



**The Commissioner for  
Public Appointments**

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Gordon Marsden MP,  
Shadow Minister for Higher Education,  
Further Education and Skills, House of Commons,  
London SW1A 0AA  
Via email

26 February 2018

*Dear Gordon,*

My apologies for the delay in replying with a substantive response to your letter of 17 January 2018 about the competition for non-executive members of the board of the Office for Students. Before receiving your original letter I had already decided to hold an inquiry into the competition but it took longer than I hoped because I did not receive all the necessary departmental papers until 8th February and then received further submissions on 21st February.

I enclose a copy of my report which I have sent to the relevant select committees and which I am publishing on my website.

The report covers many of the issues which you raised in your original letter. My inquiry covered two broad questions: the absence of sufficient due diligence in establishing the social media background and activities of Toby Young in his application to one of the generic non-executive positions on the board, and, secondly, the appointment of the board member in the student experience category. In answer to a specific point you raised, all candidates appointed to the board at the beginning of January were judged as appointable by the interview panel with the exception of the interim appointee to the student experience role.

As I have emphasised before, it is not my role as Commissioner to adjudicate whether Mr Young should have been appointed. That was a matter for the interview panel in assessing him as appointable and for Jo Johnson, the then Universities Minister, in appointing him. Mr Young was recommended as appointable by the panel without qualification following a strong interview.

Mr Johnson did know Toby Young and had discussed with him the reforms to higher education leading to the creation of the Office for Students. It is normal practice for a minister to suggest candidates for public appointments and to encourage individuals to apply. Mr Johnson asked officials to inform Mr Young about the advert for the competition

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which they did via e-mail. He applied in the same way as other candidates. What matters is whether the candidate is then assessed by an interview panel on a fair and impartial basis and on the same criteria as other candidates. The record of the interview panel's report indicates that this occurred.

My focus was on the admission by Mr Johnson that neither he nor his department were aware of Mr Young's social media activity and tweets, some of which the minister described, in his answer to an Urgent Question on 8th January 2018 as offensive. I examined this omission. It is clear that both the interview panel and Mr Johnson should have been aware of these tweets. If they had been, Mr Young could have been questioned about them and the panel could have explored their compatibility with the Nolan principles of public life and the standards expected of a public appointees. Whether or not that should have made a difference to the recommendations of the interview panel and to Mr Johnson's decision would have been up to them.

At the request of the Government and the Committee on Standards in Public Life, I have made a number of suggestions about how due diligence for public appointments can be improved in a practical and proportionate way in the era of social media, as set out in the annex to my report.

The appointment of the candidate for the student experience role has received much less public attention but raises serious concerns since the original recommendation on appointable candidates-- endorsed by the interview panel and initially by the minister- was effectively blocked after an intervention by a special adviser about the preferred candidate's views on political and student issues. These were not specified in the criteria laid down for the role, nor discussed in the assessment by the interview panel. Ministers are, however, entitled under the Government's own Governance Code to chose, and reject, appointable candidates as they wish. What the Code says they cannot do, however, is to appoint someone else without an explanation or without consulting the Commissioner in good time.

The report also identifies concerns about the way the interim replacement candidate for the student experience role was chosen and announced, and how the term of the appointment was changed. This is nothing to do with the candidate's, and now appointee's, merits. The press statement announcing the appointment did not indicate that it was only temporary, though I have been assured by the Department for Education that there was no intention to mislead. This represented a serious weakness in customer care and was not the way that the candidate picked for this role should have been treated, nor the other candidates who had taken the time to apply.

These comments only refer to aspects of the appointment of two members of the board of the OFS.

It is important to note that I am satisfied that Sir Michael Barber, Chair of the Office for the Students, who chaired the interview panels for both the generic and student experience roles, operated in a fair and impartial manner in seeking a board with a diverse membership and a range of skills and experience.

I hope my report covers the main points in your letter of 17 January 2018, but if there is anything else you wish to raise, please get in touch.

All best wishes  
Y Sweeney

A handwritten signature in cursive script, appearing to read "Peter".

**Peter Riddell**  
**Commissioner for Public Appointments**