



HOUSE OF LORDS

Industry and Regulators Committee

Corrected oral evidence: The Office for Students

Tuesday 21 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 Leong; Baroness McGregor-Smith; Lord Reay.

Evidence Session No. 3

Heard in Public

Questions 30 - 38

Witnesses

[I](#): Professor Susan Lea, former Vice-Chancellor, University of Hull; Sir David Eastwood, former Vice-Chancellor, University of East Anglia, former Vice-Chancellor, University of Birmingham and former Chief Executive, Higher Education Funding Council for England.

Examination of witnesses

Professor Susan Lea and Sir David Eastwood.

Q30 The Chair: Welcome to the third evidence session of the Industry and Regulators Committee. We are taking evidence on the Office for Students. The session is being broadcast live on parliamentlive.tv, and a transcript will be taken and will be available as soon as possible.

Our witnesses this morning are Professor Susan Lea, formerly vice-chancellor of the University of Hull, and Sir David Eastwood, formerly vice-chancellor of the University of East Anglia. Good morning and welcome to you both.

You are both familiar with the Office for Students and have worked in higher education for some time. Do you think that the remit of the Office for Students is clear? Has it been given a clear job by Parliament and the legislation? Has that changed over the time you worked with it?

Sir David Eastwood: Thank you for the invitation to be here. I should probably add that before I went to the University of Birmingham I was chief executive of the Higher Education Funding Council for England, the predecessor body to the OfS, which may influence some of the things I say.

It is an interesting question. There was a big shift when HEFCE was abolished and the OfS established, from a regulator that was also a funder but had regulatory responsibilities for the institution of the university to one with an explicit brief for students. That was conceptually flawed because universities are in the main large, diverse institutions. They have multiple missions: the generation of knowledge; teaching; research; and, in almost all cases, a large civic role. In the transition from HEFCE to the OfS, something was lost in that conspectus across what a university is and what it is for.

Since the OfS was established, we have seen a move from specific regulation on the student, defining the student interest and creating instruments that the OfS thought would give it line of sight on such things as teaching quality, towards recognition that the overall health of an institution, its financial stability and sustainability, is critically important, both in the wider role of a university that I just described and explicitly for students.

It was interesting early on that one of the things that the OfS insisted universities had was a strategy for completing the education of students if the institution failed. That seems to me a radically suboptimal outcome. Of course, were an institution to fail it is necessary that such provision is in place, and indeed it always has been. Over time, the OfS has come to appreciate that the health and sustainability of an institution, which is an institution of choice for students, are more important to the student experience than a continuity plan. We could talk at greater length about that, but my answer to your question is that, to deliver what I still think

is too narrow a remit, the OfS has of necessity had to broaden its line of sight and its regulatory accountability for universities.

Professor Susan Lea: Again, thank you for the opportunity to present evidence. The OfS was initially set up to address fragmentation in the market as a result of diversification in the market intended to grow the HE market in different ways. That is a laudable aim in itself. If we have a regulator, we want consistency across institutions. Over time the regulator has shifted, as David said, evolving from its original position with quite a tight remit. That is to be expected because new regulators are, by their nature, immature and they evolve over time. We see that in the development of the OfS.

I do not necessarily think that the shift of remit is outwith its bounds. As David said, when we run institutions, we want to know that they are able to discharge their responsibilities and accountabilities. All those things are positive. Also, the focus on student voice is important. I agree with David that by splitting universities into student voice and research, and not being able to take account of all that within one regulator, causes problems, but the focus on students is important and perhaps we will come back to how well the Office for Students discharges those responsibilities.

In short, the responsibilities have shifted but have largely moved appropriately. Finally, the key point is that regulators can have ambitions and aims, but it is how they discharge them, in the operationalisation of those responsibilities, that I think there is probably more to discuss.

Q31 **The Chair:** We will come on to issues such as students. Following that answer, do you think that in developing its role and remit the OfS has been proportionate in the way it examines universities? We have heard criticism that it has been micromanaging and losing sight of the bigger picture in the strategic approach to higher education.

Professor Susan Lea: As I said, part of this is about maturity and evolution, and the OfS finding its own way along the path. As the remit expanded, sometimes that has been related to political pressures or particular policy initiatives of Ministers, which is entirely understandable. In the discharge of those responsibilities, sometimes we have experienced on the one hand a slight challenge in articulating an understanding of the overall strategy and how it fits together, both for government and the OfS, and on the other a focus on specifics or particulars. That is how regulators work: they look at quality and standards, or at student experience, for example. Perhaps there has not necessarily been an understanding of how the bits fit together and integration happens. Therefore, there have been some challenges in getting into the nitty-gritty and perhaps not fully understanding quite how that resonates and fits with other aspects of the business, if I might put it in those terms. There is work to do there.

One way forward would be if the OfS was at times a little more collaborative with universities. We could then explain some of those

things. The OfS tends to take quite a strong regulatory position so that discourse, dialogue or mutual learning is not necessarily how it comes at things at this time. Sometimes, that would help the OfS discharge its responsibilities more effectively as well as helping us to discharge ours.

