

Annex A

Contents

Part i. Meetings Sept-Dec 2017	2
1) Notes of meeting with Higher Education Funding Council for England (HEFCE) – 6 Sept 2017	2
2) Notes of a meeting with [REDACTED] on potential info sharing between OfS and UCAS/Student Loans Company (SLC). 26 Oct 2017	4
3) Email notes of a meeting about the Competition and Markets Authority (CMA) and the Office of the Independent Adjudicator (OIA). 26 October 2017	5
4) Notes of a meeting with [REDACTED] about Ofsted and Ofqual, 30 Oct 2017	7
5) Notes of a meeting with the OIA. 31 Oct 2017	8
6) Notes of a meeting about SLC. 31 Oct 2017	10
7) Notes of a meeting with SLC. 28 Nov 2017	10
8) Notes of a meeting with SLC. 28 November 2017	11
Part ii. Meetings Jan-April 2018	12
9) Notes of a meeting with HEFCE about General Medical council (GMC) and Health Education England (HEE). 11 Jan 2018	12
10) Email notes of a meeting with HEFCE about GMC and HEE, Ed Hughes. 15 Jan 2018	14
11) Notes of a meeting with HEE and HEFCE. 22 Jan 2018	16
12) Email notes of a meeting with HEE. 22 Jan 2018	17
13) Notes of a meeting with HEFCE about Pensions Protection Fund (PFF). 15 Jan 2018	18
14) Notes of a meeting with PFF [REDACTED]	20
15) Notes of a meeting about HMRC and Awarding Bodies. 18 Jan 2018	21
16) Email notes of a meeting about HMRC, Alternative Providers and Pearson. 29 Jan 2018	24
17) Email notes of a meeting with HEFCE and HMRC. 8 March 2018	27
18) Notes of a meeting about Ofsted [REDACTED]. 22 Jan 2018	28
19) Email notes of a meeting about Ofsted. 23 Jan 2018	30
20) Email notes of a meeting about Higher Education Degree datacheck. [REDACTED]. 31 Jan 2018	32

Part i. Meetings Sept-Dec 2017

1) Notes of meeting with Higher Education Funding Council for England (HEFCE) – 6 Sept 2017

- Council of Validating Universities
- Fundraising Regulator
- GMC
- HE validating and awarding bodies in devolved regions operating in England
- HEA [or I can set up a separate chat with [REDACTED]]
- HEE
- Professional and accrediting bodies
- UKRLP
- Charity Commission

HMRC [REDACTED]

[redacted under s35 of the Act]

Council of Validating Universities

- Info coming to OfS (no regs)

Fundraising Regulator - no statutory basis - voluntary org with voluntary membership - if put on statutory footing then would be same issue as for CC

- Fundraising irregularities - could raise with Charity Commission

Charity Commission

- Registered charities - can concerns be shared with CC? (e.g. audit requirements - HEFCE review and not complying with Charity Law - won't serve OfS functions. Implications of not doing: CC can't take action on non-compliance. Under RF still get 100% audited financial statements [check with RF team])

GMC & HEE

- Mutual purpose - where funding of student places or infrastructure -
- New medical numbers being allocated - HEFCE running assessment and allocation process with HEE to allocate those places - institutions submit applications - decide who'll get the additional places. OfS needs to know which providers approved, where allocating places to.
- OfS would share
- GMC telling OfS where providers were in process of being approved.
- OfS tell GMC if taking regulatory action which was relevant to medical provision (e.g. someone making up students being on courses) - OfS would want to know what action taken [Ed Hughes] => relevant to OfS sanctioning functions, or relevant to financial sustainability monitoring

HE validating and awarding bodies

- Will have regulatory relationship - have students that they are responsible for that are taught somewhere else
- Concerns re particular provider re outcomes, standards etc - seek assurance from validating body that on top of obligations => relates to quality and standards conditions

Pearson

- Joint investigations (Pearson, HEFCE and SLC) => compliance with conditions

HEA

- Would be a contract

UKRLP

- They give UK Provider ref number - unique number to identify providers - working assumption that OfS register will operate on the basis as well.
- OfS might wish to tell them that UKRLP is a different entity => OfS registering right provider

CMA

- CMA might want info to help with an investigation - argue in mutual interest - because CMA investigation would inform whether provider has complied with condition E4

SLC

- OfS identifying fraud (not real students) - tell SLC - argue doesn't serve OfS functions, as OfS already knows what it needs to take regulatory action
- Richard Puttock

OIA

- Franchise arrangement - maybe need regs - without sharing OIA would have to calculate subs in other way - OIA would need to get direct from provider and no way of validating
- Student numbers - no. of students publicly available under transparency duty

HEDD

- Condition around maintaining a record of student qualifications attained - DAPs public interest principle condition - HEDD do already for some providers that subscribe to it.
- Don't know if OfS will have a relationship - currently providers share direct with them

IfA

- [Nicola Turner] [REDACTED]

Jisc

- Contractual relationship

Ofqual

- If OfS identified provider providing courses covered by Ofqual - would check with Ofqual to confirm - OfS want info on providers that want to register - ask Ofqual if providers in their perspective => registering a basic provider

Ofsted

- If regulatory actions taken OfS would want to know for fsmg - seeking confirmation from Ofsted on actions taken
- OfS tell Ofsted if issue + so Ofsted could take action, so OfS could decide whether or not need to

Professional and accrediting bodies

- Where OfS identified courses being accredited that weren't - OfS would wish to seek confirmation that weren't accrediting course - serve both purposes

Salix Finance

- Contractual or of mutual interest [ask [REDACTED]]

UCAS

- No info flows from OfS to UCAS
- If providers were deregistered - would see on public register
- [check with Richard Puttock]

UUK / GuildHE

- Contractual

--

2) Notes of a meeting with [REDACTED] on potential info sharing between OfS and UCAS/Student Loans Company (SLC). 26 Oct 2017.

