



Industry and Regulators Committee

Corrected oral evidence: The work of the Office for Students

Tuesday 7 March 2023

10.30 am

Watch the meeting

Members present: Baroness Taylor of Bolton (The Chair); Lord Agnew of Oulton; Lord Burns; Viscount Chandos; Lord Clement-Jones; Lord Cromwell; Lord Gilbert of Panteg; Lord Leong; Baroness McGregor-Smith; Lord Reay.

Evidence Session No. 1

Heard in Public

Questions 1 - 17

Witnesses

[I](#): Dame Nicola Dandridge DBE, former Chief Executive, Office for Students; Sir Michael Barber, former Chair, Office for Students.

Examination of Witnesses

Dame Nicola Dandridge and Sir Michael Barber.

Q1 The Chair: Good morning. This is the Industry and Regulators Committee of the House of Lords. We are conducting an inquiry—and this is our first meeting on this particular inquiry—into the work of the Office for Students. Our witnesses this morning are Dame Nicola Dandridge and Sir Michael Barber, who have both been involved in the OfS from the early days. Can you start by saying why you thought the OfS was established in the first place?

Sir Michael Barber: The origin of the OfS is in the 2017 legislation, but the idea behind the 2017 legislation came because we had moved on from the time when universities were funded by the Higher Education Funding Council, which had existed since the early 1990s. As a result of the fees review that came into place in 2011, students themselves were now paying; it was paid in the first instance by the Treasury and then they paid that back after they had completed their degree.

Instead of a funding council, what was needed was a regulator that took account of the interests of students. Were they getting good value for money? Was their degree going to stand the test of time? Were they getting a good experience? How did that affect the university as a whole? How did that all combine to make the university, with its research funding and its teaching funding, into an institution that could deliver really good education and provide a degree that had value over time?

That was the origin of it, and then there was a sense of motivation, which some of you will probably remember from the debates in the Lords as well as the Commons at the time about student choice, new providers and so on. That was the origin of the 2017 legislation. I came in as the founding chair of that shortly after the legislation, appointed by the then Higher Education Minister, Jo Johnson.

The Chair: Nicola, did you want to add or expand?

Dame Nicola Dandridge: Michael set out the case very well.

The Chair: Do you think that the clarity of its remit was sufficient at the time?

Sir Michael Barber: The legislation passed just before the 2017 election, almost on the day that the election was announced, and there was a good year before the OfS came into formal existence in 2018, but I was the chair through that time. I must say that I never had a problem or a worry that the legislation was not clear on what I was supposed to be doing, so I did not worry about that. Jo Johnson was the Higher Education Minister in the first phase of that. We were a new organisation. We had a big task to do to set up a new organisation. It is a big shift from a funding council, which is essentially a provider of money and sometimes had a rather paternalistic relationship with the universities, to

a regulator, where you are holding the universities to account for their stewardship and their role in relation to students.

We were new, but I never worried about the clarity of the legislation; it was fine. What I realised quite early and discussed with Ministers at the time was that, after the 2017 election, we were going into an unstable period of politics. There had been the Brexit referendum the year before. In this election, no party came back with a majority. I agreed with the new board and explained to Ministers that we were just going to establish a strategy and get on with it, regardless of possible changes of Minister or uncertainty in government. Otherwise, we were just going to stand there waiting for some sense of direction.

We established really early on—we had started on this before Nicola was appointed in September that year—that the overwhelmingly important task was stewardship of a sector that is very precious to Britain, given its contribution to research globally, to students and their growth and development, to society and to the British economy. Right now, for example, universities are a £20 billion export industry; that is this year. The first task of a regulator is stewardship—looking after this sector for the long term so that it thrives.

Secondly, we wanted to build a constructive dialogue with the existing providers. They had had 20-odd years of a funding council. How would that work? I spent a lot of time visiting universities in that year and afterwards; I went to roughly 40 universities over the time. Right from the beginning, as soon as the new board was established during 2017, we agreed that access and participation would be our top priority, where we wanted to see some change. We were not going to let the inevitable political instability of that time get in the way of us pursuing a strategy that we had established. Then, of course, you learn as you go, but I was never worried about a lack of clarity from the legislation as to what our mission was.

The Chair: Did the OfS decide those priorities or were you taking a lead from government?

Sir Michael Barber: We were in dialogue with Ministers all the time, all through the four years I was there, but we decided those priorities, as you can see in early speeches that I made or the minutes of the early board meetings. We had a very good board, which I had spent a lot of time with others appointing in that first year. The full board was established from January 2018, in time for us to take over, but the mission I have just described very much came from me and the board, and Nicola when she arrived.

Dame Nicola Dandridge: The first year was spent focusing on the development of a strategy for the OfS, and the regulatory framework, which set out the remit for how we would regulate and what our priorities would be. Those documents were subject to extensive consultation with the sector, with students, with other stakeholders, with the board and with government, as you would expect. It is those documents,

particularly the strategy and the regulatory framework, that clarified what our mission was.

Clearly, we were working within the structure of the Higher Education and Research Act 2017, but none the less that was how we set out what it is we proposed to do. As Michael said, our priority was social mobility and equality, but quality of teaching was a second priority. Value for money was also a really important issue for both students and stakeholders. Various other priorities came through in those documents, but it was very clear what we were aiming to do.

Sir Michael Barber: Since the late 1980s, through the research assessment exercise and what became the REF, there had been pressure on universities to improve the quality of research and, on the whole, that had been very effective. We were and still are world leading in lots of research. In some universities, for some of the time over that 20-year period, teaching had been neglected, so we had a big emphasis from the beginning, as Nicola said, on the quality of teaching. We worked very closely with UKRI, which was set up in the same legislation, so that the universities did not feel different pressures from it and from us.

The Chair: We will come on to some of those details. The extent to which you gave a lead and to which you were micromanaging is quite important.

Q2 **Lord Leong:** I declare my interests as set out in the register as chair of the Council for Education in the Commonwealth. I had a quick look at the annual accounts for last year. You publish there your regulatory framework. How does the OfS use its regulatory framework to achieve its statutory obligations or duties? Have the contents of this framework evolved or changed, especially in effectiveness, value for money and quality, between 2017 and now?

Dame Nicola Dandridge: The regulatory framework sets out in some degree of detail how the OfS will regulate, what it expects of higher education providers and universities, and how they will be assessed from a regulatory perspective. It is a really important document in framing expectations, and it has changed over time for a number of reasons.

For example, changes were needed during the pandemic. There was the potential for tremendous instability then and we had concerns with how, for example, some universities were making certain unconditional offers, so we amended the regulatory framework to allow us to intervene to stop that happening, quite successfully. There have been various other changes – we realised that we needed stronger powers during the pandemic to intervene if a university or higher education provider looked to have financial vulnerabilities, so we changed our powers.

These were changes because of some external circumstances, but perhaps the most important one is that we realised during the first couple of years that, in the way the regulatory framework had been drafted, it was too broadly framed and not sufficiently granular. That is just the sort of thing that you learn with experience.

In the year before I left, in about 2021, we started a consultation for a much more detailed set of proposals to amend the regulatory framework in relation to quality and outcomes, and that has now worked its way through.

So it has changed. We drew from our experience, and the amended regulatory framework that takes into account those smaller changes, as well as the more significant changes in terms of quality and outcomes, puts the OfS in a good position to engage with these quite tricky, complex issues in the sector, particularly in terms of quality. I have now left, but I see that working its way through now.

Sir Michael Barber: I just want to add something on institutional autonomy.

Lord Leong: I was coming to that.

Sir Michael Barber: At the beginning, in the stewardship role that I described of leaving the sector better than we found it, we understood that one reason why British higher education is a success is institutional autonomy. Another is academic freedom. They are both really fundamental.

When you set up a regulatory framework, you think about how far institutional autonomy goes. Is it absolute? Where are its boundaries? We set it up so that universities could decide what they wanted to do, what they wanted to teach and how they wanted to teach it. That was their mission, and the students would experience that one way or another. What we did agree, to put it crudely, is this: "You can choose what you do, but you can't choose to be bad. You can't choose to let students down in a really visible way. You can't choose to do things that have no value for money. You can't choose to be incompetent". Institutional autonomy is important—it is fundamental, in fact—but it is not absolute.

We sometimes intervened, generally behind the scenes and usually gently but firmly, on things such as value for money or financial grounds. There was one university where clear reputational risks were being taken—abuses, I would say—and we sorted that out. We did not make a big public thing of it. We could have but we did not, because, although we wanted to make sure that that university got itself sorted out, we did not want to damage the whole sector. We did these things quite firmly and vigorously, but behind the scenes. That was because institutional autonomy, while fundamental, is not absolute. You cannot choose to be bad, to be corrupt and so on.

