

Higher Education Authority

Report of the 375th Meeting held on 24th November in Brooklawn House, Dublin 4.

Present: ¹ Mr. Bahram Bekhradnia
Mr. Brendan Byrne (items 1-5, 11)
Dr. Mary Canning
Professor Maeve Conrick
Mr. Kevin Donoghue
Mr. Eamonn Grennan
Professor Eileen Harkin-Jones
Mr. John Hennessy, Chairman
Dr. Stephen Kinsella
Dr. Maria Meehan (items 1-5)
Dr. Jim Mountjoy
Mr. Gordon Ryan
Professor Anthony Staines
Dr. Brian Thornes (items 1-10, 11)
Mr. Declan Walsh (items 1-5, 11)

Apology: Mr. John Dolan
Ms Siobhán Harkin

In attendance: Mr. Tom Boland (items 2-13)
Mr. Andrew Brownlee (items 2-13)
Mr. Fergal Costello (items 2-13)
Mr. Pdraic Mellett (items 2-13)
Mr. Damien Kilgannon (item 10)
Ms Sheena Duffy (item 10)
Dr. Eucharía Meehan (items 11)

1. Members only session

The following issues were considered;

- Concerns about the quality of Governance at some institutions and that HEA oversight remains a priority though the HEA must continue to respect institutional autonomy.
- Board members were concerned about recurring delays at Public Appointments Service (PAS) in advertising for replacement of retiring board members.

¹ Members present for all items unless otherwise indicated.

- An update was given on the process and progress of the CEO replacement, members expressed their concern over delays in approving the recruitment, and noted the process to be adopted and terms and conditions of the new CEO role.
- Board members agreed to close the matter of the inadvertently sent email, noting that the role of the board discussion remains a work in progress.

2. Report of meeting held 26th May and follow-up actions

Decision: The minutes were approved. It was noted that the initiative mentioned in the final bullet point of paragraph 5.3 came from the UK and not Australia. It was agreed to add the following to the end of the first sentence of par. 3.1 “and have accepted they are responsible for the costs.”

3. Matters Arising & Follow-up actions

- 3.1 Item 4.9 – The CEO agreed to review the wording of the requirement that institutions notify the HEA where they incur significant costs in undertaking investigations - an institution may not plan to incur significant costs at the start of an investigation. It was however noted that institutions themselves are responsible for managing the funding they receive and it would not be desirable for the HEA to assume such responsibility.
- 3.2 Item 4.10 – Members were updated on developments relating to Carlow Institute of Technology and Waterford Institute of Technology. The institutes made a joint submission under the restructuring fund.
- 3.3 Item 4.14 – Members were updated on the capital development fund. It is anticipated that the DES will issue a call for proposals. The objective is to identify strategic priorities over the next four to five years.
- 3.4 Item 9 – Members were advised that the Minister had discretion only in relation to the appointment of the chairs of IoT governing bodies although she also formally signs the letters of appointment for other governing body members. The HEA has no role in governing body appointments.
- 3.5 Item 15 – It was noted that student contact hours was an important factor in assessing student satisfaction. The CEO agreed to take this up with the ISSE working group.

Members were advised that a longitudinal survey is being planned by the Executive. A presentation was made to the Policy and Planning Committee at its May 2015 meeting.

3.6 Members briefly considered the follow up actions as follows;

- UCC allowances (Mr. Walsh absented himself from this item) – Members were advised that the allowances were subject to the appropriate statutory deductions. The DES has advised the PAC that this matter is now closed.
- Review of EduCampus expenditure – This matter is currently being addressed by HEAnet.
- Financially vulnerable institutes – The Finance Committee at its last meeting agreed amendments to the policy.
- TU process – Members were advised that the draft legislation is expected to be presented to Government within the next couple of weeks. The legislation is unlikely to be enacted before the election. However as it does not appear to be politically contentious, it may be possible to enact it early in the term of the next Government.
- Paper on how the HEA is fulfilling its co-ordination remit under the National Strategy – It is hoped to bring this to the March meeting. The Executive in the meantime continues to engage with various agencies.

4. Report of the Chief Executive

4.1 Protected Disclosures (Dr. Kinsella absented himself from this item) - The CEO briefed members on developments in relation to protected disclosures in UL. Mazars have been given until 12 December to complete their review into how the University investigated the allegations.

Members have been advised that further disclosures have been received from staff in NUI, Galway. The University will in the first instance be requested to respond to the allegations.

Members were advised that the disclosures under the Act and other anonymous allegations are taking up an increasing amount of the Executive's time. Members were advised that the Act did not apply to parents or members of the public. Institutions have however a complaints procedures in place. Institutions also come under the remit of the Office of the Ombudsman.