UCAS provide HEFCE with student level info for financial modelling purposes, nothing going the other way.

UCAS do make use of HEFCE products such as POLAR - classification of disadvantage - but publicly available

If thought provider about to fall over, and didn't want students to be recruited there - OfS would deregister and tell SLC who wouldn't let applications go through - or have a student number control [fairly unlikely scenario]

--

3) Email notes of a meeting about the Competition and Markets Authority (CMA) and the Office of the Independent Adjudicator (OIA). 26 October 2017.

From: [REDACTED]
Sent: 26 October 2017 15:58
To: [REDACTED]
Subject: RE: OfS info sharing with CMA and OIA

[REDACTED]

I've just spoken to OIA and it seems that HEFCE currently share quite a lot of information with them and some things are in addition to the issues I mentioned to you. eg case information on providers about to go into teach out, providers being de-designated and then there is information they share about systemic issues.

The question is whether we can argue that all this information is for the OFs' benefit and so not required to be specified in regs but I think OIA are a bit nervous about saying that without talking it through a little more. They don't want to argue this and then find at some point in the future that OFS can't share some specific information because it isn't covered in the s63 regs.

[REDACTED]

HE Student Experience and Widening Participation

Level 2

2 St Pauls Place

125 Norfolk Street

Sheffield S1 2FJ

5

[REDACTED]

From: [REDACTED]

Sent: 26 October 2017 09:25

To: [REDACTED]
[REDACTED]

Subject: OfS info sharing with CMA and OIA

Hi [REDACTED]

CMA

1) OfS might wish to share info with CMA to assist them with a live investigation

- low likelihood of future investigations

- not clear if CMA has the power to inform OfS of a live investigation

=> suggest not sufficient justification for regs (although nice to have, if regs going ahead for other reasons)

2) OfS might become enforcer of consumer law in future and this would require data sharing

=> consider in future once live issue.

3) OfS might wish to share issues or concerns e.g. if identified systematic failings by a provider which related to consumer law. This might lead CMA to update their guidance or undertake a new round of enforcement action.

=> Meets OfS function of monitoring OfS condition E4 'demonstrating due regard to relevant guidance and advice as to how to comply with consumer law'.

4) OfS might wish to share information on new and developing practices e.g. through forum being set up between CMA, OfS and OIA.

=> As above, suggest that this is covered by monitoring OfS condition E4.

OIA

1) OfS will notify OIA when providers register. Providers will then join OIA scheme and pay a subscription fee. OIA will then tell OfS whether or not providers have met that condition.

=> Covered by OfS function of monitoring OIA-related condition.

2) If OfS receives an individual complaint, it would redirect the individual to the OIA rather than sharing info re the complaint direct with the OIA.

=> No regs needed, as individual would approach OIA with complaint rather than OfS.

3) OIA would like OfS to share info about bodies involved in franchise arrangements and on student numbers to help them calculate subscription fees.

Thanks

[REDACTED]

[REDACTED]

[REDACTED]

Landscape Reform, Higher Education Reform Directorate

Department for Education

Sanctuary Buildings, London, SW1P 3PT

[REDACTED]

[REDACTED]

[REDACTED]

4) Notes of a meeting with [REDACTED] about Ofsted and Ofqual, 30 Oct 2017

- If OfS identified provider providing courses covered by Ofqual - would check with Ofqual to confirm [making sure meeting OfS condition C2 'provider must deliver courses that match the academic standards as described in the FHEQ or higher' - OfS want info on providers that want to register - ask Ofqual if providers in their perspective => registering a basic provider

■ – all providers need to show that their courses map to the Framework of HE qualifications (FHEQ) – to check quality of qualifications and that at the right level. FHEQ sets the standard, has a list of standard quals, and also describes what's expected at each level.

OfS might identify somewhere where quals not at level advertised at. => about OfS meeting function about quality and standards.

Providers doing courses on Ofqual's framework just need to give OfS a list of courses and who the awarding body is. And those courses would then be regulated by Ofqual. Ofqual's judgements on quality of those courses could be communicated to OfS and could influence an OfS judgement about whether quality conditions were met.

For registered basic, that could bring in providers currently doing courses on Ofqual's qualifications framework (Regulated Qualification Framework) = vocational and technical qualifications. We're happy that their framework maps to the FHEQ one. Don't want to replicate what they're doing.