Lord Leong: Can I come back to what Nicola said earlier? During the pandemic, you drove some changes to the framework. Who was driving that? Was it within the OfS, within the sector itself or the public? For example, in pivoting to online, even when students could go back, universities were still running online courses, so there is a question of value for money. Who drove those changes?

Dame Nicola Dandridge: All of them. The OfS's response to online provision during the pandemic was initiated by the OfS. It is our responsibility to look at what is happening. We were acutely aware of the miserable time that students were having during the pandemic. It was a hugely difficult time for them, and we were concerned about the quality of some of the online provision and the experiences that students were getting, acknowledging that it was difficult for universities as well. The whole thing was very problematic.

We were aware of the issue, but, before any change like that, we would consult with universities and with students. We would be aware of what is reported in the media—that is an important form of information—and we would discuss with government, but the decision was the OfS's. Any change to the regulatory framework has to go through the board.

Q3 **Baroness McGregor-Smith:** Just to declare my interests, I am the chair of the Institute for Apprenticeships and Technical Education.

Is the guidance issued to the OfS from the Government too prescriptive? Bearing in mind your experience of the OfS, if it was being set up again today, what would you change in the way that the original regulatory guidance was set up and the way that government operates within that framework on guidance?

Sir Michael Barber: It is an important question. You and I are meeting on other issues, so it is nice to see you in person.

When you set up a regulator in place of a funding council, you have to change the way you think about the relationship to institutions but also to the Government. My predecessor in the Higher Education Funding Council was a guy called Tim Melville-Ross, and his advice to me was, "Remember, Michael, you're not an instrument of government policy. You're going to be a buffer between these two things". At the time I thought that was the wrong metaphor, because buffers are places where energy gets lost. You have clashing things, and that is what they are for.

I do not think that being either a buffer or an instrument of government policy was right. We were a steward of a system, leaving it better in the future than we found it. For that, as I was saying in answer to the Chair's questions, we established our goals as the OfS quite early on. We wanted a world-leading system. We wanted a strong reputation nationally and globally. We wanted to make sure that students got value for money. We wanted their degrees to hold their value over time. We wanted access and participation to improve. We wanted the global, leading role that the higher education system had to be sustained. That was what we were trying to do.

Of course, you then get an annual letter from the Higher Education Minister. They are fine. You read them and you do what you need to do. You check in with the DfE and go through that with it every quarter or half year. They are not a problem, but they are a bit overdetailed. If I were in a situation to influence a ministerial letter, I would have much less prescription.

A long time ago—30 years ago—somebody said to me that an education White Paper was as though there had been a skip outside the DfE, and everybody who walked past it threw in their latest idea. Some of those letters felt a little like that, but they were fine, and the relationship was good and clear. When we needed to argue with either Ministers or officials, we did that quite vigorously, but always behind the scenes. I was never a chair who wanted to pick public rows with government Ministers. It sometimes gets you a bit of credibility out in the sector, but it is not good for trust or for policy-making.

Dame Nicola Dandridge: On the question of government directions being too prescriptive, looking back over my time, I rather agree with Michael that they probably were, but it was not an issue. You navigated that. We had to have regard to what the strategic guidance letters said, but they did not require us to respond in that way.

There are areas where letters from government suggested something that we did not end up doing. For example, I cannot remember the details now, but there was a very strong steer to do away with the National Student Survey. At the time we felt that that was a bad idea, so we did not do it. This was obviously done in discussion with DfE, but it is an example of where the OfS does and can manifest its independence.

Your question was what we would have done differently. I do not think it relates to government prescription. We managed that and it was fine, and we had good relations with the DfE and government throughout. It rather goes back to the point that your colleague Lord Leong made, in that we had to amend the regulatory framework.

With the benefit of hindsight, I wish we had got it right first time around, but you should not underestimate how difficult it is to set up a new regulator in a highly complex sector. We were operating at huge speed and, in a way, it was almost inevitable. Anyway, we learned from that and we amended it quickly, and now the OfS is in good shape. Of course, I wish we had got the correct regulatory framework in all its details right the first time around, but that is the way the world goes. Any regulator is going to be adjusting and responding as it goes through. As I say, I do not think it really relates to relations with government. We maintained good, working and functional but independent relations throughout.

Sir Michael Barber: The momentum was really important. Given the uncertainty after the 2017 election, we were very clear that we had to get on with this; otherwise, we would just be sitting and waiting. During the time I was chair, we had five changes of Higher Education Minister. We had two who came and went twice, and two others, so there was a lot of turnover, but we pursued the strategy.

I just want to reinforce the point that Nicola made about being willing to push back against government. We did not just take orders, as it were. On the National Student Survey, we resisted. It is still going, I am glad to say. In conversation with the Secretary of State, with the Higher

Education Minister and with DfE officials, we had to fight that battle quite hard, but always behind the scenes.

Right at the beginning, we had a statement from Jo Johnson, the Higher Education Minister, that no VC should be paid more than £150,000. We thought that was interference in institutional autonomy. Universities are recruiting on the global market, and we know what the salaries of VCs are in Australia or the US. We put pressure on the system to account for VC pay, but we did not say that there is a cap. We both took a pay cut so that we could make that argument on the moral high ground, and we saw it through. We quite often disagreed with government, but it was always in a very professional, thoughtful relationship.

Lord Burns: You have said that it is overdetailed, and I can see why you say that, but it also seems that it keeps changing and that they keep adding to it. I have seen a lot of these strategic letters and, indeed, I have been on the receiving end in various guises. This one looks to me to be at the extreme of being detailed, as well as chopping and changing.

It is nice to hear what you say about how you interpret the issue of having regard, which then gives you the ability, as long as you have had regard, to exercise your independence. How far does the extent to which you have pushed back against some of these suggestions become public?

Sir Michael Barber: It is a very good question, Lord Burns. You know this world better than anybody. I made a decision—and I explained this regularly to officials, including Nicola and the board—that I was not the kind of chair who would pick public fights with Ministers. I did not think that that was the way to get a regulator working or that it would be helpful to the sector. I thought it would end up in lots of confusion in the sector. If we needed to have an argument, say, over an appointment or the things I have mentioned, such as VC pay or the National Student Survey, we had that argument behind closed doors.

You could put it all over the media and then people would say, “Look, they’re really independent”. When I went to talk to the Russell group vice-chancellors, they would say, “You don’t pick many arguments with government”, and I would say, “You don’t know”. That is a judgment. If the OfS had had a different chair, they may have chosen a different route, but that is not my way of doing business. I do not think it respectful or good for stewardship of a system where you need that collective sense of leadership.

You are right that there were a lot of chops and changes in the letters; they came thick and fast. If you have six Higher Education Ministers in a short space of time and three Secretaries of State—2022 was after my time, but that was even more extreme—of course you get some uncertainty at that point. That is all the more reason for doing what Nicola was describing, just getting on with the strategy, keeping this as part of the dialogue and having regard, to use your phrase.

Q4 **Viscount Chandos:** I declare interests as a vice-chair of LAMDA and a co-opted member of the investment committee of Worcester College,

Oxford. Sir Michael, you have referred several times now to feeling that the OfS should be a steward of the system, and you described this as being a £20 billion export sector. Is there sufficient clarity about the objectives for that system in terms of government policy and approach, for instance in prioritising the interests of teaching home students, teaching foreign students, and promoting and fostering innovation and R&D?

Sir Michael Barber: This goes some way beyond the OfS's remit in my time, but it is a really important question. That changes over time. Is there sufficient clarity? You could always have more clarity but it might be temporary, because you have elections and changes of Ministers, Government, Prime Minister and so on. It is quite hard to get complete clarity in these areas, but it is perfectly plausible. Looking ahead—and this is not a party-political thing—first of all, you want students to get a good experience and the degree, if they complete it, to stand the test of time and hold its value through their career. That is really important.

Secondly, it is fantastic for Britain that we have lots of overseas students coming to our universities. There are 55 world leaders now who were at university in this country at one time or another. These are people who get to understand British higher education and get a good education, so recruitment of foreign students is a vital part of our mission.

Thirdly, as we hear all the time—government tends to focus more on this, quite understandably—our research quality is outstanding. Last time I looked, we were 1% of the world's population, 4% or 5% of the world's academics, and 16% of the cited research in the world. We have an amazing track record of research, which then feeds into innovation and growth in the economy, but also builds our knowledge base.

Those three things seem fundamental to the role of universities. I say this now in my role currently as chancellor of Exeter University, but you also have a role beyond those things in your own region, your own economy and your own city, and universities do a fantastic job of that, in general. If you look at what has happened in Manchester over the last 20 or so years, the university has been fundamentally important.

Those are the four roles that you want universities to play, and you would hope that that could be cross-party, understood and pursued for a long time, because, if this sector becomes part of a short-term party-political debate, it becomes very difficult to do the kind of stewardship role that I talked about.

