National Audit Office

Report
by the Comptroller
and Auditor General

Department for Education

Investigation into oversight of the Student Loans Company's governance, and management of its former chief executive

HC 948 SESSION 2017–2019 11 MAY 2018

What this investigation is about

1 The Student Loans Company (the Company) administers loans and grants to students at universities and colleges across the UK. It processes around 1.8 million applications a year, and has more than 8 million customers repaying or due to repay loans totalling over £100 billion.

2 The Company is funded primarily by grant-in-aid. The Company is a non-departmental public body, which until June 2016 was sponsored by the Department for Business, Innovation & Skills. From July 2016 the Company has been sponsored by the Department for Education (the Department). The Company is also registered with Companies House and is owned by four shareholders, with the Department owning 85% and the devolved administrations of Wales, Scotland and Northern Ireland each owning 5%.

3 The Student Loans Company appointed Mr Steve Lamey as its chief executive officer on 1 June 2016. Two members of Company staff made formal allegations about Mr Lamey to the Department and Company in May and July 2017. The Company suspended Mr Lamey in July 2017. The Department and Company commissioned two independent investigations into the allegations. These were conducted by the Government Internal Audit Agency and Sir Paul Jenkins KCB QC (Hon). A timeline of events is at **Figure 1** on pages 6 and 7.

4 Following internal processes, including a hearing panel and an appeal, the Company dismissed Mr Lamey, without compensation, on 7 November 2017 for gross misconduct in public office, including breach of four of the seven Nolan principles and failure to adhere to HM Treasury's *Managing Public Money* guidance. Mr Lamey does not agree with the findings of either of the investigations, or with the disciplinary and appeal panels.

5 From summer 2017, the Department told us about the allegations made by whistleblowers and the actions being taken by both the Department and the Company. In the light of the two investigations, the conclusions of the Company's disciplinary process, and the related parliamentary interest, we judged that there was sufficient concern that we needed to examine the Department's oversight of the Company, and that it would be in the public interest to do so. This investigation describes the events surrounding Mr Lamey's appointment and dismissal. It sets outs the Department's role in oversight of the Company and how it responded to the concerns raised by the two Company staff. We have not re-investigated the allegations made by those staff. We have also not evaluated the original decision to dismiss Mr Lamey or the findings of the subsequent appeal.

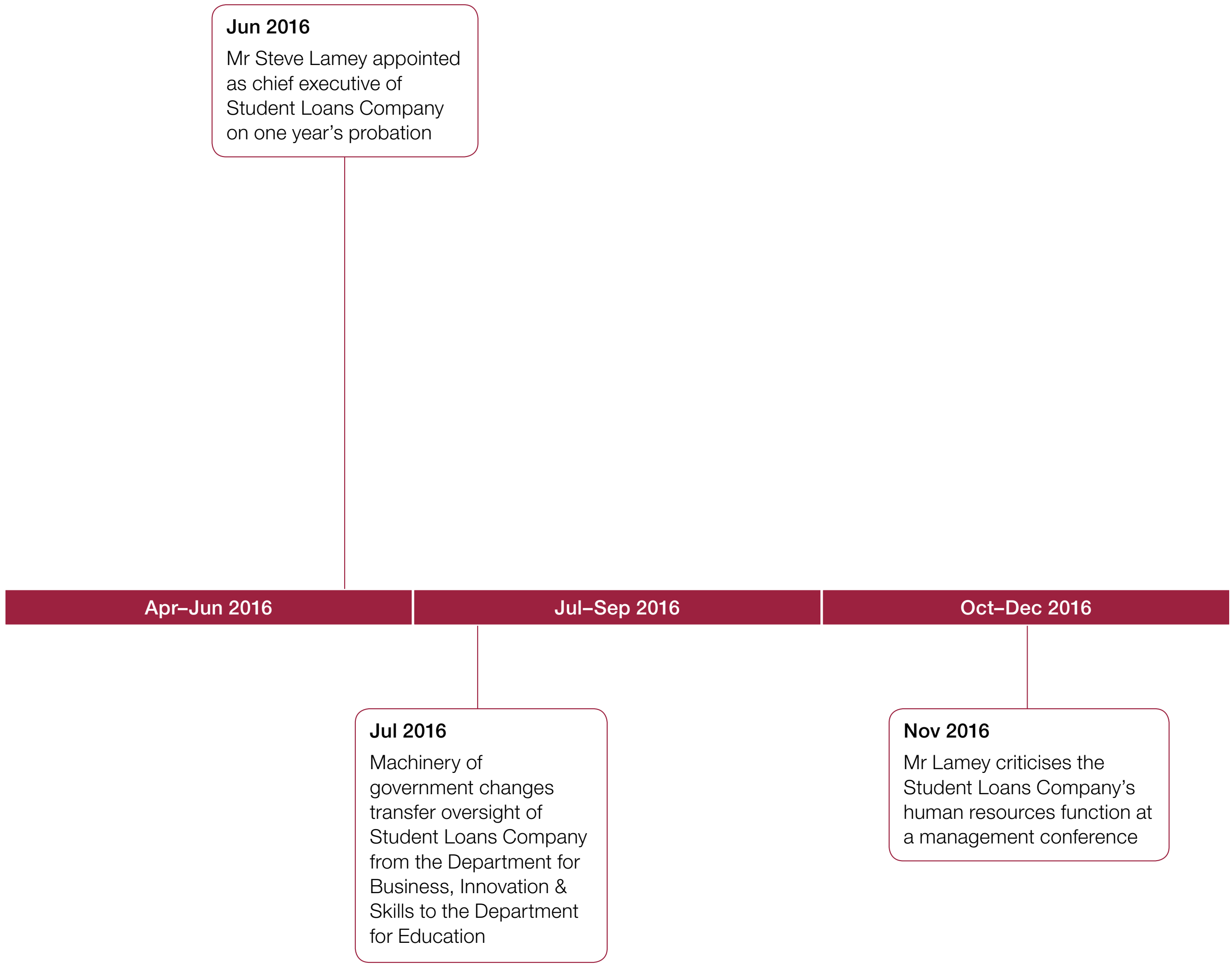
6 We take the protection of whistleblowers seriously. We have therefore not included details that could identify them. In preparing our report we consulted the whistleblowers on the content and presentation of their involvement in advance of publication. We also agreed with the potential whistleblower the presentation and content of their account.

