



## HEA Forward-Look Forum

### Private Providers: What Role Should They Play in the Irish Higher Education Landscape?

8.30am–2pm, Wednesday 23<sup>rd</sup> November 2016

St. Laurence's Church, Grangegorman Campus, Dublin Institute of Technology

#### Discussion paper

##### 1. Overview

Ireland, like the rest of Western Europe, has a predominantly publicly-funded higher education system. Yet, similar to many countries around the world, private higher education (PHE) has been a growing component of provision.

PHE in Ireland constitutes a very diverse group, providing specialist education in public administration and business, medicine and other health-related professions, teaching and ICT, in addition to a wide-range of undergraduate and post-graduate programmes. It can be divided into two main groups: Department of Education and Skills (DES)-aided institutions - defined as being “in receipt of some degree of state funding” to meet the fees of students in respect of certain designated courses<sup>1</sup> – and those which are wholly for-profit. Sixteen PHE colleges<sup>2</sup> are represented by the Higher Education Colleges Association (HECA), formed in 1991.<sup>3</sup>

The exact number of PHE institutions and students is unknown. Estimates suggest that PHE providers enroll about 10% of HE students in Ireland – but the actual quantification of both the percentage and number of students is difficult to obtain because there is no requirement to provide this information.<sup>4</sup> Furthermore, not all education and training provision offered nationally is nationally-regulated as there are no national reporting requirements for non-regulated providers or provision. It is therefore likely that the number of PHE providers offering programmes outside of the national system is much higher than is known. In addition, the regulated English Language Education (ELE) sector enrolls about 106,000 students – a 10% increase on 2010 estimates – but this may not capture the full extent of its provision, as the Department of Justice's ILEP information is incomplete.<sup>5</sup>

The Irish PHE sector has been included in specified skills/re-training programmes as a response to the 2008 economic crisis. It has participated in the Labour Market Activation Fund, 2010, and subsequently in the Springboard programme since 2011. It has provided about 53% of all Springboard places (16,000+) between 2011-2015. The PHE sector is also

active in international recruitment, and participates in government-led missions abroad;<sup>6</sup> total tuition income from international students to HECA-institutions was €29.6m in 2014-2015.<sup>7</sup> HECA is represented on the Board of the National Forum for the Enhancement of Teaching and Learning and their member colleges participate in National Forum initiatives, but they are ineligible to receive funding through the T&L Enhancement Fund. PHE colleges can apply to become an eligible research performing organisation (RPO), upon meeting specific criteria including the purpose for which the organization was established and the capacity to undertake and oversee research, and hence be able to access to IRC funding.<sup>8</sup> A proposal to extend support to students in certain private colleges has been submitted to the Department of Education and Skills (June 2016).<sup>9</sup> PHE institutions have also been encouraged to participate in the Irish Survey of Student Engagement (ISSE) as well as the HEA's new graduate outcomes survey.

Nationally regulated private education provision comprises of two main elements.

1. *Private higher education (PHE)*, with programmes leading to QQI awards, are regulated by QQI. The designated awarding bodies (the universities, DIT and RCSI) may also make awards in respect of programmes delivered by private providers and a number do so (known as "linked provision"). This provision is subject to quality assurance (QA) oversight by the designated awarding bodies in accordance with provisions set out in the Qualifications and Quality Assurance (Education and Training) Act 2012. Some colleges offer a mixture of QQI and other awards. QQI doesn't regulate the provider in their entirety, only the programmes that lead to its awards. It does look at the overall internal QA procedures of the provider, but only as they relate to QQI provision.
2. *English Language Education (ELE)* schools are recognized by ACELS (the Accreditation and Coordination of English Language Services). Most ELE provision is not higher education. ACELS is the national body responsible for the development and management of an inspection/recognition scheme for English Language Teaching organizations, and is a non-statutory function of QQI. ELE schools are subject to State regulation on a voluntary contractual basis. A number of PHE providers also offer English language programmes to European, as well as international (non-EEA) learners, both within and outside of the ACELS scheme.