Viscount Chandos: You say that you hope it would be agreed cross-party, but that may or may not be the case. *Reductio ad absurdum*, at what point does the promotion of soft power, taking international students and so on, risk squeezing out the provision of higher education to home students? It is what used to be called the Wimbledon factor. We have had some British players at the top of Wimbledon more recently, but, without greater clarity, is there a risk that the balance between these different objectives breaks down?

Sir Michael Barber: You have to constantly keep it under control. If you did not worry about it, it might go awry. It is not perfectly stable so, in that sense, you have to constantly be on the case. In our time in the OfS—and I am sure it is still doing it—we did financial modelling of the sector into the years ahead. The domestic student fee is capped at £9,250, which with inflation is effectively a cut, and that is going to go through until 2025. That will affect the university finances, as will whatever happens on overseas students.

As you will be familiar with, when top universities win big research contracts, the underlying costs of the research are often not covered by the research contracts and are subsidised by overseas students. That has been the funding model and it needs to be kept under review, because there are tensions, as implied in your question.

The OfS, with others, should model how the current arrangements are going to work over the next three to five years. What you do not want, to coin a phrase from the 19th century, is to lose a great university system in a fit of absence of mind.

Viscount Chandos: Dame Nicola, I do not know whether you have anything to add to that, but I would like to pose a supplementary question. One of the objectives was to encourage new entrants to the sector. That has not materialised, at least relative to perhaps some people's expectations. Do you have any views on that?

Dame Nicola Dandridge: There have been new entrants, and some very good ones and very welcome ones. When I was at the OfS, we did what we could to encourage them. The reality is that it is very difficult to set up a new university or higher education provider, and perhaps it was a bit overoptimistic to expect that there should be large numbers of new high-quality providers. There were quite a few new providers that did not succeed in registration, and rightly so, because they did not provide adequate quality.

The broader context that Michael has just alluded to is relevant here. There are real financial pressures at the moment and, indeed, in relation to international students there are legitimate questions that we all need to ask, including the OfS as regulator, about the financial vulnerabilities from being quite dependent on international students poses, given the complex geopolitical world that we are operating in.

Be that as it may, there are serious financial pressures, and that must have acted as a disincentive to new providers coming into the system. There is nothing that the OfS or others can do about that. It is just the world we are operating in, but we should not lose sight of the successes that there have been in encouraging some new, innovative and genuinely high-quality providers that were not there before.

Of course, one of the rationales behind setting up the OfS is that there should be a level playing field for established universities and new providers, and the changes have secured that extremely well.

Sir Michael Barber: Just to give three examples, the Dyson Institute is doing engineering to a very high standard at the Dyson campus in Malmesbury. It is doing really outstanding work. There is the London Interdisciplinary School. They are completely new institutions. Some of you will remember the New College of the Humanities—not a new institution but quite a new development—that was set up in London and is now part of Northeastern University, based in Boston. These are quite substantial innovations in the way that the higher education system is working. They are not the large numbers, but they are very significant.

Q5 **Lord Cromwell:** Good morning. Sir Michael, you mentioned value for money. How does the OfS work it out?

Sir Michael Barber: I did mention it, but Nicola was leading our work on that.

Lord Cromwell: Because you mentioned it I came to you, but, Nicola, please, if you are more appropriate.

Dame Nicola Dandridge: One of our strategic priorities, quite rightly, is to promote and protect value for money. As well as having that as a strategic objective, we developed a strategy that, to some extent, encompassed everything that the OfS did. Bear in mind that if you ask students about their perception of value for money, they will often see it in terms of tuition fees, over which the OfS had no control, so there is that side of value for money, which was not the OfS's responsibility.

Its responsibility was ensuring that the quality of what students received was good, that their consumer rights were protected and that there was transparency in what they would be offered and what they received. In a way, that embodies everything that the OfS did.

Value for money was something that we talked about a lot from the students' perspective, but also from the taxpayer perspective, because there is still a lot of subsidy that goes into the higher education system. We looked at it through both those lenses.

How can you tell what value for money is? That is a really difficult question. We consulted students, and student feedback on their assessment of value for money was an important part of how we approached the issue. We also used our own objective judgment as to what comprised value for money—for example, quality and good outcomes. You put all those things together and it informed our strategic priorities. Also, an important key performance measure for the OfS was securing value for money, and there were a number of factors that we took into account, not least the views of students.

It is a complex answer, as you would expect, because it is a complex question with many different facets, but that is broadly how we approached it.

Lord Cromwell: That is helpful and you put your finger on the fact that it is extremely complex and difficult to be objective in particular. What

you outlined sounds a bit more like quality control than value for money. That would be my immediate thought on what you said, which is not necessarily a bad thing, but a lot of people know the OfS as the value-for-money people for students. I am just intrigued. I imagine that there is a model into which you plug data and come out with an answer. Obviously, life is more complicated than that.

This goes back to earlier questions. If it cannot be done that objectively, I do not want to use the word “interference”, but changing policymakers have different views about what value for money might be. How do you resist those approaches?

Dame Nicola Dandridge: If the OfS was a more traditional economic regulator, you would be balancing the income from tuition fees against the benefits that students receive. We have no control over the tuition fees, so it is a slightly unusual approach, but by definition it has to be. All the OfS can do is focus on the quality side. To some extent, yes, you are right, but that is the nature of the beast.

It is right that there are different views on value for money, and different Higher Education Ministers and Secretaries of State would have taken different views, which is why we were so clear that it had to form part of not just the OfS’s strategy but its specific value-for-money strategy as well. We were transparent about how we interpreted that complicated concept. We consulted on it as well, and discussed it with students and student representative bodies.

Even though it is always going to be subjective, we went as far as we could to be objective in order to make sure that it was evidence-informed and that we were evaluating our performance against our objectives.

Lord Cromwell: Just to clarify—and forgive my ignorance—do you publish your results on value for money, and what impact does that have on the institution concerned?

Dame Nicola Dandridge: We have a key performance indicator where we publish our own performance, and one factor that informs that indicator is university performance. It is sector-wide.

Lord Cromwell: Can a university look up online what its value-for-money score is?

Dame Nicola Dandridge: No. I do not think that would be possible or sensible. It will know how it is performing in terms of quality, because that is part of the regulatory framework, and it will very much be aware of how the OfS assesses its performance against each regulatory condition in the regulatory framework.

Lord Cromwell: Value for money is perhaps more informal.

Dame Nicola Dandridge: The difficulty is that it is too generic a concept. It would be extremely dangerous to translate it into a single algorithm.

Lord Cromwell: I agree, but I am just seeing what you do. I am stopping Michael coming in, because I have one last point and you might want to pick it all up.

Sir Michael Barber: It is your committee.

Lord Cromwell: Do you do an assessment of your own value for money?

Dame Nicola Dandridge: That is slightly different. Yes, there is a set of measures that look at how the OfS is performing in terms of its income and the value it adds. I am happy to talk about that.

The Chair: We will come on to that later.

Sir Michael Barber: In the same year that I started chairing the OfS, I published, for Lord Burns's successors—for the Chief Secretary and Permanent Secretary to the Treasury for the Budget in 2017—a report on public value across all public expenditure. That had four headings, which we took into account in designing the OfS approach. Are you delivering the goals you said you would? Are you spending the money wisely, sensibly and efficiently? Are you engaging the people who deliver the service and the people who use the service? Are you looking after the system for the long run, so that you are not hitting these short-term goals by hollowing out the future? We built these four pillars of public value into the way we thought about it in the OfS.

Q6 **Lord Burns:** I declare a small interest. I am a vice-president and was previously chairman of the Royal Academy of Music. You mentioned the overall objectives about good value for money and that the degree should stand the test of time. You say that you consulted students and had feedback. Can you say a bit more about how the OfS goes about consulting students? To what extent does that feedback affect the office's view of their interests in its regulatory framework? Is it all done through the National Union of Students or are there other ways in which this takes place? They are the customers. How do you really find out what they think?

Sir Michael Barber: Nicola was a real public service innovator on the whole thing, so I will leave her to answer the question. I was in awe of what she achieved.

Dame Nicola Dandridge: That is kind of you, Michael. I am not sure that it is strictly true, but I was always very clear that we had to involve students so far as possible in the way that we operated and defined our priorities. I remember that the very first speech I did as incoming chief executive was to the NUS, and deliberately so, but the NUS was not the only body we took into account.

How did we do this? There is a student representative on the OfS board, first and foremost. We then created a student panel, to which we invited applicants from the whole sector in England. It included prospective students from school, as well as graduates, to try to capture all those views. They came together and formed a panel, which had significant

input into our strategy development on specific issues where they had strong views and could make a material contribution. We would involve them very actively in various policy developments, papers and proposals.

