



Minutes of the seventy-fifth meeting of the Board of Directors, held as a virtual meeting on 23 September 2021

Present: Dame Suzi Leather (Chair)
Adesewa Adebisi, Andrew Chandler, Wendy Finlay, Professor
Alistair Fitt, Gillian Fleming, Hillary Gyebi-Ababio, Martin Kirke,
Andy Mack, Kevin Mundy, Jonathan Rees, Sophie Williams

Apologies: Dave Hall, Jon Renyard, William Callaway

Secretary: Sarah Liddell (Company Secretary)

In Attendance: Ben Elger (Chief Executive)
Felicity Mitchell (Independent Adjudicator)
Chris Pinnell (Head of Casework Support and Resolution Team)
Heather Pearch (Technical Support Analyst)
Jennifer Runde (Communications Officer)

21/30 Chair's business

The Chair noted that this is Gillian Fleming's last meeting on the Board and expressed the Board's appreciation for her valuable contribution.

21/31 Membership

The Chair welcomed Chris Pinnell (Head of Casework Support and Resolution Team), Jennifer Runde (Communications Officer) and Heather Pearch (Technical Support Analyst) as staff observer to the meeting.

21/32 Declarations of interests

Wendy Finlay declared that she has recently been elected as a Trustee of the New Model Institute for Technology and Engineering.

21/33 Minutes of the last meeting

The minutes of the seventy-fourth meeting of the Board held on 28 June 2021 were **approved**.

21/34 Matters arising from the minutes and actions log update

The Board received a record of the matters arising from the minutes and actions log update.

The Chair noted her thanks to Adesewa Adebisi for recording videos for the website and encouraged Board members to view them if they hadn't already. Board members were also asked to check their biographies on the website to ensure that they are current (an annual check of this will be introduced going forward alongside the annual check of the Register of Interests).

Gillian Fleming, Jonathan Rees and Ben Elger had had a helpful Risk and Audit Committee handover meeting.

21/35 Report from the Independent Adjudicator and the Chief Executive

The Board received the quarterly report from the Independent Adjudicator and the Chief Executive.

It continues to be a very challenging and uncertain time for the sector, and the Board noted the scale of external engagement undertaken again this quarter.

Following the government reshuffle Michelle Donelan is continuing as Minister for Universities, with promotion to attend cabinet and some wider responsibilities. This continuity is helpful as we have spent considerable time with the Minister over the past two years. The appointment of Nadhim Zahawi as Secretary of State for Education has been broadly welcomed by the sector. We are monitoring the implications of these developments and continue to meet frequently with officials.

Board members shared their recent experiences [around the start of the new academic year].

We are continuing to issue clear messages based on our updated coronavirus key messages, and to maintain our awareness of developments. Our continuing engagement with providers and students' unions means that they are likely to talk to us about concerns in advance.

Hillary Gyebi-Ababio offered support through NUS communications with students and student representative bodies to help them resolve areas of confusion without resorting to the complaints process.

We are continuing to hold discussions about the free speech Bill. The Bill allows students to choose whether to bring their complaint to us or to the OfS, but we remain concerned that it will be confusing, and difficult for students to make an informed choice, and good information and guidance will be needed. We and others are continuing to raise the issue of the free speech champion role being both advocate and arbiter. There is additional confusion around appeals processes and judicial review in connection with the champion. There is also concern about a lack of clarity around how the legislation will interact with equality and discrimination law. The Bill is likely to reach the House of Lords at end of this year or early next year, and we will continue to engage appropriately.

We are also continuing to engage with OfS and meetings have been constructive.

In Wales the Bill that will give us a role in further education has been prioritised and is progressing.

We continue to contribute to the ombuds sector. The Chair congratulated Felicity Mitchell on behalf of the Board for her election as Vice Chair of the Ombudsman Association.

This year to date we have received around 750 complaints related to coronavirus. This includes several small group complaints, which are more likely to be settled. Feedback suggests that providers are continuing to find our case summaries helpful in resolving complaints internally, and our case-handlers are also finding them useful when trying to settle complaints.

We are continuing to monitor the effect of the ongoing pandemic on our caseload as it still has significant potential to increase the number of complaints we receive, as well as to monitor and prepare for other potential developments such as industrial action that could also lead to more complaints to us.

Trying to reduce the age of our older cases remains a high priority and we continue to look for ways to make progress with this. However, there is a clear link between age and complexity of the case. Waiting times have reduced for more straightforward cases but we are seeing an increasing number of higher risk and more complex cases, which inevitably require more resources and take longer to review.

It was recognised that there are challenges for case-handling staff of working in a complex and changing environment. Handling complaints from vulnerable students can also be challenging.

We continue to carry out quality monitoring of our casework.

We are reviewing how and when we decide that we have a “complete complaint file”, with a view to trying to do this at an earlier stage (as an ADR body we are required to issue a decision within 90 days of receipt of the complete complaint file, unless the case is highly complex).

There continues to be a high level of interest in our good practice webinars and the feedback is very positive. As providers continue to respond to our good practice work they are likely to resolve more complaints internally, and this is likely to have an impact on the type of cases we see.

We have completed dip sampling of provider regulations and we are developing some targeted outreach to follow this up. It will also feed into the planned update to the Good Practice Framework.

More people are starting to come into our office space to work as we continue our transition period towards our future hybrid model. We are continuing to have discussions with colleagues about what this will look like across the organisation. Our aim is to take a flexible approach that benefits both staff and the organisation and supports collaborative working. We are also looking at how we can make best use of our physical workspace. Board members commended this approach and more widely the efforts to support staff wellbeing.

21/36 KPIs

The Board received a report on KPIs from the Chief Executive.

The continuing pandemic adds an additional layer of complexity in predicting case receipts for the final quarter, in particular because it is not yet clear to what extent the reduction we saw last year in academic appeals, which we believe was largely due to “no detriment” or safety net policies, will be repeated this year.

We continue to focus on our turnaround KPI.

Settlements are up and it is very encouraging that we have a high level of timely compliance with Recommendations given the challenges providers are facing.

The Board considered the proposal to keep the existing KPIs for 2022, at their current levels. In view of the overall context the proposal was **approved**.

21/37 Financial matters

The Board received the Finance Report to July 2021 from the Chief Executive.

The Board received the unconfirmed minutes of the thirty-third meeting of the Finance Committee held on 13 September 2021. The Committee had considered in detail the 2022 budget.

The Board received and considered a paper on the 2022 budget and subscriptions from the Chief Executive.

The initial discussion at the June Board meeting and the detailed discussion at Finance Committee had been helpful. Overall the proposed budget allows for planned growth and developments.

The Board **approved** the proposed 2022 budget including the 5% core subscription increase and the proposed increase in the per point fee of the case element from £220 to £230.

21/38 Governance membership review

The Board received and considered a paper on the sequencing of steps identified by the Governance Working Group towards the proposed new governance arrangements.

The Board was supportive of the sequencing set out in the paper to maintain momentum alongside ongoing discussions.

21/39 Report from the Company Secretary

The Board received the quarterly report from the Company Secretary.

The Chair noted her thanks to the Deputy Chair for agreeing to chair the December Board meeting in her absence.

21/40 Any other business

21/41 Reflections on the meeting

21/42 Dates of future meetings

- 9 December 2021 at 10.30am
- 30 March 2022 at 10.30am
- 28 June 2022 at 10.30am (Away Day: 28-29 June 2022)
- 23 September 2022 at 10.30am

- 7 December 2022 at 10.30am

Sarah Liddell
Company Secretary

30 September 2021