4.2 Gender Review - The CEO updated members on the work of the Gender Equality Review Group. They have met the institutional heads, trade unions, DES, SFI and the IRC. The review group is considering how it can secure the input of institutional staff - one option being explored is an on-line survey. The review group is scheduled to report to the Board in May, the CEO undertook to explore

whether Ms. Geoghegan-Quinn would be in a position to brief the Board at its January meeting.

- 4.3 Apprenticeship - The CEO recently attended a meeting of the Apprenticeship Council. The Council agreed to allow nine new apprenticeships proceed to development stage. The HEA will work with SOLAS to ensure it has an active role in the development of the new apprenticeship model.
- 4.4 Meeting of the PAC – Members were advised that the HEA is scheduled to appear before the PAC on 7th December - key issues to be considered are WIT and CIT.
- 4.5 DkIT Deficit – Members were advised that the financial position of the Institute would appear to be worse than previously thought. A full briefing will be provided to the Finance Committee on 1st December. At this stage it seems likely that the Institute will move to stage 2 of the process for vulnerable IoTs. Mr. Brownlee indicated that the financial difficulties cannot be attributed to volatility in student numbers. The HEA’s own consultants had reviewed the Institute’s financial projections and it was now proposed to write to the consultants seeking an explanation. Members queried whether the property purchased by the Institute may have contributed to its currently difficulties. The CEO indicated the sale of property may be one resolution to the Institute’s deficit.

Members were advised that the DES has sanctioned the appointment of a President for a seven year term. It was likely that an interim appointment will have to be made as the current incumbent is scheduled to leave in January.

- 4.6 Mr. Costello briefed members on the latest OECD report, Education at a Glance. The report would appear to have finally reflected the impact of the recent cuts and growth in student numbers in so far as Ireland now has the 4th highest staff student ratio and the second lowest expenditure per student. It was noted that the latest report was based on 2012 data. It was proposed that the Executive update the figures for Ireland using current data – although this might not be straight forward having regard to the methodology used by the OECD. Caution needed to be exercised in interpreting the data - for instance it was noted that Ireland had a very high higher education attainment amongst 25-34 year olds. Some of this could be attributed to immigration.
- 4.7 Members were advised that the HEA is listed as one of the nominating bodies to the new Legal Services Regulatory Authority. It is anticipated that the Bill will be enacted before the end of the year. Members were advised that the HEA had made a submission to the Competition Authority a number of years ago on entry to the legal profession.

4.8 Pension Appeals Committee – Mr. Mellett clarified that the appeal submitted on behalf of a former member of staff in NUIG was rejected by the Pensions Appeal Committee. The Committee’s determination was consented to by the Minister for Public Expenditure and Reform. The decision of the Minister for Education and Skill is expected soon.

4.9 Staffing – The CEO advised members that sanction has been received to fill the two PO level posts vacant since the resignation of Dr. Trant and Mr. O’Connor. It was proposed to fill one post shortly through confined competition in accordance with the HEA’s policy on recruitment and promotion. The other post will be filled through open competition with the new person in place by March. The vacancy of Database Manager has already been advertised. It is hoped that the other vacancies, at Executive Officer level, will be filled once the letter of delegated sanction is received from the DES.

5. 2016 Work Programme

5.1 The CEO presented the draft 2016 work programme. He anticipated the SLA, to be agreed with the DES, will reflect the draft work programme. In general he envisaged the focus being on further delivery of the National Strategy for Higher Education and bedding in the strategic dialogue process underpinned by performance funding. Other key areas of work will include development of the regional clusters and other developments relating to the system landscape, implementation of measures to address the financial sustainability of the sector and implementation of measures under Innovation 2020. On the organisation side there will be the induction of a new Chair and members, the recruitment of a CEO and the filling of other vacancies.

5.2 Members queried when the new members would be appointed and what business should be conducted by the smaller Board. Mr. Mellett indicated that the booklet to be posted on stateboards.ie is close to finalisation. He indicated he would circulate it to members once it is finalised. The CEO indicated he did not think new members will be appointed in time for the January meeting. He would accordingly give careful consideration to what items might be deferred to the following meeting. In relation to the Board self-evaluation exercise it was agreed that individual members could meet Prospectus in person if required with such costs being met by the HEA.

Decision: Members approved the 2016 work programme subject to the importance of system diversity and institutional autonomy being recognised.

6. Report of the System Development and Performance Management Committee

6.1 Mr. Costello presented the Committee's report and updated on the strategic dialogue process. The performance of HEIs under Horizon 2020 was raised. It was important that the HEA followed up on the success rate of applications to see if lessons can be learned. The CEO indicated that the HEA would be collating this data. It was also agreed that the HEA should have a visible role under the forthcoming Innovation 2020 strategy.