Ofqual regulates the awarding bodies and qualifications. If Ofqual have found any concerns or issues with awarding bodies, or concerns at provider level, they'd want to share with OfS. At the same time, they'd want to know from OfS if concerns raised about an awarding body.

Ofsted

- If regulatory actions taken OfS would want to know for fsmg - seeking confirmation from Ofsted on actions taken
- OfS tell Ofsted if issue - so Ofsted could take action, so OfS could decide whether or not need to
 - => quality and standards s23 and 27
 - => s8

--

5) Notes of a meeting with the OIA. 31 Oct 2017.

Formal data sharing through a current agreement with HEFCE and also with QAA and HESA

Quarterly meetings with both HEFCE and QAA

Get a lot of info from HEFCE which is important in term of administering the scheme

QAA - where complaints suggest a systemic issue, or where a systemic issue suggests a cluster of complaints - share with HEFCE too now.. Wanting to check complaints not being suppressed

As well as the conditions - there's an amendment that says that anyone delivering a course on behalf of another member is also required to join the student complaints scheme - OfS will put on the register under the lead uni that they're franchising from. OIA would want to know who's providing a course on behalf of another member.

Condoc - lead provider is responsible for all conditions (p68, para 131)

S89 part 2

s23 - sharing info about franchised providers allows us to monitor if those which are on the register are meeting their condition

[franchised providers need to join OIA scheme but not necessarily assessed under OIA condition]

--

HEFCE might wish to share info re emerging problems (e.g. if they had reason to believe that a provider is going to close), they would indicate that to OIA to allow the OIA to respond to any influx in complaints [to help OIA resource planning and enabling the OIA to go to the provider to ensure that's dealt with properly]

If something terrible happened and OIA don't see any complaints - might indicate that provider suppressing complaints

No. nature and pattern of student complaints to the OIA [lead indicator]

Implications of OfS not being able to share data around systemic issues - OIA would struggle to give indications of student complaints.

It's about the HE system failing to operate properly - impinges on broader reason that the OfS is there. Bit risk if don't join up - big risk for students

Would be good if we could link back to students. Could link to quality. S23.

--

HESA collect student numbers to inform

OIA share student numbers with QAA

Where OfS may validate degrees -

S89 (i) (ii) - where OfS validating degrees - if HEFCE validate degrees themselves, OfS might wish to share info about this with OIA - that would affect OIA membership - because that institution needs to become a member.

--

3) OIA would like OfS to share info about bodies involved in franchise arrangements and on student numbers to help them calculate subscription fees.

=> [REDACTED] checking this with OIA Thursday pm.

--

6) Notes of a meeting about SLC. 31 Oct 2017.

- If fraud found, and payments had to be stopped - who would trigger that?
- Indication could be triggers in different ways (SLC data, whistleblowing), often not clear at outset whether a fraud issue, a vfm issue, an admin issue - currently work in holistic way to pull intelligence together from all sorts of places. Need some sort of investigations team within OfS.
- Ineligible payments - hard to prove if fraud or admin practices - APIU engage early to clamp down on that -

Initial investigating - drawing multiple bodies together - if then find something is wrong - what then happens? Can that group then tell the SLC? Or DfE needs to tell them?

Currently, DfE would tell SCL to stop payments

- i. Who decision-maker to stop a payment?
- ii. How make sure we can share that info?
- iii. Who sends a letter to who?

Paul Williams to lead on

Student funding team & AP team - have investigative function now - don't separate out fraud enquiry from another type of enquiry - any indication that something wrong gets triaged through APIU. Once issue emerges -

Currently, if institutional = DfE deal with it, if student issue = SLC deal with it

7) Notes of a meeting with SLC. 28 Nov 2017.

- Where providers notify OfS of reportable events (e.g. expansion of provision, new campus), and OfS wishes to tell SLC so that they can check their provider data is accurate
- If OfS audits SLC data and finds inaccurate data, and OfS will wish to tell SLC so that they can take action (e.g. potentially stop payments) [or does this require OfS to communicate with DfE SoS, and then SoS communicate with SLC?]
- OfS will need to share data with SLC to enable consistency with HESA return
- OfS is likely to wish to share any concerns it has with SLC over student support payments or controls in respect of these providers that could lead to fraud or loss
- Any others situations?

Happy with condition.

Additional checks? Failure to notify of changes to circumstances.. Risk of breaching other conditions.. Indicators - student numbers exceed no. control for provider..

Need to distinguish between

- Continuation of HEFCE functions
- New info sharing under HERA functions - when need from
- Options i) regs in April ii) s78 in interim

8) Notes of a meeting with SLC. 28 November 2017.

Attendees:

[REDACTED]

1. Data Sharing Arrangements

[REDACTED] updated us to say that DfE have been working with lawyers to work out best options for information sharing where it is the predominant function of SLC (not sole function).

Our work is on the possibility of getting regulations in place early as possible next year. The interim solution is to use section 78 condition within HERA, it is critical that we can share information with SLC. We are getting ministerial views on this.

[REDACTED] said that the NAO asked SLC to look into how we managed providers - recommendations included how to improve processes including data sharing.