Sir David Eastwood: I have three points. In the theology of regulation, risk-based regulation is an article of faith much more often professed than practised. It is genuinely hard to achieve that. In the early dialogue that the OfS had with the sector, it is true of Michael Barber and Nicola Dandridge that they said they wanted to work towards risk-based regulation. Institutions that were at low risk would have a much lighter touch. I would like to think that I ran one of those until just over a year ago. It certainly did not feel like that; my colleagues would not say that we were moving towards a risk-based system. That may relate to the maturing of the regulator—Susan’s point—but it was a promise made to the sector that has not been fully delivered.

Secondly, we have seen a considerable increase in the data requirements of the OfS. There is no doubt that that places considerable burdens on institutions, particularly smaller ones. To declare an interest, I am a board member of the Royal Northern College of Music. The capacity of such an institution is vastly different from the capacity of an institution such as the University of Birmingham in responding to those data requirements. In some areas, the data requirements have been perceived by institutions as disproportionate, not least because it is unclear what the regulator will do with those data when it has them.

Thirdly, building on a point made by Susan, one of the things that is substantially absent at the moment is dialogue between OfS as a regulator and the sector. It is almost as if OfS thinks such dialogue would diminish its regulatory authority. Often, dialogue with the sector to understand what the regulatory preoccupations and political priorities might be, and—as Susan indicated—conversation with figures in the sector who could discuss the best ways of achieving that, would not in any sense compromise the authority of the regulator. Over time, it would enable particularly the data and reporting requirements of the OfS to be diminished and better targeted.

The Chair: Has that dialogue been lacking from the start?

Sir David Eastwood: That is an interesting question that I will answer in two ways. Michael Barber and Nicola Dandridge were assiduous in getting out into the sector to visit institutions, either individually or in clusters. That engagement with the sector at a senior level of the OfS is less conspicuous now than it was in the early days. That is the first point I would make.

Secondly, often the fruitful dialogues—I tremble to say this—are not necessarily those with vice-chancellors. They might be with directors of estates, directors of finance, chief people officers or heads of HR. The way we used to operate when I was chief executive of the funding council was that often those informal conversations preceded a decision we made

at board level to institute a new regulatory or data requirement. From the sector's point of view, it would be fair to say that the regulator seems more distant now than it did in its initial incarnation. The richness of that dialogue could lead to more proportionate and risk-based regulation, and more targeted requirements on the part of the regulator.

Lord Agnew of Oulton: On the issue of data, David, you said that it was onerous. Is this not data that you would have in the normal course of your businesses? Can you give us some examples of what you might consider irrelevant data that you are being asked to or have been asked to submit?

Sir David Eastwood: The issue is often not necessarily whether you possess those data but the form in which you possess them. A lot of charity governing bodies sign off returns to the OfS, for example on finance, that are in a different form and overlaid by different preoccupations from the data they use for their own financial oversight of the institution. Sometimes the sector is its own worst enemy. A good example is the estates return; the OfS indicated that it no longer required that but most universities continued to submit the data. It is not wholly one way. It is partly the requests for data and partly the form in which they come.

Professor Susan Lea: I agree with that. David more or less nailed it in that answer. One of the challenges is the timing and volume of data. It keeps coming all the way through the year. It would be hugely beneficial to have more constructive dialogue about the forms of data we have, what we use them for, how they might best serve the purposes of the OfS and how together we might co-operate for better regulation.

Q32 **Lord Agnew of Oulton:** To what extent is the oversight work determined by the Government? Is the guidance issued by the Government to the regulator too prescriptive?

Professor Susan Lea: There is obviously a relationship between the Government and the OfS. That is logical and understandable. Some of what we see are shifts in the focus of the OfS due to shifts in government policy. Some of that is also understandable, but as Ministers change we tend to feel that change through the regulation. Again, one might argue that that is appropriate. For me, the critical point is that it needs to link to a wider strategy. What is the purpose of higher education in the UK? How do we best deliver, and continue to deliver, a sector that serves our own country well but is also of great international standing and importance, and fundamental to our future? What do we need to regulate, and not need to regulate, in discharging that responsibility?

We are all working to the same agenda. We want a strong higher education sector for our country to deliver skills, research and innovation. Sometimes it feels to me and others I have spoken to that the focus or emphasis of policy as it comes through the OfS can shift and change in a way that is not necessarily linked to that core strategy. Levelling up is a good example. It is important. We know about the inequalities in our

society and the importance of addressing them, yet in fact the OfS cut funding to a programme called Uni Connect. That came through the changes. The Government have a policy on economic disadvantage and social mobility but the Uni Connect funding was cut by a third.

A specific example here is the Humber Outreach Programme, which has been cut by 52% over the last two years. That programme works with schools and colleges, and has had fantastic outcomes for young people from deprived backgrounds in that area, such that the OfS itself said it was truly impressive, yet the cuts in funding mean that we will not be able to run that programme in the way we did previously. Indeed, it might even be compromised. Again, there is a point about dialogue. How do we join up government strategy and policy, appropriate and proportionate regulation and the importance of institutions in their different places with their different missions, such that together we make sure that we deliver a truly excellent higher education system for this country?