We met with the NUS on a regular basis. We involved students and student representative bodies in various initiatives. For example, the teaching excellence framework, which Michael mentioned, has students involved not just in its formulation but in its operation. Both Michael and I used to make it our business to go out and speak to students and student unions. Whenever I went to visit a university, I would arrange, as a matter of course, to speak to students. That was sometimes the most informative way of understanding what was going on.

It is never straightforward. There are 2 million students. How do you get them involved when they have other things to think about? So far as we could, we always sought their involvement to shape what we did and how we did it.

Lord Burns: What would you say their major concerns were when you were consulting them? What would their concerns be today?

Dame Nicola Dandridge: It is interesting that you say that. One of the challenges was that some of their concerns were things that we could not deal with because they were outside our remit. The cost of living emerged again and again, and there is not a huge amount that we could do. We could do some things, but not very much. We distributed a hardship fund during the pandemic.

The sorts of issues that came up on a regular basis were mental health, the cost of living, and quite a lot of concerns about quality of courses. That came up as a very regular thing: lack of support, assessment and contact hours. They were concerns about quality, which we did reflect. That was very germane and fundamental to what the OfS was about, so we took that very seriously.

Sir Michael Barber: I just want to reinforce that last point. I went to 40 universities during that time. Nearly always, cost of living excepted, the thing that came top, in my recollection—this is not a research finding—was very good one-to-one, specific feedback on assignments: “I’ve done this experiment” or “I’ve written this essay. I want specific one-to-one feedback on what I did well and what I didn’t do well”. Second was study space: places to study or places, such as libraries or coffee shops, where you can sit and talk with others. These were the two big demands.

It is a fantastic generation of young people coming through our universities now. They really want to study, get good feedback and do well in their degrees; they were very impressive.

Dame Nicola Dandridge: Mature students as well.

Lord Burns: Presumably, this issue of contact hours has become much more challenging as a result of the pandemic and what has happened subsequently. Is that becoming a big issue? The amount of online

teaching was mentioned earlier. Have we reached some kind of equilibrium about that?

Dame Nicola Dandridge: It was a challenge for everyone during the coronavirus pandemic, for obvious reasons, but the issue pre-dated and post-dated that. It is always going to be an issue.

However, the view that we took at the OfS is that it is a question not just of quantity but of quality. Arguably, you can have just a very few hours of exposure to a lecturer or an academic and it can be completely outstanding, or you can have much more and it can be very weak. It would be wrong to see contact hours as equating to high quality. It is not that automatic.

Having said that, rather like Michael, when I spoke to people—this is not scientific—it came up again and again that students did not feel they were getting enough support, advice and, in their expression, contact hours. It continues to be a challenge, but it would be a mistake to see that as the sole or even the primary determinant of quality.

Lord Burns: On the issue of the degree standing the test of time, that itself takes time, but do you get student feedback on that? Do they have views? Is this an area where there are any concerns? You mentioned it as one of your main objectives in setting up the original framework. Has that developed at all?

Sir Michael Barber: Students clearly want their degree to be respected in the labour market. One of the things we are tracking, which we have not talked about in this conversation, is the LEO data on the progression of students after they leave university and go into the labour market, their tax returns and all that.

They are very concerned—much more so than in my time—about the job they are going to get and the career they are going to be able to pursue. The value of the degree, the name of the institution, the degree they get and whether it will stand the test of time is really important to them.

I just want to go back to the last question. Almost exactly two years ago, in my last month or two at the OfS, we published a report called *Gravity Assist* on what universities had learned about teaching and learning during the pandemic. There were some fantastic innovations, so there is a real opportunity to take that further now. Under pressure, not everybody got it right and the challenges that you described were clear, but some of the innovation in teaching and learning during that time was really tremendous.

Q7 **Lord Agnew of Oulton:** Nicola, pushing a bit further on this contact hours issue, which I feel very strongly about, would it not be a good idea if universities had to put in their prospectus for individual courses how many hours were going to be offered for a course and, indeed, the quality—how much of that would be in small tutorial groups and how much in big lecture halls? We are talking about children who are making these decisions to go to these universities, and it worries me very much

that they are not being given the information.

Dame Nicola Dandridge: That is a very fair point and it is the sort of thing that will be immensely helpful. Universities publish a lot of that information and it is certainly something that the OfS promoted. I suspect that it is almost inevitable that there will be a requirement for a degree of granularity. Students have consumer protection rights, and that is an area that I know the OfS is increasingly looking at. That includes a current requirement that universities set out exactly what they are offering, so that students know what they are accepting when they sign up to it.

We are going to see more of this. Consumer protection rights already exist, but I suspect that is going to be coming down the track a bit more. I speak with no knowledge about the OfS's current plans, but there is a logic to what you are saying that I would agree with.

Lord Agnew of Oulton: It astonishes me that a 17 year-old child can make a decision that will result in £50,000 worth of debt with the level of assurance that they are getting from the people selling that package to them.

Dame Nicola Dandridge: You are right. One reason I am being slightly cautious is that there is a danger that one prescribes the contact hours and then the quality is weak. It is a question of dealing with these things in tandem, with a broader focus on the quality of teaching. Otherwise, you end up hitting the target but missing the point.

Q8 **Lord Clement-Jones:** I have an interest to declare as the chair of the governing council of Queen Mary University. Can you characterise the nature of the OfS's relationship with higher education providers. I do not know which of you would like to best describe that.

Sir Michael Barber: I will start and then, when it gets difficult, I will hand it to Nicola. Queen Mary is one of the universities I visited during my time. I had a fantastic time there. I was very impressed by the quality of the dialogue between the vice-chancellor and his team and the students. It was very impressive, at the level not just of the institution but of courses.

Lord Clement-Jones: That will take you a very long way, Michael.

Sir Michael Barber: I also visited Barts, which had a close relationship. That was good. Going back to what I said before, we were establishing a new regulator, there having been a Higher Education Funding Council. It is a very different relationship. We put the interests of students first—all the things that Nicola has just been talking about—and so it was a bit uneasy for the university sector at the beginning. They hankered after the funding council relationship. We were a regulator; we were not going to be like the funding council, so they wondered how that was going to work.

Nicola and I spent a lot of time talking with the leaders of the higher education system through UUK, the Russell group and the other sector

groups. We were constantly in dialogue with them, visiting universities and listening to what people were saying, but we were trying to get the right combination of collaboration and dialogue with robust challenge. Following Lord Agnew's questions, "Are you doing enough to make sure that students get value for money? Are you doing enough to make sure that the teaching is really of high quality?"

What we wanted was an honest conversation, but not a big row through the media and not a megaphone diplomacy conversation. That was not always easy. There was some resistance to having a regulator at all. There still is.

I had a Quaker upbringing. The phrase I used all through that time was: "I want a plain-speaking relationship, where we say what we think, but we do it calmly and thoughtfully, we debate it and we try to resolve it". I have written about this, not just about universities but about how you relate to professional groups, in my book *How to Run a Government*.

We wanted to build trust so that, while they might not like what we were saying, they would trust that we meant what we said and would try to do what we said. When we blundered—sometimes we got the tone of things we sent out to universities wrong, and they were offended—we changed it, so we were prepared to admit our blunders.

Then, of course, we had to respond to circumstances, the pandemic being the obvious one, where we had to change the way we thought about that and get behind protecting the system. During that time, we were working with government and sometimes, effectively, lobbying government to make sure that the higher education system came through the pandemic without disaster. We thought, at the beginning, that half a dozen or more institutions would go under financially during that time. It did not happen, thanks to help from the Treasury and DfE, and what we were doing. We constantly monitored that.

The relationship was good and professional, but sometimes tough. I remember one university summoning me to its governing council because it was upset about something. We had a really good, productive debate and that turned it around. It is a question of how you get into the dialogue. We were learning how to do it; they were learning how to live with a regulator.

Lord Clement-Jones: I will throw something in before Nicola comes back. The OfS threatened fines on a fair number of occasions. The research shows about 55 times that fines were threatened, which is pretty heavy stuff. Then there is the whole controversy about the major quality question in the NSS, for instance. Is that part of the balance in the relationship?

Sir Michael Barber: If you are a regulator and a steward of the system, ideally you want to take the system forward and to see success and progress without doing those things, but you need those powers as back-up and you need occasionally to have the threat and the power to enforce, if you need to.

As I mentioned previously, a handful of times—I do not want to put a number on it—we intervened in institutions quietly but very effectively. If we had not had the powers in statute, we would have struggled to get the leverage we needed. Sometimes, to put it bluntly, we were protecting those institutions and the sector from themselves, because, if that had got into the public domain and become an issue, it would have affected the whole sector, not just the particular institution.

We used the powers sparingly. We very rarely used them, but the fact that we could threaten to use them was very helpful in the handful of cases where we needed to intervene directly. I do not regret that, and it is very important that any regulator has those powers, but also operates in a way that builds a relationship.

Lord Clement-Jones: It was not quiet diplomacy. This was quite public, was it not, on the fines front?