ACTION - [REDACTED] to send [REDACTED] examples of previous data sharing between SLC and OfS to inform scope of data sharing regulations (in case designating specific functions of SLC rather than SLC as a whole is required)

Part ii. Meetings Jan-April 2018

9) Notes of a meeting with HEFCE about General Medical council (GMC) and Health Education England (HEE). 11 Jan 2018.

Meeting with Ed Hughes of HEFCE 11 Jan 2018

Summary

GMC: Concluded that all info sharing from OfS to GMC is predominantly to meet OfS functions around monitoring of medical intake or reallocating medical funding between providers.

HEE: OfS will wish to share HE Student Early Statistics Survey data with HEE prior to publication, to inform HEE's functions around workforce planning across all of the NHS, and their management of budget for provision of clinical placements and HE training.

Action: [REDACTED] confirm how DDB sharing info with a third party relates to s63

Action: [REDACTED] will send info to EH so he can introduce the query (using email to Sian as a template)

Action: [REDACTED] to set up meetings next week.

Action: EH to double check with colleagues whether GMC ever receive info that would not be for OfS purposes.

Designated data body - how does S.63 interact with this? e.g. HESA information. Would this be covered?

[REDACTED] to check in HERA

Nursing/midwifery data requirements for HEE (HEE is the commissioner for nursing courses) and Dept. health. Data requirements still being worked out, due to new arrangements. Still being worked out.

Only since 17/18 that students became part of main finance system. Work underway with DH and HEE to look at data gaps. In the middle of specific process to allocate additional places to medical providers, to be concluded by March 2018.

All we need is name of the body and the functions, don't need to specify the details of the data, just the functions.

Play safe - if any doubt, put into Regs.

GMC tells OfS which providers have been approved in order for OfS to allocate funding – this info flows from GMC to OfS and is for OfS function so does not need Regs.

What info goes from OfS to GMC? - Monitoring intake of medical students, this is published anyway. Medical and Dental Survey. Is this shared before publication? Not historically the other way.

Does any info flow from OfS to GMC that is not for OfS functions?

EH: No - it would be about a study on student places, providers.

■: OfS might wish to inform GMC/HEE if OfS had discovered concerns/misinformation? Would this need Regs.

EH: only circumstance in the past has been within function of OfS, within GMC remit. OfS might want to alert GMC so they could take action under their own remit, but this would also be within OfS regulatory function.

■: if OfS already had all the information it needed?

EH: Other bodies - NMC (Nursing and Midwifery Council), HCPC (health and care professions council) - also relevant. But not been any cause to share data with them in past.

HEE possibly need to be in the Regs. Provision of data for workforce planning. HEFCE do the Higher Education Student Early Statistics Survey (HESES) every year. HEFCE collects from HE providers to find out n. of students on courses during the year. There may be an ongoing request from HEE to support their work - students enrolling on courses and continuing students -to see if interventions needed by HEE.

OfS planning to share HESESS data with HEE, first time due to nursing degree funding changes. So they will now look to OfS to supply the data. HEE function for workforce planning - statutory function.

■ We need to work out specific statutory functions, or categorising functions if multiple (eg. All HE functions) or say all functions.

EH: could provide what present situation is, HEE. Also GMC HEE manage the budget for all training/provision of clinical placements in hospitals/General Practice.

Other professional bodies, e.g. College of Podiatry, Radiography - largely data comes to OfS. Some sharing to help build shared understanding of recruitment etc. e.g unpublished HESESS data. But this would be for OfS interventions, e.g. work to ensure access and participation. Monitoring financial sustainability.

HEE looks across whole of health workforce.

We can argue that OfS is sharing info predominantly for its own purposes.

Where are these hefce functions covered in the OfS function?

Look at HEE website and College of Podiatry

10) Email notes of a meeting with HEFCE about GMC and HEE, Ed Hughes. 15 Jan 2018.

From: [REDACTED]
Sent: 15 January 2018 14:33
To: [REDACTED]
Cc: [REDACTED]
Subject: For action: OfS Information sharing with the HEE

Hi Ed,

Thanks for the useful discussion last Thursday. We agreed that info sharing regulations were not needed for GMC, as most of the info flowed from GMC to the OfS and any info shared from the OfS to the GMC would be predominantly to meet OfS functions around monitoring of medical intake or reallocating medical funding between providers. **Action:** Thanks for offering to check there are no exceptions to this which would require regs.

Regarding HEE, your view was that regulations would be required. As discussed earlier, here is a draft email for you to share with colleagues in HEE by way of introduction. Our purpose is for HEE help us identify which of their functions are relevant to any information sharing from the Office of Students to the HEE, so that we can prepare the policy instructions for these regulations. Once you have made the initial approach to HEE colleagues, I think it would be useful for us to meet with them later this week. **Action:** would you mind checking with them what they would find most helpful and let me know as soon as possible, so we can arrange to speak with them? Thanks.

Background

The Higher Education and Research Act 2017 section 63 enables the OfS to share information with other organisations, without regulations being made, if the information sharing or co-operation is a) for the purposes of OfS functions, or b) for both OfS and the other body's functions, but where the dominant function is for the OfS. However, regulations are required where the information is shared, or the cooperation occurs, predominantly for the performance of functions of the other body. In these cases, s.63 regulations will need to identify the relevant bodies and the relevant functions of those bodies. Until such regulations are made, the information sharing powers of the OfS will be limited. We are therefore progressing the s.63 regulations as a priority, and our legal team requires settled policy instructions within the next two weeks to meet the demanding timetable for the regulations to be laid.