Lord Agnew of Oulton: Why do you need to rely on those individual little dollops of money? Within your own budgets, governance and mission, surely you could deliver that programme yourselves; it would not be that expensive.

Professor Susan Lea: Yes, that is a good question. One challenge is that financially universities are in a position where fees are flat but costs are rising. We will come on to that. We must discharge many points of responsibility, whether on mental health, sexual violence, quality and standards, research funding, et cetera. That can be quite challenging. If the Government have strategic imperatives to address inequalities in our society and to make that difference through enabling young people from disadvantaged backgrounds to come into the sector, it would be helpful were some of that to flow through the OfS in the way described. Not all the funding comes from government, but it helps to subsidise it and enables one to do yet more in a way that adds value for money and has considerable impact. It is a collective. It is together; it is not all or nothing.

Lord Agnew of Oulton: Are the Government not offering enough clarity, which in itself rather confuses the OfS mission?

Professor Susan Lea: There is room for improvement in that space. There is more one could do through constructive dialogue to ensure that we all get into a slightly clearer place and do better in universities.

The Chair: Sir David, do you want to come in?

Sir David Eastwood: Yes, there are two points. First, on the funding point Lord Agnew raised, it is of course true that universities look as though they are well funded, but that is for specific activities, most notably teaching and research. Quite a lot of what universities do in their communities and as part of their civic mission, if you look closely at the budget, is actually a tax on their students. You must have a good reason

to transfer money from the tuition account to other activities, particularly, as Susan said, in a period when the real tuition income of universities is declining.

On the earlier point, one problem the OfS has as between government and the sector is what we might describe as the cadence of political guidance and political intervention. It has always been the case, whatever the regulator for higher education, that there has been an annual letter from government to the head of that institution setting out government priorities for the year. We now see more volatility in that, with the OfS feeling it has to respond swiftly to ministerial concerns. That has been the shift. Obviously, the OfS is closer to government in the architecture of regulation than, for example, its predecessor body was.

My other point is that access and participation has rightly been a concern of the OfS since its institution, as indeed it was of its predecessor bodies. Universities came up with their access and participation plans. It is in the nature of shifting access and participation that this is long-breathed. In the main, courses are three years, some of them four, and initiatives take time to bear fruit. A shift in the reporting on access and participation or in regulatory priorities risks undermining in quite important ways some of the long-term initiatives that universities have, working with schools, colleges and other agencies in the community to enhance participation.

Lord Agnew of Oulton: To pick up on my exchange with Susan on outreach, I established an academy trust on your turf in Norfolk. You could have a relationship with one organisation accessing 10,000 pupils. It would cost very little. The data is all there on the high proportion who are disadvantaged. The same is true on Susan's old turf in the Humber, with the David Ross Education Trust built on the back of failing schools with high levels of deprivation. My point is to get away from this learned helplessness: "Oh, the Government stopped giving us money. Therefore we must stop." We could think a little more innovatively with some of these organisations that did not really exist five years ago. One relationship with two or three people would tap into thousands of disadvantaged children who could then be shown the path into tertiary education. I already had a go at Susan and I must not be too assertive. David, push back and tell me why I am wrong. That is all I am asking.

Sir David Eastwood: I do not think you are wrong. A lot of universities do precisely that and engage with multi-academy trusts. I chair one that has good relationships with local universities. When I was vice-chancellor of Birmingham, we were the only university to build our own free school, now the most diverse school in the city. Those sorts of relationship are being established and curated. One of the interesting challenges in access and participation is encouraging ambition while not constraining choice. One wants to raise the ambition of young people through engagement with schools and trusts but not say that they must go to their local university. When we built our own free school, the University of Birmingham School, we did not set as a KPI that pupils should progress

to the University of Birmingham but that they should progress to higher education.

- Q33 **Lord Reay:** The OfS has a duty to promote value for money in higher education. How does the OfS evaluate whether value for money is provided and does it carry out that function effectively? Is it possible to do so objectively or do those judgments reflect political and economic priorities? What impact does that have on providers?

Sir David Eastwood: Value for money in higher education is quite difficult to establish. I chaired for seven years Universitas 21, the leading international network of universities. We produced annually an evaluation of the effectiveness and value for money of higher education systems, not of individual institutions. It was run from the University of Melbourne. Every year we ran it, the UK came second for quality and first for value. That is one international measure of the efficiency of UK universities. I do not think that disposes of the value-for-money point at all, but interestingly contextualises it globally. Those reports are available on the Universitas 21 website.