7 This report describes:

- the appointment, performance management and dismissal of Mr Lamey (Part One);
- the Department's oversight arrangements (Part Two); and
- the Department's plans to improve its oversight of the Company (Part Three).

Figure 1

Timeline of events in the Department for Education's oversight of the Student Loans Company



Source: National Audit Office analysis of the investigation reports of the Government Internal Audit Agency and Sir Paul Jenkins, and Department for Education and Student Loans Company documents

Jan–Mar 2017

Jan 2017
Appraisal meeting held. Mr Lamey's behaviour in the meeting is later found to amount to bullying

10 Feb 2017
Student Loans Company makes executive redundant without approvals

Mar 2017
Mr Lamey criticises Student Loans Company in front of key stakeholders at a conference

Apr–Jun 2017

Apr 2017
Mr Lamey restructures the executive leadership team leaving no qualified member responsible for finance

8 Apr 2017
Student Loans Company occupies a new building without a Cabinet Office approved lease

May 2017
Whistleblower 1 makes formal allegations to Department for Education

26 May 2017
Government Internal Audit Agency asked to investigate whistleblower 1's allegations by Student Loans Company and Department for Education

31 May 2017
End of Mr Lamey's probationary period

Jul–Sep 2017

Jul 2017
Whistleblower 2 makes formal allegations to the Student Loans Company's chair

11 Jul 2017
Mr Lamey suspended as chief executive and accounting officer

12 Jul 2017
Student Loans Company and the Department for Education engage Sir Paul Jenkins to investigate whistleblower 2's allegations

20 Sep 2017
Government Internal Audit Agency report completed

28 Sep 2017
Sir Paul Jenkins' report completed

Oct–Dec 2017

7 Nov 2017
Mr Lamey dismissed for gross misconduct following a disciplinary hearing and an appeal

Summary

Key findings

The appointment, performance management and dismissal of the chief executive officer

1 **The Department for Business, Innovation & Skills (BIS) had concerns about appointing Mr Lamey, which led to the Student Loans Company (the Company) appointing him with an extended probationary period.** The appointment panel identified only one appointable candidate, Mr Lamey. BIS had concerns about the absence of other suitable candidates to act as benchmarks. Having obtained and considered references from Mr Lamey's employment at HM Revenue & Customs, which he left in 2012, BIS officials initially recommended to ministers that the recruitment process should be re-run, a recommendation which the Cabinet Office supported. Following advice from the special adviser for appointments, and a meeting between Mr Lamey and the minister, BIS subsequently revised its advice to include an alternative option of appointing Mr Lamey with an extended probationary period, to partially mitigate the concerns it had identified. Ministers agreed that the Company could appoint Mr Lamey, subject to an extended probationary period of one year. The Company's board agreed Mr Lamey's appointment (paragraphs 1.2 to 1.8).