OfS sharing info with the HEE

From our initial scoping work, we have identified the following situation where the OfS may wish to share information/co-operate with the HEE:

OfS is likely to wish to share HE Student Early Statistics Survey data with HEE prior to publication, to inform HEE's functions around workforce planning across all of the NHS, and their management of budget for provision of clinical placements and HE training. Our view is that, as this would be predominantly to meet HEE functions, regs would be required.

[Ed – was there any other info sharing from OfS to HEE which we should include here?]

Request for input from HEE

We would be grateful for your help with the following to allow us to draft policy instructions to inform these regulations. Specifically, please could you answer the following questions:

Do you agree that it is desirable for the OfS to be able to share the information set out above with HEE?

Is there any other situation where you would wish the OfS to be able to share information with HEE in order to fulfil a HEE function?

Please provide a list of all HEE's statutory functions, by reference to HEE's governing legislation.

For (b) above, please advise which HEE functions information sharing by the OfS would be relevant to. In answering this question it would be extremely helpful if you could include the following:

Specific statutory references for the relevant functions;

If the functions can be grouped into categories (for example 'all higher education functions'), what you consider the category / categories to be;

Whether you consider that information shared by the OfS could genuinely be relevant to all functions of the HEE. In this case we may not need to list specific functions in the regulations.

In terms of identifying HEE functions, it may be easiest for a HEE lawyer to advise on this. I'd also be very happy to set up a meeting with relevant contacts to discuss what's needed, if that's helpful, ideally as soon as possible.

Many thanks,

[Redacted signature]

[Redacted name]

[Redacted title]

HE Landscape Reform

Higher and Further Education Directorate

Department for Education

[REDACTED]

[REDACTED]

[REDACTED]

--

11) Notes of a meeting with HEE and HEFCE. 22 Jan 2018.

[REDACTED], HEE and Ed Hughes, HEFCE.

Conclusion/Action:

[REDACTED] to e mail the functions and legislation to us. Attachments and answers to questions.

[REDACTED] run these answers past our lawyers and get back to [REDACTED] if necessary.

Meeting notes:

We don't need specific data items

HEE does agree it is desirable to share

HEE does get a lot of info from hefce - 4 main pieces of data

HESES,

Student survey,

Medical and Dental services survey

HESA data

For future planning/workforce planning.

[REDACTED] will put a full list of HEE stat. functions. These are set out under S. 97 of the Care Act and S. 103.

HEE lawyers say put 'all HEE functions'

Our Lawyers say they need need to see 'all HEE functions' or 'all HEE except these ones ...',

[REDACTED]: all info hefce provide will be on Higher Education, so by default it will be higher education functions.

■■■■ HEE oversee placements as well, so the part from hefce/OfS will be any information to do with HE courses.

■■■■ will provide some words, we will test with lawyers and come back if need be.

Hee share with Dept of health - we don't need regs. For this. Historically, Hee has not shared back with hefce,

--
12) Email notes of a meeting with HEE. 22 Jan 2018

From: ■■■■

Sent: 22 January 2018 16:16

To: ■■■■

■■■■
■■■■

Subject: Information Sharing from OfS to HEE

Importance: High

Dear ■■■■

RE: Office for Students (OfS) sharing of information with HEE for the purposes of HEE's functions

Thanks for a really helpful discussion. As agreed see HEE responses below. Please do not hesitate to get in touch with me for any clarifications.

Do you agree that it is desirable for the OfS to be able to share the information set out above with HEE?

Agreed. Currently HEE receives Information across a number of datasets relating to the 'monitoring of students across health related courses. This will become more important as HEE is asked to deploy more placement funding. This will need to be flexible to accommodate future ley-way as the OfS forms its data strategy, and HEEs role develops and evolves.

Is there any other situation where you would wish the OfS to be able to share information with HEE in order to fulfil a HEE function?

Currently HEE receives Information across a number of datasets relating to the 'monitoring of students across health related courses' This includes medical and dental planned numbers, the National Student Survey, early statistics on enrolments and demographic data on the overall student population. This data from the higher education sector will become more important as HEE is asked to deploy more placement funding. HEE is keen wherever possible to use data that exists to support activities and thus avoid any increased burden on the system.

This will need to be flexible to accommodate future way as the OfS forms its data strategy and appoints a data partner, and HEE's role develops and evolves.

Please provide a list of all HEE's statutory functions, by reference to HEE's governing legislation.

HEE's statutory functions are set out in the Care Act 2014 – specifically Part 3 (Chapter 1) and Schedule 5 (Part 2). Attached are a list of the relevant statutory functions as well as the full content of the provisions.

For (b) above, please advise which HEE functions information sharing by the OfS would be relevant to.

HEE would ask that the regulations apply to all of HEE's statutory functions. These are described as "Health Education England's functions under the Care Act 2014".