Specifically, the OfS sought to continue using some proxy measures of student value, the National Student Survey being one example, and to introduce other measures such as the teaching excellence framework. It continues to use the so-called TRAC methodology as an annual reporting tool from universities, which will tell you, for the sector as a whole and for many universities, that they now run a deficit on home tuition cross-subsidised from international students. That does not necessarily answer your question on value for money. However, it answers a question about whether universities are fully funded for what they do. The challenge in any VFM calculation is the cost of good teaching in higher education. The secular trend, as funding fluctuates for teaching, is that staff/student ratios are adjusted. That is how universities respond to a higher or lower level of tuition income. There are proxy measures such as TEF and the NSS for what the consequence of that might be in terms of student satisfaction, but a rigorous measure of value for money is difficult to construct. As I said, the best measure that has been constructed globally is the systems measure from Universitas 21.

Professor Susan Lea: I will not reiterate points made by David. Value for money is, absolutely, an important concept, but it is difficult to measure. The value of anything is about perception. I am a psychologist, so I know a little about perception. We are talking here about value for money for students because we are talking about the OfS. As David said, there are a variety of proxy measures for how we achieve that, but some of the granularity and contextual factors that impact value for money are critical.

A student may well go through university in their place, having come from a disadvantaged background; they undertake a course and do as well as could be expected, with all the support they can get. They then go out into the creative industries or set up their own small or medium-sized enterprise. They do not earn vast amounts but are enormously happy

with both their university experience and the outcomes it delivered. That may be very different for someone who did a different kind of course, because we are talking about student expectations of what they will get and then what they are delivered.

I sat on the UUK value-for-money task force, where we tried to have a good look at that. The OfS is right to prioritise value for money. That is important to us all. Again, coming back to the dialogue point, when I was on that task force we struggled a little to engage with the OfS in discussions around our own work on value for money. Collaboration for better regulation, which we keep coming back to, might be how we can satisfy those value-for-money concepts in a holistic and helpful way.

Lord Reay: In more recent student experience, lockdown and strikes severely affected quality of life. Has the OfS taken sufficient action or measures on students' behalf to ameliorate the consequences of those two issues?

Professor Susan Lea: First, universities worked incredibly hard during Covid to put students first. We certainly did so at my own university and I think David would agree that we all did. Students at many universities were very satisfied with the way universities responded. The OfS tried during that period to be less bureaucratic in its management of universities and in my experience worked more constructively with us through that period by lightening the burden or load on us.

The OfS has been right to raise issues around what students were getting, and universities worked very hard on that. From my perspective, the OfS was proportionate and fair. The most important thing is the point going forward, because what students very often say they want now in terms of value for money is classroom teaching, and we know that for many students a blended experience is very good for developing the higher order skills that we want them to have in universities and for accommodating their diversity of needs. Some students are carers. Some students are working.

Going forward, as we move out of lockdowns and back to more business as usual, it would be folly to say that we need to move back exactly to 100% classroom teaching. We learned so much from Covid. There were positive things. At the University of Hull, I ran projects on learning from Covid for staff and for students. Students told us that, for example, the combination of blended learning was good for both their experience and the way they ultimately learned.

That takes me back to the dialogue point. As we move forward in terms of the OfS, we need to work with students to see what is best for them, but they do not always know entirely what is best for them. It is how we manage to work with them to facilitate the best type of learning and the best experience they can have.

Sir David Eastwood: On the pandemic experience, I agree with Susan that the sector responded imaginatively and swiftly to the challenges of

Covid. Given that often the regulatory requirements were more stringent on universities than on other institutions, I think that within the regulatory framework we operated pretty effectively. An interesting thing is the consequence of that, which is that students now want both. They want face-to-face experience and substantial digital support and enhancement of their learning. The net of that has been to increase the cost of delivery rather than to diminish it.

Another thing that is not yet fully appreciated in higher education is the massive dislocation in schools and the consequences of that in absences, fractured learning and so forth. A group of head teachers said to me only last week, "Do universities realise the broken nature of the students who will be arriving in September?" That is a really big challenge. We will be living with those consequences for a substantial period, as well as the costs of addressing them.

The point on industrial relations is well made. Industrial relations in the sector and the current pattern of strikes are deeply disappointing. It is an interesting question as to what a regulator should do, as distinct from the sector leadership, to address mending those industrial relations. You are right to draw attention to that.

Q34 Baroness McGregor-Smith: How does the Office for Students best engage with students on a day-to-day basis? How does student input drive what the OfS does? I am particularly interested that you said that universities did well during Covid. I did not hear the OfS demand refunds for all students when they did not have any teaching for six to nine months, or when they came back and the virtual experiences were pretty appalling in many areas. You may both feel that you had good experiences with your students in that period. Did you see the OfS engaging with students in the crisis we had at the time of Covid and then on industrial action? When we loop that back to value for money, the students did not get anything. Where was the Office for Students there and did it really represent students' views in that period?

Sir David Eastwood: The Office for Students was in dialogue with universities throughout the pandemic, asking us what we were providing and could provide. Of course, it is true that face-to-face teaching was not provided but online instruction was. That clearly was valued because, post pandemic, students hoped it would continue, if only as a supplement to their learning. The challenge during the Covid period was that if universities were doing the best they could—the cost impact of the pivot to online was considerable—had the OfS required universities to make refunds where they were using best endeavours to deliver their education, it would have destabilised a lot of those universities. It would have pushed some universities over the edge, so I think the OfS was wise not to do that. Of course, most universities that had their own residences gave rebates to students who were not there, and bore the cost of doing that.