Decision: Members approved the report.

7. Report of the Policy and Planning Committee

7.1 The CEO presented the Committee's report. The key item was consideration of HEA input into the new International Strategy being developed by the DES. The CEO agreed to circulate the new strategy once finalised.

Decision: Members approved the minutes subject to the minute on the Expert Group on funding being updated to reflect the minute recorded in the report of the System Development and Performance Management Committee.

8. Report of the Audit Committee

Decision: Members approved the report.

9. 2016 Recurrent Grant Allocation

Decision: Members approved the delegation of the allocation of the 2016 recurrent grant to the Finance Committee and agreed that institutions could be notified of their provisional grant.

10. Approval for Property Acquisition by (1) Limerick Institute of Technology and (2) Institute of Technology Tralee

10.1 Mr. Kilgannon advised members that the proposal from LIT represented a worthwhile opportunity for the Institute. Members noted that the DES was prepared to fund the purchase cost of the land but no commitment has been given to meet the development costs.

Decision: Members approved the LIT proposal on the understanding and expectation that the Institute will receive support for the development costs of the land.

10.2 The CEO noted that the Board had previously considered the IT Tralee acquisition and that the new proposal appeared to be a better deal from the

Institute's perspective. Mr. Kilgannon noted that the actual cost is potentially €800k lower if current rental income is maintained. He acknowledged that no written undertakings have been given in relation to the rental income. Members were advised that CIT has been consulted in relation to this purchase and were supportive of the proposal.

10.3 Members expressed concern that some of the income projections were aspirational and given the current funding situation of the Institute it was important that there was clarity as to the costs and revenue associated with this purchase. Members were advised that the Institute has submitted a three year plan outlining how its accounts will be balanced. This is currently being updated to reflect student enrolments.

Decision: Members agreed to defer a decision on this proposal pending the provision by the Institute of more clarity on the revenues which will fund it.

11. Expert Group on Funding of Higher Education

11.1 The chair welcomed Mr. Peter Cassells. A key concern of the HEA will be how the Group's recommendations will be actioned.

11.2 Mr. Cassells conveyed the apologies of the Group's Deputy Chair, Mrs Doyle, and outlined the current status of the Expert Group's work following the third consultation session. His presentation focused on the following;

- Consultation and consensus
 - Importance of higher education and ensuring all adults wishing to do so, and with the capacity, should have access to higher education. There is a need to ensure labour market and demographic demand is met.
 - Objective is to position Ireland among the leaders in the 'war for talent'.
 - There is a need for better integration of the post second-level education landscape.
 - HE system needs to become more flexible to ensure continuous access throughout a person's lifetime – LLL proposals need to be meaningful and not aspirational.
 - Greater focus and action on sectoral and institutional reform – focus on efficiencies and new ways of working.
- Current funding model
 - The scale of the current funding challenge was understood and there was general agreement on the need for reform.
 - The funding solution would likely have a number of components – state, student and enterprise.

- There was a desire for greater levels of state investment but this was not without difficulties given the high level of debt, competition from other sectors and EU fiscal rules.
- Deferred fees supported by student loans may have to be part of the solution, the design and communication of such a system would be important. Should the loans include provision for maintenance?
- Need for more robust supports for those students needing them – including postgraduate and part-time students.
- Enterprise contribution – could the current training levy of 0.7% be increased if the additional funding is ring-fenced for initiatives such as progression from further to higher education?
- Concerns on loans
 - Need for an affordable cap on loans.
 - Need to ensure progressivity in repayment arrangements.
 - Emigration – default and push-factor.
 - Intergenerational effect – financial burden shifts from parents to children.
 - Unintended consequences – impact of ability to borrow more.
 - Risk of debt aversion on the part of certain socio-economic groups.
 - Immediate cost of loans to the state.
 - Capability of state to collect loan repayments.

Mr. Cassells indicated at the end of his presentation that the work of the Group should be concluded by the end of the year. The report will then be written. Consideration will need to be given as to when the report should be released having regard to the forthcoming general election.

11.2 Members raised the following issues;

- Regulation of fees. Mr. Cassells indicated that the report will include a recommendation that there be a regulator for fees.
- Will institutions be able to vary their fees up to a certain level? Mr. Cassells cited the experience in England where universities opted to set their fees at the maximum level. The Expert Group is currently undertaking modelling exercises to see what different fee levels will generate for the HEIs. It is not intended to specify a particular fee level.
- Risk that graduates in receipt of a loan will move to the UK and seek to be declared bankrupt. Mr. Cassells noted that seeking to be declared bankrupt would be an extreme measure having regard to the likely debt. The group will however factor in an element of non-repayment. A number of exercises are being carried out to ascertain the possible cost of default.
- Who will manage the student loan scheme? Would a state bank need to be set up? Was there an opportunity to attract savings from elderly people to the

loan fund? Mr. Cassells indicated that discussions have taken place with NAMA. However NAMA legislation requires that it act commercially. He stressed the importance of ensuring that any loan framework is implementable. In this regard a key difficulty is the existence of the current €3k student charge and the fact that 50% of students get this refunded by the state.