Please do not hesitate to come back to me for any further information as required. I will look forward to hearing from you following legal advice on any clarifications required,

Many thanks again and all best wishes

[REDACTED]

13) Notes of a meeting with HEFCE about Pensions Protection Fund (PPF). 15 Jan 2018.

[REDACTED] HEFCE 15/01/2018

Summary

Type of info to share: financial info to help the PPF assess risks in order to calculate the levy they place on providers

Recommendation: to add the PPF levy calculation to the list of purposes which the financial info submitted to OfS will be used for (rather than saying will only provide where the info is in the public domain)

Action: [REDACTED] check ok to approach PPF direct

Action: [REDACTED] to draft email to [REDACTED] requesting which is the relevant function

Background

HEFCE have provided financial info from excel spreadsheet – did this previously about 4 years ago, and planning to provide this information again in February 2018

For PPF purposes - saves them time, more cost effective, efficient than going to separate sources

So will need regs.

PPF outsource scoring.

Info is published, but not in this format - providers have to publish this as a financial statement, but hefce gather it all together - hefce pull it into a spreadsheet. Will not provide until it is in the public domain in Feb 2018.

For policy instructions:

Which of the PPF functions the regs. are relevant to - where are these held?

Speak to Levy operations manager - [REDACTED] - need to know where these are kept.

Providers submit financial statements to hefce for 1 Dec

Have to publish by 31 Jan, so then public - for charity commission

These dates need to be resolved for the future - needs checking -

Type of Provider

for approved and approved fee cap providers, not pinned down whether APs have to provide full financial information - level playing field. Maybe only share those that are in the public domain. Hefce did not regulate all - e.g. Oxbridge & Durham Colleges.

Need to know what PPF is going to use it for - are they providing information to HMT. Who decides what can go out? [REDACTED]? Difficult to work through indiv providers.

Action - [REDACTED] contacts.

Other organisations

Charities commission - covered by charities act - lawyers have sent list of functions - Can [REDACTED] have a look and confirm these are the functions? [REDACTED] to send email about legal advice. For registered charity different rules.

CMA

HMRC,

Pearson,

OIA - all functions

SLC - all functions

14) Notes of a meeting with PPF [REDACTED]

63 PPF [REDACTED]

Conclusion: regs needed.

Actions: [REDACTED] to send statutory functions through 23 Jan

[REDACTED] confirms regs needed

PPF protects all final salary pensions. Calc of levy need to calculate insolvency risk - from publically available info.

Info from hefce is more efficient data catch, just after it is published (may not need regs)

Response

Do you agree that it is desirable for the OfS to be able to share the information set out above with PPF? Yes

Is there any other situation where you would wish the OfS to be able to share information with PPF in order to fulfil a PPF function? No

Please provide a list of all PPF's statutory functions, by reference to PPF's governing legislation. Pensions Act 2004, [REDACTED] will pull together the particular function this info would be relevant to.

For (b) above, please advise to which PPF functions information sharing by the OfS would be relevant. In answering this question it would be extremely helpful if you could include the following:

Specific statutory references for the relevant functions;

If the functions can be grouped into categories (for example 'all higher education functions'), what you consider the category / categories to be;

Whether you consider that information shared by the OfS could genuinely be relevant to all functions of the PPF. In this case we may not need to list specific functions in the regulations.

15) Notes of a meeting about HMRC and Awarding Bodies. 18 Jan 2018.

Meeting with [REDACTED], APRU; and [REDACTED] AP Policy about S.63. [REDACTED]

HMRC Conclusions

Regs would be needed for OfS to share with HMRC, as it is a NMPB. It mainly concerns Alt Providers, so has been a DfE position. Initial thought: [REDACTED]
[REDACTED]
[REDACTED]

[redacted under s35 of the Act]

Actions:

[REDACTED] to check with Jenny Bradley for certainty on DfE line about tax issues with alt prov.

[REDACTED] to speak to [REDACTED] done – conclusion was that HMRC need more information on what sort of cases arise and what sort of information the OfS might have on possible tax issues

Pearson Conclusions

Info historically shared between DfE and Pearson (awarding body) about alternative providers. This is in line with govt. Guidance.

Info sharing would usually be to aid OfS investigations, so regs potentially not required. However, it was agreed that Pearson should be included to be safe.

Problem of including Pearson in the regs but not others can be got round because there is a precedent for info sharing with Pearson, with MOUs/agreements in the past that are still honoured de facto. A new agreement will be ready soon.

Actions

[REDACTED] to send link to guidance to [REDACTED]

[redacted]
[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted under s35 of the Act]

Pearson -

data sharing agreement with Pearson - out of date, but good will

OfS would mainly be supplying Pearson with info so OfS could fully understand situation.
Just double checking, incase they should be in the regs.

[redacted] - in the past we have flagged up to Pearson concerns about providers. Pearson have removed approval.

[redacted] - we do have an info sharing agreement with Pearson - they are the biggest and thought to cover most of the risk.

[redacted]: In the guidance (designation guidance) there is a line saying the dept will share info if there are concerns. . Usually collaborative.

[redacted]: could there possibly be a circumstance where OfS has all the information it needs, yet wants to share with Pearson? Regs could be used, just in case.