On the student voice, it would be a fair criticism not just of the OfS but of the sector more generally that the student voice is often imperfectly

expressed. The reflex historically has been towards the National Union of Students and to student unions in universities. Recently, we have seen some challenges around that. I am not for one moment saying that that is illegitimate, but it is a politicised version of the student voice. Where universities need to be more attentive in addressing this is on the student voice expressed in real time as a commentary on students' experience on the programme. Similarly for the OfS, the only way to hear a student voice is to engage with students. I do not think there are proxies for that. Although it continues to be tweaked, the best proxy we have is the National Student Survey, but it is a summary survey, often influenced by particular moments in a student's career rather than a real-time dialogue between universities, students and the regulator.

Professor Susan Lea: As somebody who grew up with participatory pedagogy and partnerships with students, I sometimes struggle to understand why the student voice is not louder both in our own institutions and in the Office for Students. Your point is a fair one. David already alluded to that.

To take the student voice at the Office for Students, it has one student on its board, which is to be commended, but we know that having two students on a board can often be more helpful and encourage them to speak more ably and with more confidence. That might be something it would want to consider. There is a student panel in the Office for Students comprised exclusively of students, which reports through the student representative on the board on matters of concern to the OfS. That student panel is diverse, which is terrific, but as I understand it the majority of those students are postgraduates and there is only one undergraduate student currently on the panel. I wonder whether perhaps there is scope for a little look at that and some diversification so that we get multiple voices of students. We know that students are monumentally diverse. The OfS needs to hear that diversity of voices, perhaps through its formal governance structures. It also does a set of things in between those boards and the panel, so it speaks to students outside them. That is important, but perhaps something it could look at in future is how effective it has been in listening to the student voice meaningfully and in dialogue.

On our institutions, I agree with David that we all have more work to do. As I said, I do not really understand the reticence about listening to students. In my experience, they are often wise and actually quite mature, and provide us with information and a perspective that we cannot hope to have ourselves. If the OfS wants to look at this in a different way, perhaps it could ask, "How can we be assured that universities engage actively and meaningfully in dialogue with their students? How might they do that?" I am not saying that we need yet another measure to tick, but perhaps there is something about compelling institutions to engage meaningfully with their students rather than talking at them. Of course, you can have students in a room, but that does not necessarily mean that you hear their voice. There is

something there that might be interesting to take forward, building on the work that the OfS has already done.

- Q35 **Lord Cromwell:** You said that the OfS had to broaden its line of sight to embrace a diversity of providers, to understand the integration of the different systems in a given university, to try to hold the slippery fish of value for money, to get better at listening to the student voice and to rethink the way it grabs data from providers, with the constant refrain of constructive dialogue around all of that. Candidly, is the OfS up to the job? That is a lot of expertise. Does it have that? When you have given me an answer on whether you think it actually has the skill set to deliver that, does it have the powers and resources needed to do the job?

Sir David Eastwood: On your first question, the answer is no. It does not currently have the people it needs to engage fully in those dialogues. You should cut me off if you think I am being nostalgic, but in HEFCE there were regional teams in dialogue with institutions. Every Wednesday afternoon, I would meet the regional teams and we would talk about the sector and particular institutions that might be giving us cause for concern. Those relationships were for much of the time informal, but we could make them very formal. We had the right to put members of the regional team on governing bodies where we believed that an institution was failing. It does not follow—perhaps it does in some theologies of regulation—that through that informed dialogue you somehow diminish your ability to make a regulatory reform or intervention. As currently constituted, I do not think that the OfS has the capacity to curate those kinds of dialogue with institutions. It would be enhanced if it did. Then you would not be wholly reliant on proxy measures.

Lord Cromwell: Is that a matter of resources or of its approach?

Sir David Eastwood: Interestingly, the OfS has twice the number of people I had when I ran HEFCE, and the regional teams have disappeared, so you can draw your own conclusions from that. Clearly, part of the regulatory remit for the OfS was new entrants to the sector and new kinds of provider, in its language. It used its resource to address questions of new entrants and what it thought were the more vulnerable institutions. I am sure that to create the kind of capacity I am suggesting would need some modest enhancement of its resource, but the return on that would be very valuable, to go back to the opening discussion we had on what you might describe as informed regulation of the sector.

Lord Cromwell: Before I go to our other witness, I have a question about powers. Does the OfS have the right powers? Are there too few or too many?

Sir David Eastwood: I think the answer is that it has sufficient powers, but you only get a good answer to that question in a time of real crisis. I am aware of some institutions that were in difficulties when the OfS intervened and, indeed, brought in other advisers and consultants to work with the institutions. Some stabilisation was the result of that, but it is only when there is a serious crisis—I can think of some on my watch—

that you understand whether the regulator has both sufficient powers and the right line of sight to make appropriate interventions. We have not yet seen a crisis of that order of magnitude to test that proposition.