However, the lack of regulation around the establishment and operation of private education and training colleges has not been without problems. Concerns have been raised about some English-language and mixed provision providers that are not regulated nationally, but offer programmes leading to non-Irish awards or which are not subject to any external QA oversight. There were 16 closures in 2014 and 2015<sup>10</sup> relating to non-regulated private colleges largely offering a mixture of English language and non-nationally accredited business programmes. There have been a small number of closures since then, but these have largely been orderly closures of regulated ELE colleges, arising from normal financial business pressures, and no learners were affected, as they had all been taught out, or PEL processes were in place.<sup>11</sup>

New regulatory requirements approved by Government and implemented by the Department of Justice and Equality and the Department of Education and Skills, came into effect in June

2015.<sup>12</sup> These regulations require all providers wishing to offer their programmes to non-EEA learners to have accreditation (and/or external QA oversight by a recognized EU awarding organizations or regulatory bodies), in order to be included on the Interim List of Eligible Programmes (ILEP) for non-EEA students.<sup>13</sup> ILEP criteria are similar for both PHE and ELE providers, the difference being that there are also programme-specific criteria for ELE, such as restrictions on class sizes, requirements around teacher qualifications etc. The regulated sector in both HE and ELE have been in favour of such regulation. However, these new requirements only apply to programmes recruiting non-EAA students. There are no comparable requirements for non-nationally regulated private HE and ELE provision recruiting domestic and EEA students.

As the PHE sector in Ireland continues to take a more active role, the 6<sup>th</sup> HEA Forward-Look Forum will consider what is and should be the role of PHE in the Irish higher education landscape, now and into the future. While the PHE and ELE sectors are different, there are similar issues for both groups and many non-regulated providers operate in both spaces. There are also potential spill-over effects in terms of Ireland's educational brand which gives cause for considering these issues together. Those providers and provision which fall within the remit of the 2012 Act are regulated by the State; however, there is a general absence of policy and information about the sector. Providers and/or provision, which does not engage with or are not included in, the National Framework of Qualifications are not currently considered by/in regulation. Data from some private institutions are collected by the HEA but they are not obliged to make returns. These gaps mean there is a poor understanding of the breadth and contribution of PHE to Ireland. Conversely, looking at the experience in other countries suggests possible quality, reputational and regulatory issues could arise.

Given increasing massification of higher education around the world, and growing demand from society for its graduates and knowledge outcomes, the public and private sectors are both distinct and interrelated. Developments in each have implications for the other, and for society. While the state is more associated with the public sector, all institutions are part (whether formally or informally) of the national infrastructure and contribute to national objectives. Different governments have responded differently to the issues; "policy tools vary by nation; yet, financing is often especially crucial".<sup>14</sup>

The 6<sup>th</sup> HEA Forward-Look Forum brings together people from across the whole higher education system in Ireland, and from relevant stakeholder groups. Drawing on international experience, panellists and participants will discuss issues related to: the role of private higher education internationally and in Ireland, the appropriate level of regulation and licensing, inclusion within the quality assurance and other processes, and practices with respect to dealing with risk. What are the lessons for Ireland?

## **2. Growth and Expansion of Private Higher Education**

Over recent decades, significant growth has occurred in private higher education (PHE) internationally. PHE has expanded to meet and absorb demand in response to demographic pressures and on-going massification, continuing transition to knowledge-intensive economies and services and changes to the labour market, the expansion in lifelong learning, as well as the contraction of public budgets and conversely investment by private providers.<sup>15</sup>

Worldwide, the growing demand for education and the changing cohort is staggering, and to sustain even current participation rates for higher education it is estimated that this would require more than four major new universities to open each week internationally.<sup>16</sup>

PHE can be divided between non-profit and for-profit, but the distinction between these definitions varies considerably in each jurisdiction (as the discussion below attests). Private non-profits usually receive donations and also benefit from favourable tax treatment. For-profits rely largely on tuition income. In a growing number of instances (e.g. Australia, Belgium [Flemish community], Chile, Croatia, the Czech Republic, Iceland, Japan, Korea, Netherlands, Norway, Switzerland and the UK<sup>17</sup>), PHE or their students are eligible for state funding, providing some with the majority of their funding. In the US, the distinction is also determined according to tax law, and what the organisation is legally entitled to do with any surplus.<sup>18</sup> Over the past decades, as the demand for higher education has accelerated, a growing number of private investors and entrepreneurs have entered the educational market, seeing it as a lucrative financial opportunity albeit the results have not always been positive for their students, themselves, or their shareholders.<sup>19</sup> The majority of private providers are headquartered in the US but operate internationally; the largest private provider is the UK-based Pearson company.<sup>20</sup>