Q: if we put Pearson in the regs, does this mean all other awarding bodies need to be in the regs?

A: Pearson want to carry on as it is with hefce. - precedent. Could argue for precedent.

Conclusion put in

Need from Pearson lawyers (possibly in Articles of association) :

All Pearson functions, what functions. [REDACTED] will look into this.

Action: [REDACTED] to send commissioning email to [REDACTED]

Action: [REDACTED] to send agreement ([REDACTED]) with [REDACTED]

Professional Bodies - e.g. College of Podiatry

Are these awarding bodies? NO. Only about standards. AP do not have much dealings.

Other bodies

GIAA - Executive agency

Police - surely ordinary duty?

16) Email notes of a meeting about HMRC, Alternative Providers and Pearson. 29 Jan 2018.

From: [REDACTED]

Sent: 29 January 2018 11:10

To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: For action: FW: Information sharing between Office for Students and HMRC - confidential

Hello all,

Further to our meeting about future information sharing between OfS and awarding bodies (namely Pearson) and HMRC about alternative HE providers.

I also attach notes of our initial meeting and actions at the very base of this email for ease.

Many thanks,

Notes Meeting 18 01.2018. [REDACTED]

HMRC Conclusions

Regs would be needed for OfS to share with HMRC, as it is a NMPB. It mainly concerns Alt Providers, so has been a DfE position. Initial thought: [REDACTED]

[redacted under s35 of the Act]

Actions:

[REDACTED] to check with Jenny Bradley for certainty on DfE line about tax issues with alt prov.

[REDACTED] to speak to [REDACTED] done – conclusion was that HMRC need more information on what sort of cases arise and what sort of information the OfS might have on possible tax issues

[REDACTED] to then set up a meeting between [REDACTED] in AP and [REDACTED] at hefce to manage hefce expectations. To be done after discussing further with AP team.

Pearson Conclusions

Info historically shared between DfE and Pearson (awarding body) about alternative providers. This is in line with govt. Guidance.

Info sharing would usually be to aid OfS investigations, so regs potentially not required. However, it was agreed that Pearson should be included to be safe.

Problem of including Pearson in the regs but not others can be got round because there is a precedent for info sharing with Pearson, with MOUs/agreements in the past that are still honoured de facto. A new agreement will be ready soon.

Actions

██████ to send link to guidance to ██████

██████ to send copy of agreement with Pearson to ██████

██████ to email ██████ with commissioning email so she can make contact with Pearson

██████ to then speak to Pearson lawyers about which functions need to be specified
agreed to hold off until HMRC position clarified

Other Actions

██████ to send spreadsheet of all bodies with whom hefce have an existing agreement to Janet.
██████ may have amended)

██████

██████████

HE Landscape Reform

Higher and Further Education Directorate

Department for Education

██████████

██

████████████████████

17) Email notes of a meeting with HEFCE and HMRC. 8 March 2018.

From: [REDACTED]

Sent: 08 March 2018 14:06

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: info sharing regs and HMRC

Hi [REDACTED]

I met with [REDACTED], our lawyer, and a policy and legal colleague from HMRC recently to discuss the pros and cons of including HMRC in the s63 info sharing regs. This is to allow the OfS to share info re suspicions of tax evasion with HMRC. Both [REDACTED] and HMRC colleagues were strongly in favour of including HMRC in the regs for the following reasons:

- [REDACTED] believe this info fits within OfS' remit re fit and proper management and governance. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[redacted under s35 of the Act]

Thanks

[REDACTED]

[REDACTED]

[REDACTED]

Landscape Reform, Higher Education Reform Directorate

Department for Education

Sanctuary Buildings, London, SW1P 3PT

[REDACTED]

[REDACTED]

[REDACTED]

18) Notes of a meeting about Ofsted [REDACTED]. 22 Jan 2018.

Conclusion: S. 63 regs are needed.

Actions:

- [redacted] to have a look at the legislation to see if all functions or some and if so, which. Will get back by Tue 23 Jan.
- [redacted] to write a note for [redacted] to ensure this work does not fall in gap between hefce and reg. Framework team.
- [redacted] to check out with [redacted] about degree apprenticeships

Questions for Ofsted

Are Ofsted happy they can share?

If dominant purpose for sharing is for ~~Ofsted~~ OfS, no regs needed.

Existing data exchange

2 forums -

1. data sharing DfE/Ofsted sensitive. Shared through MOU.
2. Funding agency (ESFA) sharing between Ofsted and ESFA - providers at risk (RAT risk assessment tool) confidential meeting. old MOU. 'Rigour and responsiveness' public doc. Closer relationship. Prob need to resurrect an MOU, as apprenticeships arise.

No existing agreements with hefce. Negotiations for degree apprenticeships. Ofsted role in that if delivered by HE providers. [redacted] is contact with hefce.

Next meeting with Ofsted next week.

Future relationship

Key principles. Every FE college delivers some kind of HE - so needs to be on register for OfS. Incl. governance, financial sustainability.