- What would be the annual cost of running such a scheme allowing for an element of non-repayment and administrative overheads? At what stage would outgoing payments and incoming repayments match? Mr. Cassells indicated that this has currently been examined by the Group's Secretariat and the Department of Public Expenditure and Reform. The report will address costs based on income contingent loans and mortgage loans.
- Will the loan scheme apply to international students – EU and non-EU? It was noted that the fee/maintenance arrangements varied considerably. Mr. Cassells indicated that this has not been considered yet but noted that the DES is working on a new International Education Strategy. EU students would have to be treated in the same manner as Irish students.
- Repayment of loans. There may be a role for the Revenue Commissioners. The Dutch model is a possibility as regard collection of payments from those abroad.
- Impact repayments will have on the marginal rate of taxation.
- The need to have regard to the fact that students from lower socio-economic groups tend to be debt adverse. Mr. Cassells noted that this matter has been raised at the various consultative workshops. There was the possibility to build into the scheme provision to have the loans repaid in certain circumstances. However the proportion of students who currently get a refund of fees was, at 50%, higher than the international norm of 30%.
- The proposal represented a transfer of a cost from one generation to another. Mr. Cassells indicated that the objective was to at least maintain the current level of state investment, however there needs to be additional funding to allow for the growth in student numbers. He noted that it would always be possible for parents to pay the costs up front without recourse to the income contingent loan.
- Were other options considered besides income contingent loans? Mr. Cassells indicated that all options have been looked at and will be addressed in the report. The possibility of income contingent loans being part of the solution gained support from some on the Group as consideration was given to the different contributions that could be made by the state, students and employers. However, other solutions such as a fully state funded model in Norway will be presented and costed in terms of impact on taxation rates.
- Will consideration be given to the fact that Irish students are already paying amongst the highest fee in the EU? Mr. Cassells indicated that the report will

acknowledge this fact and outline funding options having regard to the growth in the system.

- Will the income contingent loan scheme apply both to fees and maintenance or just the former? The report will look at a range of options including the inclusion of maintenance loans for those that need them.
- What was the justification for looking for more efficiencies? Mr. Cassells indicated that the report will acknowledge the significant increase in student numbers at a time of funding cuts. However the group will have to demonstrate that it looked at all options, in particular that the necessary flexibilities are in place to facilitate life-long learning and multiple pathways to higher education. The regional clusters could play a role in developing pathways to higher education.

Decision: The chair thanked Mr. Cassells for his open and frank presentation. The engagement by members demonstrated their strong interest in this matter.

12. Governance of the Higher Education

12.1 Mr. Brownlee stated that the first document in the set under consideration was a summary of the governance framework in place. It is followed by a number of documents already approved by the Board. He outlined a number of the new initiatives in place including closer liaison between the HEA and the C&AG, HEA-DES Corporate Risk Register and the proposal to carry out a series of rolling governance reviews.

12.2 Members welcomed the document and raised the following;

- Applicability of the framework to institutions who receive less than 50% of their funding from the HEA? The introduction of student fees could tip the balance as was the case in England. The CEO indicated that as matters stand HEIs should account for funding received regardless of the source.
- There needs to be consensus across the DES, HEA and HEIs as to what institutional autonomy means. Why does the HEA Executive have to approve HEI budgets? Members were referred to the provisions of the 1997 and 2006 Acts.
- A key objective should be to ensure HEI Governing Bodies recognise their responsibilities. It was noted that that certain powers in the HEIs, such as recruitment, are delegated to the institution's executive. The importance of ensuring board members receive induction training was noted. The HSE model in place for hospital trusts should be considered.
- The treatment of students and in particular the fairness of student disciplinary procedures was raised. The CEO noted that the HEA is undertaking a review of the role students have in institutional governance.

- The chair suggested that the HEA's own governance arrangements and relationship should be considered at a future meeting.

13. Any other business

The chair and CEO noted that this was the final Board meeting for six members. They thanked Mr. Byrne, Professor Conrick, Mr. Dolan, Mr. Grennan, Professor Harkin-Jones and Dr. Meehan for their contribution to the work of the HEA over the past five years. Their membership coincided with a period of significant reform in the sector. The chair conveyed the best wishes sent by Ms Harkin and Mr. Dolan who were unable to attend the meeting.

Next Meeting

19th January 2016

Padraic Mellett

1st December 2015