Sir Michael Barber: We had to consult on fines when we established them, so we put them out.

Dame Nicola Dandridge: It is an interesting question. The relationship between the OfS as a new regulator and the sector is one that evolved. During my years as chief executive, it came over clearly to me that many in the sector did not fully understand that the OfS was a regulator. There was a sense in which it was just HEFCE in disguise, and that kept on coming up again and again. It was unhelpful, because there is a need for regulation in the sector. Students are vulnerable and exposed.

It is an outstandingly strong sector—there is no doubt about that—with dedicated and high-quality teaching and learning going on, from really committed staff. But there is also some poor quality. Students are vulnerable to that, which is why there needs to be a robust regulator.

When, during the course of our engagement with the sector, I heard, “It’s just another buffer body”—nods and winks that the OfS was not going to intervene or make any difference—I thought that was dangerous. It was also misleading to universities and students.

If you were picking up a sense of the OfS speaking about its powers and its fines, that context is partly the reason. It was a way of demonstrating, “No, we are a serious, independent regulator. We will neither just do what government says nor go along with the sector where we think that students are not getting high-quality teaching”. That is probably the context.

It is interesting. It was always something that I was acutely aware of. Are we getting this relationship right? How do we use our voice in the media to reinforce what we are trying to achieve? When do we go too far? When are we too soft? It is a very live issue. We may not have always got it right, but it was something we were speaking about all the time: “Are we getting this right?”

Sir Michael Barber: It is an important question. It was assumed in the HEFCE era that, if a university got into financial trouble, it would get bailed out. Quite early on, I made a speech saying that we would not bail out universities that got into financial trouble, because you have to get to a situation where they take responsibility for their own finances.

If they think they can keep getting into debt, getting into trouble, borrowing money and overoptimistically projecting student numbers, they will get into trouble. If they think that they are going to be bailed out by HEFCE, they will do that. If they believe me when I say, "We're not going to bail you out", they will be much less likely to do that. Getting that moral hazard debate out there was very important. Even after I had made the speech, a university would say to me, "You don't really mean that". I would say, "Yes, I really do".

The politics of it would, of course, be difficult. In the case of one institution that got into financial difficulty, we sorted it out behind the scenes. We did not bail it out. It got new leadership, who could sort it out. There are lots of things you can do between not bailing out and not just leaving them to sink or swim. We thought hard about that.

It is very important, if you are going to regulate a system as opposed to being a funding council, that people understand that you are not there to bail them out if they perform badly in the market. After all, we had no cap on student numbers during that time, so some universities were doing really well; others were struggling to recruit students. That is what you want in a market, and that is what we were regulating.

Q9 **The Chair:** Following up on that and looking at the detailed interventions that the OfS has had with universities, there is a feeling among some in universities that there has been too much micromanagement and that it is fine to recognise autonomy and have a framework and guidelines, but the OfS has increasingly gone into not just saying, "You will do things correctly", but saying, "You will do things in this very prescriptive way". Would you like to comment on that?

Dame Nicola Dandridge: That is not fair. The OfS is very clear that it is a risk-based, outcomes-based regulator. It says, "These are the outcomes we want to see as a regulatory minimum and it's up to the universities how they do that". We got frustrated sometimes when universities would translate what we were saying into a requirement for process.

One thing that universities often said they wanted from us was a list of what they had to do so that they could go through it and make sure they were compliant. We resisted that because it would not work in a sector as diverse as the higher education sector and we were outcomes-focused. We were clear that we did not prescribe how to do things. That was for them, as autonomous institutions, to determine.

We defined the minimum regulatory threshold of outcomes that we wanted to see. Of course, that could be quite intrusive. One contentious

area was graduate outcomes. At one level, it is quite intrusive because it is requiring universities to secure a minimum threshold for what happens to students—that they do not drop out, that they continue and that they go on and get professional careers or have other positive outcomes. You could say that that is quite interventionist, but, on the other hand, it goes back to the point that we were discussing before about value for money and quality. These are really important things. The OfS operated to a regulatory baseline; it said, “This is the minimum we expect”. We would hope that universities would do better, but, none the less, if you fell below those thresholds, we would intervene. That could be seen as intrusive, but I would say it is just good regulation.

The Chair: It depends on the balance of how you do these things. For example, the other day I saw a consultative paper that the OfS has sent round about how universities should behave in certain circumstances. It was about 60 pages long and very prescriptive. It was consultative and not in your time, because it is now, but there is this feeling that it is moving in that direction.

Sir Michael Barber: I cannot comment on that, but I would like to add one thing that I have found quite often over my career. Putting it crudely, the basic message from lots of professional groups to government is, “Give us the money and get out of the way”. Then, as soon as a problem comes up, they ask, “What are the Government going to do about it?”—this is a contradiction.

I remember having this debate many times with vice-chancellors. Their underlying thing would be to say, “Leave us alone and don’t overprescribe”. We certainly should not overprescribe. Then, as soon as something came up, they would say, “Tell us what to do. What should we do? What are the Government going to do about it?”, and I would say, “You just told me that you wanted us to get out of the way and now you are asking us to tell you what to do”.

You will remember that Keith Joseph, many years ago, said that the first words a baby learns in this country are, “What’s the Government going to do about it?”, and sometimes I felt as though I was on the receiving end of that. If you allow that to go too far, you end up prescribing because that is what you are being asked to do. There is a dilemma for the institutions and their leadership, as well as for us.

The Chair: It is all about balance.

Q10 **Lord Reay:** Perhaps Nicola could pick this up first. Do you believe that the OfS has sufficient powers, resources and expertise to meet its duties? How do you think its expertise will be affected by the decision of the Quality Assurance Agency for Higher Education not to continue as the OfS’s designated quality body?

Dame Nicola Dandridge: I always felt that the OfS had adequate powers. There were areas where the legislation may not have been ideal and perfect, and there were various amendments that were made, but

they are fairly small scale. As far as I was concerned, the OfS was given quite extensive powers and that was not so much of an issue.

The role of the QAA is slightly different. That decision post-dates me, but my time at the OfS was certainly characterised by ongoing challenges to work with the QAA to produce the sort of assessment reports that we, the OfS, could use to inform regulatory judgments. It was a real struggle, to be perfectly honest. I think it was quite challenging for the QAA to shift from the old model to the new model.

Throughout my time, virtually none of its reports could be used for regulatory purposes, because the OfS had very specific expectations set out in the regulatory framework, which were very new and different. I think it was challenging for the QAA to make that shift. Certainly during my time, that was always an ongoing issue. Subsequently, it has stood back from the DQB role. That is something you will need to pick up with current OfS staff, because it post-dates me. I do not know how the OfS is going to manage, but it is not as if the previous arrangement was particularly satisfactory either.

Lord Reay: What do you make of the concern that, with the OfS taking on the DQB role, it could leave quality control and content of courses subject to potential politicisation?

Dame Nicola Dandridge: I do not think that is fair. Staff at the OfS are very able and competent. I have every confidence that they will deal with this properly. I know that now they are recruiting academic staff to support that function on an interim basis while they sort out a longer-term arrangement. That is a question you need to put to the current staff, because this post-dates me. As I say, I was aware that this was an issue, but the culmination post-dated my departure.

Sir Michael Barber: I have nothing to add to that. I totally agree with Nicola about the challenge that QAA had adapting from the funding council era to the regulatory era. I finished two years ago, so this is all new to me.

Lord Reay: Nicola, you feel that it is perfectly possible for the OfS to pick up the role itself and do the job satisfactorily.

Dame Nicola Dandridge: When I left, the discussion was what alternative model could take forward that function. That would not necessarily be the OfS. It was very much exploratory and I do not know where that debate got to. I do not know whether it is something that the OfS plans to do itself by recruiting appropriate academic staff or whether the OfS will look to designate an alternative DQB. You will need to put that to the OfS, not me. I do not know.

Lord Burns: Can you give us a little more chapter and verse about the difficulties that the QAA was having in supporting you as a regulator? You were giving a hint. We were very surprised at the way in which this had happened and that it was standing down. Therefore, it would be good to

know a little bit more about what you saw as the challenges it had and how it was not quite meeting them.

Dame Nicola Dandridge: I was not that close to it. I was aware of the issue. It was a really important issue for the OfS, but it was colleagues who were dealing with it. This would be a good set of questions to put to current OfS staff, who would probably be able to reply with a bit more detail than I can.

I was aware that the regulatory expectations on quality required a quite programmatic approach from the DQB: "This is the regulatory expectation, this is the evidence and this is how a particular university or provider, on the basis of the evidence that we have seen, matches or does not match those regulatory requirements". It focused on the outcomes we expected to see, not processes, to go back to that previous exchange. It is a quite different process to what the QAA was used to.