Professor Susan Lea: I echo David's answer to your first question. The OfS as currently constituted does not have all the skills required. We have already talked about that, so I will not repeat it, but there is probably scope for slightly widening the team, as we said, and thinking about what that team needs to involve. Does it have the right skill set and skill match when it does that? As we have said a number of times, I believe that that would lead to better regulation, because it would lead to better understanding, appreciation, dialogue and contextualisation of the metrics. I think that is true.

On powers, I have a slightly different answer. In its new strategy, the OfS talks about intending to see greater investigation and enforcement. Those are the words that it uses in its strategy. One can debate that. Obviously, that is what a regulator is for. I have worked in health with a lot of different regulators, so I have quite a lot of experience with regulators. One of the challenges that we have seen in the past is that sometimes it has not taken those steps when I might have expected it to do so, so this may be a slightly different answer from David's.

You may recall that during Covid there was a moratorium on unconditional offers. It was in the press a great deal. At the university I was at, we abided by that moratorium. I know of others who did so, too. We did not make unconditional offers, although we had made some of these offers in the past, largely due to widening access, where research suggests that some of those students do not take their foot off the gas. Quite often, they are actually motivated by the fact that they have a place at university. Nevertheless, we abided by the moratorium, as did others.

Unfortunately, some universities did not abide by the moratorium. The result was that my university and the others I am thinking of struggled with their recruitment, because our students went somewhere else. Financially, that caused me quite a lot of trouble, if I am honest. I know that it caused some of the others a bit of trouble, too. I do not think there were any consequences for that, so when it came to the next year and the moratorium was extended, I tried to have a dialogue with the OfS to say, "I am in a bit of a pickle now, because I abided by this and it hurt my university as a consequence. Now I don't know what to do". That was a bit difficult. Sometimes the enforcement may not have been entirely consistent. Of course, we were in Covid and it was difficult, so there are lots of reasons why that might have been the case. It is probably something that we want to rethink.

Lord Cromwell: That dialogue gets quite close to whistleblowing, does it not? I have a second part to the question. I was startled to find that the QAA—the Quality Assurance Agency for Higher Education—and the OfS had dissolved their relationship. How do you think that will affect the expertise and stuff that they are able to bring?

Professor Susan Lea: Can I come back on one point? I was not saying anything about whistleblowing. What I wanted to ask was whether I could make specific types of unconditional offers that we know bring benefit to students. That was a dialogue I could not have. I want to correct that point.

Lord Cromwell: Thank you for clarifying.

Sir David Eastwood: On the question of the QAA, the so-called designated quality body, it is very unfortunate that this divorce has taken place. The QAA has an international reputation for the quality of what it does. Indeed, it has international contracts to demonstrate that. Clearly, in a way I am not competent to comment on, the relations between the OfS and the QAA became very difficult. The QAA is now under new leadership. I hope that there is a way back in order to rebuild that, perhaps with different terms of reference and a different understanding. If you put the designated quality body within the OfS, it is a different version of our earlier conversation. It does not have the capability to do that kind of quality assurance, so it would need either to buy it in or to contract it out.

Lord Cromwell: Would the OfS agree with you on that point?

Sir David Eastwood: I think it would agree that it does not currently have that expertise. It would have to buy in advisers, probably from the penumbra of people the QAA used to have on call.

It is worth going back to some of the history. In the 1990s, the higher education quality body was established within the funding council, post the dissolution of the binary line in 1992, but was then spun out into the QAA, precisely because the quality assurance function is much more appropriately delivered by an arm's-length body. That is one of the requirements of ENQA, the European accrediting body for quality assurance agencies. It is unfortunate for the sector and for institutions and I hope that in some way there could be a—

Lord Cromwell: Rapprochement.

Sir David Eastwood: That is precisely the right term.

Professor Susan Lea: I agree. As somebody who has had oversight of quality and standards in many institutions, the focus that such governance brings is positive and important. I hope, too, that the issue with the QAA is resolved in a way that enables the high standards that we have come to expect and want to see continue to be discharged.

Q36 **Lord Agnew of Oulton:** I want to hear the views of both of you on the financial risks that the sector faces. We will start with David, but a few months ago Susan, you wrote a paper highlighting the fact that 13 institutions potentially faced imminent insolvency. I want to get a sense of how bad you think it is and what the sector is doing about it.

Sir David Eastwood: If you project to 2028, the value of the tuition fee will be 66% of its real value in 2012, even when you do not load on the fact that universities carry a higher inflationary cost than CPI. That is the pressure across the sector as a whole. Clearly, there are institutions in the sector that are large and more diverse, and they have high levels of resilience. If you look at their days' cover, lots of them have well over 100 days' cover. There are other institutions that are very significantly challenged. They have tighter margins. They would say that they are challenged by the current UCEA settlement, as a result of the strikes and disputes.

I think we will see some consolidation in the sector in the coming years. I hope that that consolidation will take place in an orderly way, where the dialogues between institutions start before one institution is very distressed. A curious feature of university funding is that the majority of your tuition income is for three or four years, so if they are not careful, universities can fall into a salami-slicing of expenditure that, over time, substantially impairs their effectiveness and the effectiveness of the education they provide. It is therefore much better to initiate those conversations early.

