned with the approach as envisaged by the passing of HERA,
- is underpinned and enabled by sufficient and appropriate legislative powers.
- The extent to which the regulatory baseline, and the indicators used to monitor conditions of registration, allow the OfS to react promptly and with sufficient agility to emerging regulatory risk, both at present and following the introduction of the LLE.
- The extent to which the OfS effectively allocates grants from the Secretary of State to eligible higher education providers, and other organisations/programmes.
- The extent to which the OfS has the resources, people, skills, and competences to deliver its functions, duties, and objectives.
- Higher education providers' and sector representative bodies' experience of the OfS, and the relationship between the OfS and the sector.
- Students' and student representative bodies' experience of the OfS, and the relationship between the OfS and students.

The extent to which the regulatory burden placed on higher education providers is appropriate, proportionate, and commensurate with the OfS effectively discharging its statutory functions.

Governance

That the OfS board and its supporting committees meet the expectations of governance for ALBs.

The Review will consider:

- The extent to which the current OfS's governance and assurance mechanisms:
 - are appropriate for the type and scale of the organisation,
 - enable the board to effectively hold the executive to account,
 - are evidenced in up-to-date documentation.
- The processes the OfS has in place to review the effectiveness of its board and address governance issues.
- The processes the OfS has in place to develop its board members and appraise their performance.
- The OfS's strategy for engaging with other regulators and relevant bodies, including counterparts in the devolved governments.

Accountability

That:

- Lines of accountability and communication between the DfE and the OfS are clear.

- The DfE sponsor function works effectively for both the DfE and for the OfS, and is consistent with the purpose, role, and function of the OfS.

The Review will consider:

- The governance relationship between the DfE and the OfS.
- The appropriateness of government oversight of the OfS for the balance of control and day-to-day operational independence, and the effectiveness of this relationship.
- The DfE sponsor function and how it supports the relationship between the OfS, Ministers, and the Principal Accounting Officer, as well as facilitating the OfS's delivery of government objectives and policy priorities, such as the higher education reform⁴ measures, including good student outcomes.

Efficiency

That the OfS meets expectations for:

- Financial management processes in place and in line with current guidance.
- Identification of cashable efficiency gains that can be made.

The Review will consider:

- Opportunities for the OfS to make efficiency savings in its administrative costs.
- The extent to which the fees the OfS charges to providers are set at an appropriate and sustainable level.

Department and public body arrangements for the Review

The Rt Hon Gillian Keegan MP, the Secretary of State for Education, the Rt Hon Robert Halfon MP, the Minister for Skills, Apprenticeships and Higher Education, and Baroness Barran, the Minister for the School System and Student Finance, are the relevant ministers responsible for this Review.

Ministers will receive an interim report, setting out initial findings and recommendations from the Lead Reviewer, partway through the review process. This will allow ministers to provide views on the direction of the Review at that stage and outline expectations for the second half of the process. At the end of the review process, ministers will receive the Lead Reviewer's final report, so that they can agree to the publication of the report and the government's response to it.

⁴ [Higher education policy statement and reform - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policy-statements/higher-education-policy-statement-and-reform)

Susan Acland-Hood, the DfE Permanent Secretary, is the Principal Accounting Officer responsible for the Review. She will have the opportunity to comment on both the initial findings and the final report ahead of submission to the Secretary of State.

Patrick Curry, the Director for Higher Education Oversight, is the Senior Sponsor of the OfS.

Lead Reviewer and Review Team

The Lead Reviewer is Sir David Behan, who will be responsible for ensuring a proportionate, rigorous, and fair review, and that recommendations will facilitate continuous improvement.

Sir David will be supported by a team of civil servants from the DfE led by Miles Simpson.

Evidence gathering and stakeholder engagement

All public body reviews draw upon data and evidence including through engagement with wider stakeholders, representative bodies, consumers, and government as appropriate.

The Review Team will identify relevant stakeholders to engage with as part of the initial evidence gathering, in collaboration with the OfS and with the DfE OfS Sponsor Team. This engagement will take the form of roundtables, interviews, and online evidence gathering from other relevant parties.

The Review Team will examine documents from the OfS, the DfE OfS Sponsor Team and other sources, to assess areas of specific interest for the review. These may include self-assessments completed prior to the review, governance documents, records of meetings, pertinent legislation, and other relevant papers.

The Lead Reviewer has met the Chief Executive of the OfS and her team to discuss the approach, format, and high-level milestones for the review. The OfS and the DfE OfS Sponsor Team will be given the opportunity to comment on the final report and recommendations ahead of it being submitted to the Secretary of State.

Challenge panels

The Review Team will set up one or more challenge panels, to support the review to gather thoughts and discuss emerging findings. Members will be expert advisers drawn from the sector, stakeholder community and within government.

The role of the panel(s) is to hear from the Lead Reviewer, understand the evidence base, and challenge emerging thoughts and recommendations in a rigorous and constructive manner. They will use their respective expertise of the higher education sector, broader regulation, the work of the OfS and of government, to benefit the Lead Reviewer in their role.

Timetable and deliverables

The review will start on 14 December 2023 and is expected to conclude by the end of May 2024, after which the findings from the Review and its recommendations are expected to be published.

The first phase of the Review, through to late February, will seek to gather evidence from multiple sources, and to answer the key questions in the above scope section. Following analysis of this evidence, the Lead Reviewer will submit an interim report to ministers, which will set out initial findings. Having considered ministerial comments and further detailed examination of the initial findings, the final phase of the Review will conclude with the Lead Reviewer producing a final report, including recommendations and a summary of findings.

Ministers will determine the final timing and manner of publication of the Review and the government's decisions on the Review.



Department
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