2 **Neither BIS nor the Department for Education (the Department) believed that the probationary arrangements would be an effective test of Mr Lamey's performance, and did not fully implement all recommended measures to support and oversee Mr Lamey.** The Company's chair agreed with BIS that he would assess Mr Lamey's performance monthly during the one-year probationary period. However:

- the chair informed BIS at the time that he had "significant reservations around the probation clause". In his view an extended probation clause did not set "the right context for the start of a relationship of trust between a chair and a chief executive officer";
- although the board was aware of the probationary period, the only person at the Company aware of BIS's concerns, and that the probationary period was extended as a result, was the chair. Mr Lamey had argued successfully that his extended probationary period should not be disclosed to anyone else at the Company;

- the chair told us he sought feedback informally from executives but they were not clear on the purpose of the feedback they were being asked to provide. Neither the chair nor the Department believed that this process would be effective in identifying concerns; and
- we found evidence that the Department was aware of three monthly monitoring meetings between the chair and Mr Lamey during the year. The chair told us that he had further monthly monitoring meetings with Mr Lamey, but could not provide written minutes, which were required by Mr Lamey's contract. The Department has not provided evidence that it was aware of further meetings taking place.

BIS suggested additional measures to ministers, such as identifying a non-executive director of the Company to work with the chair to oversee Mr Lamey's performance. BIS made the Company chair aware of these suggestions, but the Company did not implement all of them and the Department did not review the arrangements (paragraphs 1.10 to 1.14).

3 **Two Company employees formally made allegations about Mr Lamey in May and July 2017; and each reported being well supported by the Department, with each set of allegations resulting in a separate independent investigation.** The allegations included concerns about Mr Lamey's management and leadership style. The Department and Company chair undertook to treat both individuals as whistleblowers. The individuals told us that, once they had made the allegations formally, the Department contacted them within hours, and provided good support. The Department and Company jointly commissioned two separate investigations into the allegations. The Government Internal Audit Agency investigated the allegations made by the first whistleblower and Sir Paul Jenkins KCB QC (Hon) investigated the allegations made by the second (paragraphs 1.17 to 1.18).

4 **The Company dismissed Mr Lamey on 7 November 2017 for gross misconduct in public office.** In March 2017 the chair was positive about Mr Lamey's performance in his annual appraisal, concluding that he had "an excellent first 10 months". In October 2017 a disciplinary hearing found that Mr Lamey had breached: the Nolan principles of public life; *Managing Public Money* guidance; the Company's code of conduct and values; and provisions in the framework document setting out the terms of the relationship between the Department and the Company. The specific findings of the hearing included that Mr Lamey had failed to protect a potential whistleblower and had a management and leadership style which amounted to a failure in leadership. Mr Lamey appealed against the decision. The appeal upheld the initial decision to dismiss. The Company dismissed Mr Lamey on 7 November 2017, and the Department simultaneously removed his status as accounting officer (paragraphs 1.15 and 1.17 to 1.41).

On the Department's oversight

5 **There were many changes in the Company during 2016, but the Department did not consider whether its oversight arrangements were sufficient.** During 2016 oversight of the Company transferred from BIS, the Company appointed a new chief executive officer and replaced most of its non-executive directors. Mr Lamey, with the board's approval, also restructured the executive leadership team, reducing the executive leaders' attendance at board meetings and therefore their interaction with the Department's assessors. He stopped providing the board with a separate report from the executive director responsible for finance. The Department did not reassess the appropriateness or effectiveness of its oversight arrangements in response to these changes (paragraphs 2.14 to 2.15).

6 **Accountabilities, roles and responsibilities for the Department's oversight of the Company are not up to date and lack clarity.** No sponsoring department has updated the framework document, which sets out the terms of the relationship between them and the Company, since 2009. Officials from the Company and Department also told us they are not clear about the role of representatives from the Department on the board and other committees or the extent to which they should be observing, advising or intervening in the Company's business. We identified similar concerns in our overall review of government departments' oversight of arm's-length bodies in June 2016 (paragraphs 2.8 to 2.12).

On lessons learned

7 **The Department is reviewing the governance and structure of the Company, with the first phase to be completed by June 2018.** In phase one, the Department is working with UK Government Investments to examine how the current governance arrangements are operating, whether they work well, and whether they could be improved in the short to medium term. The Department has not yet set out the detailed scope of phase two, during which it intends to examine the Company's longer-term operating model. The Department is also reviewing its relationships with all of its arm's-length bodies, which it aims to complete by January 2019 (paragraphs 3.1 to 3.4).