No doubt committees like this have heard witnesses say over a long period of time that we will see institutional failure. It is unlikely that we will see institutional failure. The political imperatives are against institutional failure. Therefore, they point towards what I am describing as some consolidation in the morphology of the sector. That is what I think we will see.

Professor Susan Lea: To follow up on your point, Lord Agnew, the figure of 13 was a quote from the press that I then used in the article to which you refer. In fact, last week I published a paper on the transformation of Hull with the Higher Education Policy Institute that talks quite a lot about this, too.

Without doubt, these are challenging times, as David said, with the cost of living rising and fees flat. Of course, the bulk of our income comes from fees. The other challenge for universities is that we are being asked to do more with less. We alluded before to some of the other critical issues that have come out post Covid, such as mental health issues and sexual violence. We are being asked to do a variety of things now that require us to do yet more with our money.

Institutions are diverse, as we have said. Some are more resilient than others. We have different ways of being resilient because we are subject to different levers and drivers. Like David, I think that going forward there is likely to be the need for some consolidation at various points in time. I absolutely agree that the driver for that must be our view of what the purpose of higher education in our country is and how we can get the best value from that. If universities in particular parts of the country were really to get into difficulty, it would have huge impacts on those places. Those impacts would affect not just the university population, but the productivity, economic growth and future of those places. That is not

somewhere we want to go. We want to improve the position of our country, which we know is worse than that of many other OECD countries. For me, the whole funding landscape and the thoughts about financial stability, sustainability and resilience need to be joined up in a strategy that sets out the purpose of our higher education and how we are going to get there.

I have one more point. On the basis of my own transformational work in different universities over the years, I am now working in the space of helping universities whose academic performance has reduced and that are struggling a bit with their financial sustainability. It is true to say that there is some work to do for some universities on getting their operating model right, so that they become more efficient, more effective and leaner, but also better. You can do all of those things. Hull is an example of that. We improved the academic performance of the university dramatically, but we also managed to get the university into a very financially sustainable position. There is a lot in there.

Lord Agnew of Oulton: I will come to that in a later question, because it is close to my heart. On this one, do you think that the OfS is equipped to handle a consolidation driven by financial failure? What do you mean by consolidation? Is it essentially one university taking over the campus of a failing university somewhere else?

Sir David Eastwood: As I was indicating, it is better if it is not a failing institution, but an institution that sees merit in consolidation into a larger whole and some of the efficiencies that would go with that, not least as regards back office.

To answer your question directly, the Office for Students does not have the resource that HEFCE, for example, would have had to help to facilitate and broker those mergers. If we are right and there is to be some consolidation in the sector, one of the things that needs to be thought about, not just in OfS but in the department, is that there needs to be the availability of resource to encourage and facilitate that.

Lord Burns: We have just had the answer to the question that I was going to ask.

The Chair: We have covered it. Good.

Q37 **Viscount Chandos:** Professor Lea, you have talked very much about the need for a clearer strategy. In the absence of that, do the funding rules—the 33% real reduction in domestic fees, but uncapped international fees—not skew institutions' strategies?

Professor Susan Lea: If I understand your question correctly, in the absence of a clearer strategy, universities have to find ways in which to flourish, thrive and do their best work in relation to their students, their research and their communities, whether those are local or, indeed, international. As you will be aware, over the years we have seen an increase in the number of international students, with universities moving into the international markets in order to top up—to use that phrase—the

shortfall in home and domestic students. That is absolutely the way in which some universities are managing their finances at the moment.

Of course, the challenge with that model is the vagaries of geopolitics. If something happens in China or Africa and those big markets suddenly shift and change, that will destabilise that particular way of being for an institution and pose risk.

Viscount Chandos: That is one risk. Is there not a risk that it also tilts the focus of the universities away from providing education to domestic students?

Professor Susan Lea: I do not think so. That is my opinion; David may differ. We are first and foremost British universities. We are here, in the main, to serve our country by delivering excellent higher education to our students, and good research and innovation. We know the value and importance of higher-level skills for tackling the issues that we have around productivity, economic growth, et cetera. We all take our academic mission incredibly seriously. Actually, international students add huge value, both to the country and to our institutions. We know that many of our students will work in global environments, so having a diverse student body on campus is really important. No, I am not fearful of that.

Sir David Eastwood: Can I make one quick point? The international student market is becoming much more price-competitive. The price was driven by very big demand from China, which will come back, but nothing like it was pre-pandemic. The big increase in international student volumes is coming from markets that are more price-sensitive, where the margins for universities are lower.

The other thing as regards the political economy of international students, which is often overlooked, is that the cost of acquisition of an international student is much greater than the cost of acquisition of a home student. If you look at the sticker price, it looks as if there is a big tilt, but you need to look at what sticks to the side. Yes, of course you can make more money out of international students, if you do it well, but the delta is not as great as it first seems. My answer to your challenge would be that, within what I would describe as the political economy of higher education, there is a self-correcting mechanism.