I understood that the reports produced simply were not sufficient to enable us to rely on them with confidence, given that some of these decisions may have been challenged legally and needed to be robust. There was another issue. None of this is actually a criticism of the QAA. It was quite difficult for it to make this adjustment.

Also, there was an inherent conflict in its constitution, in that it also operated a professional advisory service to the sector, which paid for that. It was quite difficult for it to have this consultancy operation that was paid for by the very universities for which it then had to carry out these independent quality inspections. The structure was quite problematic and there was a real desire from both parties to try to make the relationship work, but it was just intrinsically extremely difficult. It used up an awful lot of OfS staff time and was frustrating for everyone, including the QAA, clearly.

Sir Michael Barber: I agree with everything that Nicola has said. We were talking in answer to a previous question about new entrants into the sector. They also needed a QAA; the Dyson Institute and others had to get some quality assurance. That was all very slow and took too long, so the proposed new institutions found that very frustrating. That, again, was a change of role from the previous relationship that QAA had with HEFCE, where new entrants were not particularly encouraged or whatever, and now they really were.

Q11 **Lord Agnew of Oulton:** Nicola, on the issue of financial risks to the sector, are there a material number of institutions, in your view, that are threatened financially, or were at the time you were there? What are they doing about it? Is there a conflict between that and delivering value for money to students?

Dame Nicola Dandridge: Overall, when I was there, the position was that the sector was in reasonable financial health, and I think that people should draw great comfort from that. You are right, Lord Agnew, that across the sector a small number of institutions were financially

vulnerable. This was a priority for the OfS. We were acutely aware that, if there was institutional failure, it would be very damaging for students.

It needed to be managed very carefully, and therefore there was a lot of engagement and assessment of which those universities and providers were. We would try to get involved at an early stage. We had close discussions with those institutions about what they were doing. We would need to be reassured that they were taking the necessary steps. If they were not, we would get increasingly interventionist, saying, "We think you need to be doing more on this".

It is to the OfS's credit that, despite the huge pressures of the pandemic and everything else that the sector is facing, there have not been any widespread institutional failures. I do not think that has changed. One small private provider went out of business, the Academy of Live and Recorded Arts. The OfS was very aware of that situation and intervened. It had many troubles as an institution, and our priority was the students. It was a pretty awful experience for them, but none the less they were all offered a place in good-quality alternative providers so that they could continue with their education. That is how the system should work, and it worked.

That is how we approached it. We were also quite focused on broader systemic risk. As well as looking at the situation faced by individual universities, we were looking at some broader trends, such as the impact of increasing pensions costs, and the vulnerability to international students, which we have spoken about before. We applied our understanding and analysis of those broader trends to the circumstances of individual institutions so that, so far as possible, we were able to anticipate when they were getting into difficulties.

There is a very strong team within the OfS. It really understands the sector and the financing of the sector. I always had complete confidence that that was an area that we were totally on top of, liaising with government, lenders and banks, and other stakeholders.

Sir Michael Barber: I would like to add something on the small and specialist providers that Lord Burns mentioned, such as the Royal Academy of Music. One of my concerns all the way through was that those small, specialist providers, which are world leading and world class in what they do, were protected and continued to be able to do the amazing work that they do for our country all over the world. I was particularly conscious that, after Brexit, any institutions that we had in this country that were truly world class and world leading needed to be cherished.

We put thought into those specialist institutions. I visited the Royal College of Music—not the Royal Academy of Music—the Royal College of Art, the Leeds Conservatoire and Trinity Laban in Greenwich. These are outstanding institutions, so we were conscious that, whatever we did for the whole sector, we needed to do special things to maintain and sustain them. I am glad to say that they have come through the pandemic, which

was a big threat to them, in relatively good shape. We were looking not just at the sector as a whole but at distinctive segments of it. It is a very diverse sector, but I personally gave special attention to those ones.

Dame Nicola Dandridge: If I were looking at the sector and asking, "Where is there a vulnerability?", it is small specialists, because they tend to be very high cost and they cannot invoke economies of scale. They cannot cross-subsidise because they are so small, and yet they are competing in an immensely globally competitive market and having to perform to very high quality. There are certain categories of institution that we were always concerned about at the OfS. The small specialists fell into that category.

Lord Agnew of Oulton: The third leg of my question was picking up on something that you said earlier. You had to intervene in a small number of cases where you found that the interests of students were not being protected in terms of value for money or quality. In terms of the financial viability of parts of the sector, is there a conflict between providing that for students and the institutions themselves surviving?

Dame Nicola Dandridge: Yes, I forgot to answer that point. There is clearly a close connection between financial instability and the quality for students. The OfS had to take into account both those issues. If poor-quality provision is allowed to continue, students will choose not to go to those universities and they will become increasingly financially unsustainable, so there is a connection in that respect. Likewise, if a university is under financial pressure, it is quite likely that the quality of the students' teaching and learning and their broader experience will suffer as well.

That is why you have to see these things together, but you cannot compromise on either quality or financial sustainability. It is something that the OfS would look at in a co-ordinated way, but there is obviously a connection between the two.

Sir Michael Barber: Can I add one note of extension on that? We were conscious that, when we talk about the interest of students, it is not just the current generation of students who happen to be doing their undergraduate degree now. It is students in the short, medium and long term. You have to think like that because there are people making choices aged 16 and so on, and then there are people who have left who still want their degree to be valued and respected in the market. You have to be conscious of the short, medium and long term, not just the current generation.

Q12 **Lord Clement-Jones:** You have answered pretty comprehensively how the OfS oversees the financial sustainability of individual higher education providers. There is the question about whether you should be given a specific statutory duty to oversee the financial sustainability of the sector as a whole. Is that something that you would have welcomed, as the OfS?

Dame Nicola Dandridge: It was not how the OfS was set up; that is for sure. It was set up to ensure that students were protected and to protect their interests if there was institutional failure, so it was a slightly different model to the one you are describing, which is to protect the well-being of the sector overall.

Having said that, we were very conscious that institutional failure could be immensely damaging for the sector as a whole. It would affect the confidence that banks had to lend, so it could have a knock-on effect to other institutions. Even though we were set up to focus on the interests of students and not, as Michael has said, to keep failing institutions afloat, none the less we were conscious of the knock-on consequences of institutional failure for other universities.

That affected the way we engaged at system level. For example, there was a lot of discussion with the banks, particularly during the pandemic. We were in regular discussion because their lending was absolutely pivotal, and continues to be. At that level, the OfS is very aware that there is an issue about the sector as a whole, which needs to be nurtured and protected.

Lord Clement-Jones: Also, Michael mentioned the way the ecosystem works in terms of overseas students helping to pay for the research activities of a university. You are very conscious of the way the model works. That is all part of it, is it not?

Dame Nicola Dandridge: It is, and I am not sure we need a specific statutory duty. Taking this into account is just such an essential part of the way one regulates the sector.

Lord Clement-Jones: It is intertwined, really.

Dame Nicola Dandridge: I think so. We took it seriously. I am not sure that a statutory duty would have made a lot of difference.

Sir Michael Barber: Seeing it from the board perspective, we had an annual report. Nicola had a colleague—I believe he is still at the OfS—called Nolan Smith, an outstanding public servant who was the finance director. Lord Burns will remember that he won finance department of the year in the Treasury-organised public service finance awards. He was brilliant. He would do an annual report to us on what he had heard from the individual institutions, totalled up.

At the beginning, you heard that they were borrowing this much and projecting this much in student numbers. If you added up all the universities individually, they were projecting more students in the future than existed in the country. It was impossible when you totalled it up. It was important to us to understand that and then be able to feed that back into the system, just to give a reality check to institutional leaders. We shared that information with all the vice-chancellors so they could see that their sum total was actually not a possibility.

Lord Clement-Jones: That is very valuable.

Q13 Lord Leong: This is actually following on from a previous question, but let me explore this a bit further, if I may. According to HESA's statistics last year, there are 285 higher education providers. What percentage of that 285 are registered with the OfS?

Dame Nicola Dandridge: The OfS registers 413. It is a much larger group because it includes some small private providers that do not necessarily figure on the HESA records. If they are English, those would all probably be registered.

Lord Leong: What percentage of those registered with you are foreign-owned or outside the UK, but still providing a curriculum in English?

Dame Nicola Dandridge: That is a great question and I will need to get back to you, because I simply do not know. It will be a small proportion.

Lord Leong: What is the admission process to be a registered member? Does the OfS conduct any investigation into whether they are financially stable or the quality? Is there a process in place?

Dame Nicola Dandridge: It is a whole process, and for some of the international providers that is a hugely complex process as well, because there will be complex corporate structures that need to be investigated. That registration process is challenging and demanding for them and for the OfS, but it is essential. One criterion that is used to assess whether a provider should be registered is financial stability. That, inevitably, means not just the financial sustainability of the unit but the context in which it is operating within, say, a multinational corporate model.