The range of providers is very heterogeneous. One way to distinguish between different types of PHE providers is between semi-elite/elite private (e.g. Harvard, Yale, etc.), religious and other identity institutions (e.g. University of Notre Dame, Brigham Young University, Fu Jen Catholic University in Taipei, etc.), and demand-absorbing (University of Phoenix, [DeVry University](#), Kaplan, etc.).<sup>21</sup> The latter institutions tend to have comparatively lower status, mixed quality, focus on low-cost and high demand fields, such as business, law, ICT and media, and recruit lower SES/non-traditional students, with greater emphasis on evening and part-time course offerings. Some countries, e.g. Poland, Hungary, Japan, etc., encourage and/or support PHE as a way to meet rising demand – in which case they are considered part of the overall educational offering.

Some PHE providers have existed for a century or more while new entrants are emerging and existing providers are changing focus and ownership.<sup>22</sup> National context also matters. Where traditional/public HEIs fail to respond to opportunities, new private providers are offering an alternative “product” in ways that meet demand for flexible and affordable access, or in specific fields or occupations. With the added benefits of technology and adapting just-in-time concepts to education, the rhetoric of life-long learning is becoming a reality. There are a wide range of models for traditional and non-traditional (mature) students as learner-earners to acquire the skills and competences required for career and life progression and satisfaction. The PHE sector has had considerable success responding to this student cohort. Globalisation, digitalisation and on-line learning, and growth of cross-border and transnational education has provided further opportunities for PHE. In the future, it is possible to “envisage a larger and still more varied array of providers, public and private, national and international, global and corporate, campus-based and virtual”<sup>23</sup> or identify institutions which may straddle the line between categories.

Over the years, distinctions between public and private institutions have blurred.<sup>24</sup> Many grant-funded universities are developing privately-funded offerings while privately-funded

providers often develop partnerships with public providers as means to diversify funding opportunities or to help develop new markets.<sup>25</sup> A case in point are alliances between public universities and on-line providers, such as that between the University of Liverpool and Laureate.<sup>26</sup> Public institutions may also develop a not-for-profit subsidiary college unit to employ “teaching staff on flexible terms and salaries.”<sup>27</sup> There are also interesting new models being developed within the public and the private (for and not-for-profit) sectors (e.g. Franklin Olin College of Engineering, Boston;<sup>28</sup> Charter Oak State College, Connecticut;<sup>29</sup> Earth University, Costa Rica;<sup>30</sup> Quest University Canada;<sup>31</sup> Khan Academy;<sup>32</sup> Minerva Schools<sup>33</sup>).

The expansion of PHE has often been controversial. Douglass refers to the “Brazilian Effect” when public higher education cannot keep pace with growing public demand for access and programmes, governments often allow for-profits to help fill the gap, becoming a much larger and sometimes dominant provider. Altbach refers to for-profit PHE as “access higher education, it’s demand-absorbing.”<sup>34</sup> Similarly, Marginson (with reference to Levy) argues that an “unsubsidised private sector can only succeed if the public sector fails to meet total demand, or to service the elite, or to permit sufficient diversity of interest...”<sup>35</sup> On the other hand, Middlehurst and Fielden have remarked that: “For some governments, the growth of the private sector is a godsend. If they provide no funding for the sector (or for the students within it), they are relieved of some of the financial burden arising from the demand for higher education.”<sup>36</sup>

The role of private higher education has often provoked intense debate because of concerns that the marketization of (higher) education can pose a risk to the “public interest”, educational quality and the student experience in pursuit of profit. In the US, accusations have been made that PHE has pursued a strategy of quantity over quality, using marketing techniques to maximise their proportion of federally-funded students.<sup>37</sup> The term diploma and accreditation mills has been given to providers of educational programmes and accreditation which do not have appropriate quality assurance practices.<sup>38</sup> Rammell argues that:

a misplaced faith in market mechanisms risks diminishing the range of valuable public benefits higher education brings: the benefits of engagement with the public, the development of graduate citizenship and a capability within the sector to rise to large-scale social challenge and ensure a high-quality sustainable and diverse offering where it is needed.<sup>39</sup>