Ofsted - lead regulator, OfS second regulator. ofS would not want to test financial sustainability, would look to primary regulator (Ofsted) for much of its info here. However, Ofsted do not look at financial stability of college, as have info sharing with ESFA - (CALC). ESFA gathers this info. No problem for OfS sharing with ESFA as exec agency.

Quality - reg framework. Had a meeting with [redacted] about quality.

Key question:

Are there circumstances where ofS might want to share info with Ofsted - where ofS has enough info, has made a decision, but wants to let Ofsted know too. Esp. if inconsistency with FE side.

[redacted] - yes, quite likely to arise. Ofsted likely to want to know this to either go back and do its own inspection, or prepare for different story.

So need regs. Need to know functions of ofsted. - is this all functions? Documentation on functions.

Set out in **Education and Inspections Act 2006** (s. 163 onwards). Primary legislation - broad brush. May be poss to say all function in relation to FE. LR ([REDACTED] at Ofsted is a good contact).

Actions - [REDACTED] to have a quick look to see if can say all functions, or if more complex. Then go to Jos if need more.

Ofsted is only England - so no need to say only England. [REDACTED] by tomorrow morning.

Who checks Quality

Ofsted for schools, 6th forms in schools, plus private providers - any body funded by ESFA, plus

Level 4 plus is QAA.

Degree apprenticeship - check who does quality [REDACTED]

Ofsted meeting next week - chance to pick up if need more detail.

19) Email notes of a meeting about Ofsted. 23 Jan 2018.

From: [REDACTED]

Sent: 23 January 2018 09:10

To: [REDACTED]
[REDACTED]

Subject: Education and Inspections Act 2006

Dear both

Thanks for a very helpful meeting yesterday. As discussed here are my thoughts on the functions of Ofsted

The functions of Ofsted and the Chief Inspector are set out in sections 116 and 118 of the Education and Inspections Act 2006:

Education and Inspections Act 2006

Functions of the office as set out section 116(1) are:

(1)The Office has the following functions—

- (a)to determine strategic priorities for the Chief Inspector in connection with the performance of his functions;
 - (b)to determine strategic objectives and targets relating to such priorities; and
 - (c)to secure that the Chief Inspector's functions are performed efficiently and effectively.
- (2)The Office is to have such other functions in connection with the performance of the Chief Inspector's functions as may be assigned to it by the Secretary of State.

Functions of the Chief Inspector as set out in section 118(1) – (4) are:

The Chief Inspector has the general duty of keeping the Secretary of State informed about—

- (a)the quality of activities within the Chief Inspector's remit and (where appropriate) the standards achieved by those for whose benefit such activities are carried on,
- (b)improvements in the quality of such activities and in any such standards,
- (c)the extent to which such activities are being carried on as user-focused activities, and
- (d)the efficient and effective use of resources in the carrying on of such activities and services.

(2)If requested to do so by the Secretary of State, the Chief Inspector must provide the Secretary of State with information or advice on such matters relating to activities within the Chief Inspector's remit as are specified in the request.

(3)The Chief Inspector may at any time give advice to the Secretary of State on any matter connected with any activities within his remit, including advice relating to a particular establishment, institution or agency.

(4)The Chief Inspector is to have such other functions in connection with activities within his remit as may be assigned to him by the Secretary of State.

The inspection of Fe and training is set out in Chapter 3 of the Act starting at section 123 but I don't think it adds anything to the functions listed above.

My personal view is that all the functions of the Chief Inspector are relevant for the sharing of information by the OfS and therefore I think the regs should say ALL the functions of the Chief Inspector.

[REDACTED]

Inspections & Accountability Team

Accountability & Flexible Resource Division

[REDACTED]

[REDACTED]

20) Email notes of a meeting about Higher Education Degree datacheck. [REDACTED]. 31 Jan 2018.

From [REDACTED]

Sent: 31 January 2018 11:44

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: RE: Degree Datacheck/OfS info Sharing: S.63

Hi both

We discussed this.

As I explained, our team's relationship with HEDD comprises an ongoing contract we have with them to undertake a project to investigate and raise awareness of degree fraud and bogus (mainly online) universities. This is part of the HE reputation workstream for which DfE currently has responsibility but for which responsibility will be transferred to OfS in due course (we are currently negotiating a handover date with HEFCE).

Our contract with HEDD ends in May 18. Although OfS will take on policy responsibility for this area it will be a matter for them whether they contract out this work in future, either to HEDD or any other organisation.

I believe HEDD's relationships with the department go wider than our contract (I think they run the Graduate Talent Pool, for example) but I don't know whether any of those activities would fall within the parameters of your regulations –you might want to discuss with HEFCE.

As we discussed, it may be that, even if the bogus degrees relationship continued with HEDD when OfS take on responsibility for this area, it would not need to be captured by the regulations as it is in the form of a contract –you were going to look into this.

I don't know if the work of HEDD more widely would fall into the category we discussed of needing OfS information in order to carry out their business – again you might want to explore with HEFCE or HEDD themselves.

Hope that helps.

[REDACTED]

[REDACTED] Higher Education Governance | Department for
Education | [REDACTED] Ground Floor, Sanctuary Buildings, Great
Smith Street, London SW1P 3BT | [REDACTED] | www.gov.uk/dfe

[REDACTED]

.....