Lord Leong: Especially some of those privately owned providers may want to be a member because it adds a certain amount of credibility to what they are offering. If, let us say, one of them fails because it is, for whatever reason, financially unstable and unable to carry on, the OfS steps in and takes care of the students but do you allow the institution to fail as well?

Dame Nicola Dandridge: Yes.

Lord Leong: How much pressure is there from Governments? Do they step in and say, "You can't do that"?

Dame Nicola Dandridge: If you are to be registered with the OfS, it is not just a question of credibility. It gives you access to student loans, grants and all sorts of other publicly funded sources of income. You have to demonstrate that you are financially viable and sustainable. There are certain tests that you have to satisfy to secure registration. Yes, that is a really important part of it.

Sir Michael Barber: We have not talked about registration. In the first two years of the OfS, when we were setting up, the registration of those 413 institutions was a huge task. Thanks to Nicola, the executive team and a couple of the board members, Martin Coleman in particular, it was done outstandingly well, very thoroughly checking out all the institutions.

Chair, you were talking about the pressure of prescription. In that first instance, having to get on the register itself was a new thing for traditional universities. We undoubtedly put some bureaucratic pressure on them at that time. I used to say to the vice-chancellors, “You have to separate the immediate registration process from our long-term bureaucratic impact”, so there was some of that, but we would not bail them out.

If we had to intervene, we would do so as Nicola described in relation to that small institution. We would find the students places where they could complete their degree, because they are our first interest. There would be no bailout. Had some major institution failed, that would have been very challenging. You can look at mergers or combinations.

Lord Leong: Who would instigate that?

Sir Michael Barber: We would have done that, but it would have been in constant dialogue with government. If that happened, the politics of that would be complicated, obviously. In a previous job, I was responsible for intervening in some bad local education authorities when David Blunkett was Secretary of State for Education. You had to manage the politics of that alongside sorting out the muddle that you had been sent in to sort out. It would be the same with the universities.

What is really important, to go back to the moral hazard question, is that you are not going to say, “You are in trouble, so we will just give you some money”, partly because we did not have any and partly because it would be bad for the system.

Lord Leong: You will probably agree that higher education is a global business. We are competing with the likes of Australia, New Zealand, Canada, America and perhaps some new countries such as Malaysia and Singapore, for that matter. To protect our reputation, we need to maintain quality across all sectors, curriculums and disciplines. How do you ensure that your members maintain that accessibility, so that they have good students doing the course and are not levelling down the entry requirements?

Sir Michael Barber: Everything we were doing was about improving the quality of outcomes, as Nicola has emphasised, but also, through the TEF—the teaching excellence framework—improving the quality of teaching and putting information into the system to help universities see what good looks like and adapt their systems. A major function we had was to generate dialogue about what good teaching and learning look like, after the pandemic as well as before, given all that we learned from the report I mentioned, *Gravity Assist*.

Going back to my very first answer to your Chair, the stewardship function that the OfS is exercising is all about passing on a system that has real quality for the students who are there now but also has real quality in this international climate. In my other work I travel—not so much now, but I have travelled a lot. The reputation of British higher

education around the world is outstanding, as I think many of you know. Protecting that is a massive soft power and economic power asset for this country. We were very conscious of that. Everything we did on quality had that as an incidental benefit, and an important one.

Q14 Viscount Chandos: Where do degree-awarding powers fit? Roughly how many of the 413 registered HE institutions have degree-awarding powers? What difference in the intensity of regulation is there between those with those powers and those without?

Dame Nicola Dandridge: You could be registered without degree-awarding powers. The 413 figure is the current number, so that post-dates me. I do not know how many of them have degree-awarding powers. It is a good proportion, I should think, but I could easily find that out from the OfS and let you know.

To get degree-awarding powers, you have to satisfy a whole set of additional criteria. Often, providers would get on the register and then apply for degree-awarding powers—obviously not existing universities that have them already. It would be a two-stage process. There are tighter criteria that need to be satisfied. I do not know the numbers. I am very happy to get back to you on that after checking with the OfS.

Viscount Chandos: For those that do not have degree-awarding powers but have an arrangement with a university that does, do the universities that grant the degrees exercise a level of due diligence and supervision over the institutions they are awarding degrees on behalf of that is equivalent to what the OfS would do itself?

Dame Nicola Dandridge: That is an extremely good question and it is something that concerned the OfS. In registering the university that awards the degrees, we would expect that university to ensure that the teaching offered by the other provider satisfied the OfS criteria. The way that would work is through the registration process of the other provider, but also through the registration requirements of the university that offered the degrees.

It was a live issue and sometimes quite a complicated one. Either way, we were clear that the OfS needed to ensure the quality and standards of the other provider just as much as the university that awarded degrees. It is a fair question and one that the OfS dealt with.

Lord Cromwell: I was in another meeting this morning where I was being told that the education sector is increasingly being targeted for money laundering. When you register providers, do you conduct anti-money laundering checks or have someone do it? In their ongoing operations, do you inspect their ability to control money laundering through the universities or others in the education sector?

Dame Nicola Dandridge: Yes, I believe so, but I do not know the details. Again, that is something that I can get back to you on.

Lord Cromwell: That would be helpful. Thank you.

Q15 Lord Agnew of Oulton: I am particularly interested in business models of well-run universities, and I wonder whether you have come across good ones. It is probably part of the process of registration originally. I am puzzled. I do not have expertise in tertiary, but in secondary education we can deliver a good education for £6,500 a year, with 25 hours of lectures for a longer academic year, and yet the tertiary education system complains that it is underfunded. Are there any that have cracked the formula, other than just importing huge numbers of foreign students?

The Chair: That is a good one to end on.

Lord Agnew of Oulton: Many of my colleagues on the committee think I am out of order asking this question.

Dame Nicola Dandridge: It is a great question. There is no single model, as you will well know, Lord Agnew. It is a highly diverse sector and there are all sorts of business models that reflect the particular environment that universities are in.

From the OfS's perspective, it needed to satisfy itself that the registration conditions were met, including in relation to financial viability and sustainability. It would not really be interested in how the universities operated and what their business models were above that threshold. We saw huge diversity and, undoubtedly, some of them are better than others. At the end of the day, if they were above the regulatory threshold, that would be the limit of our concern. To have gone further than that would have represented mission creep that would not have been welcomed.

As to the question of why it costs universities £9,250, this is just a different environment from schools. I am not sure that is a fair comparison, but it goes to the value-for-money issue that you identified, which always has to be a concern.

Lord Agnew of Oulton: You say that it is a different environment. I accept that it is a different environment, but where is that extra money going? If this is about delivering a good education to students, including the wider experience, why do they say that the £9,500 or £9,000 is not enough? This is the bit that no one has been able to answer for me. You have slightly ducked the question, if I can say that respectfully. Where is all the money going?

Sir Michael Barber: The university experience is partly about the teaching and learning, but it is also about the study space that we were talking about earlier. It is about the quality of the library, the support staff, the mental health support, the whole range of supports that universities provide to students. If you look at the debates that go on about student mental health, living accommodation or the wider student experience as measured by the National Student Survey, these are all things that universities are providing. A lot of the investment is going into that wider experience as well as the teaching and learning.

Our emphasis, most of the time, is on improving the quality of the teaching, which we felt over the previous generation had been, relative to research, neglected. The £9,250 is slowly losing value over time because of inflation. At some point, there will come a crunch for us collectively about how long we can hold that total flat, barring some other funding system. I am strongly supportive of the current funding system, but it might change in future.

On the whole, universities are providing good value for money. Students are much more demanding than they were in previous generations, quite rightly. They are a very impressive group and they want really good study spaces, good feedback on their assignments, good teaching, contact hours and the wider experience. You can argue whether £9,250 is the right number, but they are getting value for money in general. Going back to previous questions, it is the job of the OfS to think about value for money across the sector, as well as institution by institution.

- Q16 **Baroness McGregor-Smith:** On this point of value for money, we talk about the cost to the student. The cost to the student is also around, ultimately, what jobs they eventually get and what skills they can use to help progress their careers. How do you think we should judge the whole piece on return on investment? A student is spending so much, but if all they do is end up in a job that probably did not even need a degree, is that something we should look at more closely in how we define value for money? How do we make sure that the skills for the economy are really focused on in this? I can understand some degrees costing a lot more than others if they lead to really high-skilled jobs. In many cases, some of these degrees do not lead to any great skills.

Dame Nicola Dandridge: In a way, that goes to the point I was talking about earlier in terms of graduate outcomes being one of the metrics and outcomes that we expect as part of our regulatory conditions. Condition B3, to be precise, looks at graduate outcomes 15 months after graduates leave. There is an expectation that a certain proportion will go into graduate jobs. Some universities and higher education providers do very well on this and some do not.