Cognisant of these concerns, governments have begun introducing stricter regulatory measures. For example, Singapore has recently introduced new measure to tighten up on the quality, financial viability and information provided by PHE, including that of foreign branch campuses.<sup>40</sup> A US congressional inquiry in 2012 acknowledged that the for-profit sector, which trebled enrolment during the previous decade, gave students who were older, poorer and often less well-prepared for further study than those at public or non-profit institutions, their best chance of a degree. However, it also concluded that soaring fees and drop-out rates meant that a majority left with nothing more than extra debt.<sup>41</sup> Over recent months, the US Department of Education has recommended terminating the Accrediting Council for Independent Colleges and Schools because of quality concerns with the 59-campus Corinthian Colleges, and prohibited ITT Education Services from enrolling any new students.<sup>42</sup>

### 3. International Trends

Private higher education has developed differently around the world. In fact, the distinction between public and private education only became germane in the c18th, when Napoleonic France began opening HEIs or in Prussia during Humboldt’s time. Today, there are different “relationships and interactions between private and public providers and the growth of private provision; patterns of course provision and student participation; the role of governments and regulatory authorities; and situations and instances of market failure and their impact on student participation, retention and achievement.”<sup>43</sup> This is due to the socio-economic context in each country, as well as the political climate and societal values. Definitions as to what constitutes the “tertiary” or “higher” system also varies, as do definitions of “private” – including distinctions between non-profit and for-profit – and “public”, and the boundaries between them. In the US, there also “benefit corporations, which further blurs this divide; these are non-profit HE providers which tap into private investment funds while retaining a “public” mission.<sup>44</sup>

Table 1 below shows data produced by the Program for Research on Private Higher Education (PROPHE), based at the State University of New York (SUNY). It estimated that in 2009, the last year for which comprehensive data is available, that 31% of students worldwide were enrolled in private (both non-profit and for-profit) higher education, and that PHE constituted almost 56% of the total HEIs worldwide.

Table 1. Private Higher Education by World Region, 2009

Region	Private % of total enrolment	Numbers of students in private HEIs	Private HEIs as % of the total	Numbers of private HEIs
Africa	14.6	0.7m	59.2	434
Asia	36.4	18m	57.8	18,206
Latin America	48.6	7.6m	71.3	7,090
Europe	16.0	3.7m	25.7	2,136
USA	26.1	4.7m	61.3	2,667
<b>World Total</b>	<b>31.3</b>	<b>35m</b>	<b>55.7</b>	<b>30,555</b>

Source: PROPHE (2010). Public and private higher education shares for 117 countries, 2001-2009. (updated November 2010) Quoted in Middlehurst and Fielden, p3, and re-affirmed by D. Levy, PROPHE, correspondence 2016.