The Chair: Some domestic policy, such as fees, regulations and policy on staying to work, can have an impact as well.

Sir David Eastwood: Quite so.

Q38 **Lord Clement-Jones:** I declare an interest, as chair of the governing council of Queen Mary University.

You have moved into the discussion of business models, and that is exactly the area I want to start with. I will then move on to governance and how that is overseen. You mentioned the international student cross-subsidisation business model. Are there other business models? Do you

think there is enough focus on the viability of the business models that are there?

Sir David Eastwood: One of the things that often happens at a meeting of a university governing body is that somebody says, "We need to diversify our income". Fundamentally, universities cannot diversify their income. They make their income out of knowledge: the discovery of knowledge, the curation of knowledge, the teaching of knowledge and the publishing of knowledge. Broadly speaking, that is how universities make their money.

To your question about efficiency, the issue is how efficiently they do that. In most universities, there are significant legacy costs. Quite a lot of the Russell group universities, and some others, now use the so-called Cubane methodology, which was developed in Australia. That has been a very good discipline for the universities that have been using it because it benchmarks them against similar institutions function by function. You are nodding, so I think you know what I am talking about. Of course, that is really valuable, not just for the executive of the university but for the governance of the university, to understand where efficiencies can be sought and had that do not cut into the bone and do not do violence to the mission of the institution.

My simple answer to your question is this. If the business of universities is knowledge, the question the governing body might ask is: how efficiently do you discover, curate, teach and publish, and what other things do you do off the back of that? Secondly, you need to look carefully at what you might describe as the historic cost accretion that takes place in universities. Notwithstanding what we were saying about funding, there is scope for greater efficiency.

Lord Clement-Jones: Yes, but not much scope for a different business model currently, presumably.

Sir David Eastwood: No. There are obvious things. For example, there are some universities that still cross-subsidise their accommodation. Why would you do that? There are some universities that run a deficit on their catering model. Why would you do that? A well-run university might make a margin from what I call the hotel activities of the university, if it is a residential university. It is helpful, but not utterly transformatory for the institution.

Professor Susan Lea: I agree with much of what David said. There is not much scope for us to diversify our business models because we are all in the same business. As he has described very eloquently, it is about knowledge.

For me, it is about the efficiency point that you make well. I agree with you. There are ways in which we could become more efficient. Ultimately, universities these days are trying to be businesses. They have to be businesslike in their function and they have to run as businesses, but of course they are also fundamentally charities and are discharging their

academic mission. Treading that line is really important for the one that we are ultimately seeking.

Lord Clement-Jones: How did you feel that you were held to account in your role as vice-chancellor? Last week we heard from Lord Johnson and Charles Clarke that they had concerns about university governance and so on. How much were you held to account? What do you think the quality of the governance of your activities was?

Professor Susan Lea: Do you mean by the university council, as opposed to the OfS?

Lord Clement-Jones: Yes.

Professor Susan Lea: I absolutely felt held to account. The HEPI article published last week describes that.

The Chair: Can we circulate copies?

Professor Susan Lea: Do. You are directly accountable to the chair of council. You are the accountable officer of the university. The success of that university sits on your shoulders. I felt immensely accountable. I had the ability to bring in additional council members at Hull, but I have been working with council members at other universities as well. They were pivotal in helping us to bring critical challenge.

What do you want from your governing body? What I want from my governing body is critical, constructive challenge of where we are going. In my experience, and the experience of some of the other universities I have worked with, that has been what I received. That has been immensely useful. You do not want a passive governing body that does not challenge you on what you are trying to do.

Lord Clement-Jones: It was professional enough. Sir David, did you get that sort of challenge?

Sir David Eastwood: Yes. Actually, we reformed our governing body in order to do that, to bring on to the governing body the kinds of people who could bring that sort of challenge. I began life as a first-time vice-chancellor at East Anglia. I do not think that I attended sufficiently to the importance of the governing body, although I was well supported by my governing body. I saw it in neon when I was running the funding council, so at Birmingham I was determined to have a high-performing governing body. That was relevant not just to my accountability but when we started to do things that carried risks: building an international campus, building a school and running a very ambitious capital programme. Absent that sort of challenge, it would be irresponsible for universities to take that risk.

Very often when we are talking about this we tend to default to the accountability of the vice-chancellor, either to the chair of the governing body or to the governing body more generally, which of course is crucially important. I worked very hard on wider accountabilities to my council—

the accountability of all my executive team, for example. Where it was appropriate for them to lead, they would lead, and they would be scrutinised as well. Over time, that built a very healthy relationship, not just between me and the chair, or me and the lay officers, but more broadly. I had a top 100. One of the most interesting things that we did was bring the chair of the governing body to talk to them at one of their away days, to make that live for the wider leadership of the university. It is critically important.

The Chair: We have covered an awful lot. We are only two minutes above our time schedule, so I think we have done rather well this morning. Thank you both very much for your answers and for the insight you have given.