Just when I was leaving, there was an investigation into business and management courses, where there is huge diversity. Students in some providers see really good graduate outcomes, as you would expect from a course in business and management, and others are not getting jobs, to quite an alarming degree. I know that the OfS was looking at graduate outcomes which that, but that forms part of its regulatory conditions.

There may be good reasons why graduates are not getting jobs, so you cannot just look at the statistic and make regulatory judgments on the back of it. There may be all sorts of regional implications, and that is something that the OfS would take into account.

Graduate outcomes are important to students. It is often why they go to university. Therefore, it is a central part of how the OfS regulates, and an explicit one of its regulatory conditions. I agree with the importance you

attach to the question, but it is certainly something that the OfS is dealing with. It would be interesting to look at the conclusions it reaches on this initial investigation into outcomes for business and management courses.

Baroness McGregor-Smith: Is 15 months enough? It is all well and good; you can tick some boxes in 15 months. What about five years or 10 years on, and matching it to the skills that we actually need in the UK?

Dame Nicola Dandridge: The data point for HESA returns is 15 months, so the data and information are there. Looking longer is a broader economic analysis. That is a really important question, but that is probably slightly beyond the OfS's remit. It goes back to that point about broader systemic analysis.

Baroness McGregor-Smith: Whose remit is it? If it is going to cost you that much to go to university—I still do not really understand why it costs as much as it does, but there is a very large cost associated with it for students—it cannot just be about what then happens 15 months on. What about five or 10 years? I am not too sure what percentage never pay their student loans off, but it is pretty significant and Treasury assumptions are pretty significant. It goes back to this whole point on how we all judge value for money for the student in terms of helping them navigate this rather complex network of options.

Dame Nicola Dandridge: From the students' perspective, they would not say that it is only about graduate outcomes. Obviously, jobs are a really important, fundamental issue, but not the only one.

Sir Michael Barber: Picking up your last point, it is a really complex set of options, so I completely agree with that. I want to go back to the beginning. One of the great things we have in this country, which we should recognise and it is easy to take for granted, is individual pupil or student-level data from age five through university and into tax returns. That is a really fantastic set of data to have.

It goes back to 1997, when I was in the department and setting up the individual pupil-level data for primary school. It is now tracked right through. That enables you to track individual students, not by name but by unique number, all the way through the system and look at what happens to them. That is incredibly analytically helpful.

You are right: 15 months on is useful, but it is not enough on its own. I completely agree with that. You can easily track the LEO data, and sometimes people write up that students who go through this course and that university get that much salary when they leave. It is not just about salary. As you are also implying, when we invest in a student to go through university, the state is paying some of that cost and we want people to be teachers, nurses and doctors, who are not going to earn as much as they would if they went into banking in the City, but there is a real social value in those roles.

We need to track this in a number of sophisticated ways: the time lag that you are talking about, the nature of the role, what value you put on a teacher as opposed to someone going into banking in the City. This is obviously an area that you are familiar with from your current role, but we also need to look at that for what happens to people who go through school and then into a degree apprenticeship or an apprenticeship. There is lots of room for further analysis in this area and that would be a very rich place to go.

Lord Burns took the Chair.

Lord Agnew of Oulton: Can I pick up on Baroness McGregor-Smith's point? The hidden secret is that some of these degrees cost very little to deliver. We have seen shocking examples of Russell group universities offering history or English literature degrees with four contact hours a week and maybe two essays a term, taking a month to give feedback and so on. That is a form of cross-subsidisation, but I do not think it is being done honestly. I do not think the children signing up to those courses understand the extent to which they are subsidising the rest of the system.

To pick up a point you made earlier, Michael, about costs not being comparable to secondary, of course I accept that. I am not trying to be simplistic about it. You mentioned housing. Housing is a different pot, which they are paying increasingly large sums of money to access and very often not getting on or near campuses. I am worried that you are being a bit soft soap on all this. Maybe I am being too combative.

Sir Michael Barber: One of the things we got started on in my time, which is now over two years ago, and then Nicola carried on, and is now being taken forward by the current OfS, is the idea that, using the specific powers, it would investigate courses that looked like they were very low value for money. Nicola mentioned that on the business courses a few minutes ago. That is an important task. We would certainly have got further with that if there had not been a pandemic.

It is really important to get into these value-for-money questions. I do not want to soft-soap the general gist of your argument. It is important and should be taken on. What matters is that the student gets a good education, good outcomes and the opportunity to thrive after they leave. I am not on top of what the current OfS is doing and I do not want to comment on it, because there is nothing worse in life than your predecessor commenting on what you are doing now. I am glad to see that those investigations are taking place, because they are important for the reasons you are giving.

Lord Agnew of Oulton: The other end of the spectrum is that we are massively underproducing doctors in our country. Then we are simply stealing them from the third world, where there is a shortage already. There should be a clearer debate on this with the Treasury to ensure that we are investing much more in these expensive but vital courses, to Baroness McGregor-Smith's point. I would like to see much more clarity

on this. You are right: it is not about just being a banker and going to the City. It is about all the social utility that a good degree can deliver. Some of these degrees are not going to add anything to their longer-term occupations.

Sir Michael Barber: There is an underlying point there about how much the Government, on behalf of the country, plan ahead for particular types of degree. We did quite a big expansion of medical schools in the four years following Jeremy Hunt's proposals when he was Secretary of State for Health, but there is a need for more. I am sure that will all happen. The premise behind the OfS was not a state planning of future employment. It was a market with choice for students and opportunity. That is what we were trying to regulate, so there is an underlying tension there.

Dame Nicola Dandridge: I have two quick points on that. As Michael says, the OfS model is premised on student choice, students choosing where and what to study, but that works only if they have good information. That goes back to your earlier point about whether they are aware of how many hours and what they will receive, which is why student information is so important. The system works only if they can make an informed decision, so far as that is possible.

In another part of what the OfS does, it incentivises certain courses—not very much, because it does not have the money to do it. When I was there, the government funded it to support postgraduate taught master's degrees in artificial intelligence, recruiting graduates who had some sort of scientific background but did not necessarily have the required skills to go into an AI career. We funded some of those master's places and it was a very successful programme.

If you want to see more shape given to graduate outcomes, there is a mechanism there for the OfS to do it, but it was very small scale. The primary model is informed student choice.

Sir Michael Barber: This follows from Lord Agnew's question, but it is just a minor obsession that I have. One area where the Government should think about encouraging universities to develop courses is in languages such as Farsi, Arabic, Chinese, Russian and so on. We need them for—let us put it this way—foreign policy reasons. It would be good to have more graduates in those fields. We have underestimated that in the last two or three years, or probably longer, five or 10 years.

Q17 **Lord Cromwell:** Overseas students enrich our universities in both commercial and cultural ways. Is there in any sense a limit? Is there a percentage of overseas students that any university or education provider should not exceed?

Sir Michael Barber: We never wanted to put a cap on it. At some universities in this great city, 60% or 70% of students are overseas students.

Lord Cromwell: Let me put it differently. Does that concern you?

Sir Michael Barber: No, as long as the student experience is strong and the overseas students are not pushing out domestic students, so you do not have a cap on student numbers. I think it gives us global leadership and some institutions that are of outstanding quality that any country in the world would bite your hand off to get from us. We need them, so I would not put a cap on it.

Lord Cromwell: Nicola, do you have any concerns, not necessarily a cap?

Dame Nicola Dandridge: No, I agree with that point. There are two caveats. One is quality—that large numbers of international students do not impact on the quality, not just of those individual students who come expecting a broader cultural experience and find themselves surrounded by students from their own country, which was not their intention. There are quality issues for them, but also for the broader student community. The OfS is very aware of that and it falls within the remit of its regulatory framework, so it can deal with it.

The other caveat is financial vulnerability and the exposure of some universities to the financial consequences of over-reliance on students from certain countries. That is a risk that needs to be taken seriously.

Viscount Chandos: Does a cap on domestic fees that is now declining rapidly in real terms and an uncapped fee level for overseas students not build into the system an incentive that distorts that balance in terms of allocation of places?

Dame Nicola Dandridge: It undoubtedly builds an incentive. Whether it distorts depends on what you mean by distort. Subject to those caveats about quality, it can be a good thing, but it is undoubtedly an incentive.

Sir Michael Barber: You will be writing a report and giving advice on the OfS and other things. Your question implies, which is quite right, that, when you are making decisions on domestic fees or the numbers of overseas students, you have to think about universities in the round. These institutions depend on research funding, overseas student funding and domestic student funding. Getting that balance or combination wrong could have negative consequences or create distortions.

The Chair: Thank you very much, Nicola and Michael. It has been a fascinating session and we will no doubt talk to your successors and to Ministers who are engaged in this. You have given us some very useful background, getting us ready for taking it on to those people who are running this now. Thank you very much. It has been a very good session and you have been very helpful.