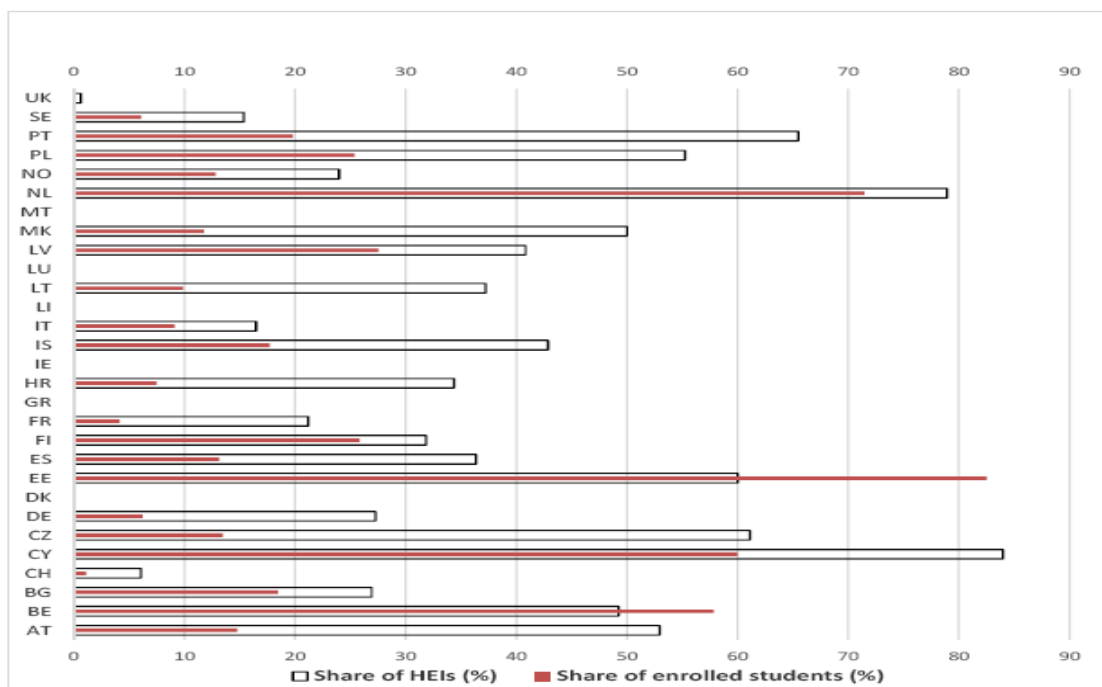
Note: These figures are amalgams of differently defined data for different years (2001-2009) and are intended to give an approximate feel for the scale of provision.

In the US, for-profit PHE has 26.1% of total enrolment. PHE (both non-profit and for-profit) in Latin America equates to 48.6% and in Asia 36.4%;<sup>45</sup> in Brazil, for-profits make up 43% of the private sector, and 32% of the entire higher education sector.<sup>46</sup> The for-profit sector is also prominent in parts of Asia, and emergent in the Middle East and North Africa.<sup>47</sup> Western Europe has resisted the trend due to support for the social-economy agenda and the fact that public universities are seen as the most prestigious. Thus, private higher education’s share in Europe is approximately 15.6% of the total. Across the 27-member EU, the PHE share represents approximately 12% provision, with a modestly higher share for Europe more broadly defined.<sup>48</sup>

In the US, approximately 7m students attended degree-granting institutions in 1967 but only 22,000 - or less than 1% - attended for-profit colleges. The arrival of the University of Phoenix in 1976, listed on the stock exchange as the Apollo Group, changed all that; it is now the second largest post-secondary institution in the US with over 400,000 students and centres in many other countries;<sup>49</sup> in 2014, it was the most searched-for university on Google.<sup>50</sup> Between 2000 and 2010, the US for-profit sector grew by approximately 235% in enrolment, increasing its market share from 3% to 9.1% of all tertiary enrolled students. In the five-year period beginning in 2005, a total of 483 new colleges and universities gained regional or national accreditation in the US. Of these, some 77% were for-profits, compared to only 4% public and 19% independent non-profit institutions. Today, the US has diverse forms of private higher education, with a sizeable non-profit elite sector along with a growing for-profit sector, supported with federal financial aid available to students. One of the points of controversy in the US has been the extent to which the PHE sector has become over-reliant on public funding, while much criticism of for-profit PHE derives from this sector's place in wider debate about student debt. According to Douglass, this "hypergrowth" in for-profit institutions has been due to a "rush of laid-off workers seeking job retraining."<sup>51</sup>

Europe's share of private higher education is relatively small when compared with figures elsewhere. Figure 1 uses Eurostat definitions to distinguish between public and private HEIs; it shows that private education (including government dependent institutions) account for 1/3 of institutions but only for 13% of the total students. Their share is much larger in some Member States (CY, CZ, EE). In BE and NL, many HEIs have private status and control, but are mostly funded by the government. No data is shown for Ireland.

Figure 1 Private HEIs as share of HEIs and total students in Europe, 2014<sup>52</sup>



Source: European Tertiary Education Register, 2014

The UK has a small but growing private or “independent” sector, located predominantly in London and in England<sup>53</sup>, and “provid[ing] niche, flexible, and demand-led provision (including post-graduate studies) to UK-domiciled students, complementing provision in the publicly funded sector and often provided at a lower cost.”<sup>54</sup> Because technically all UK HEIs are private (as defined by the OECD), the UK government describes HE providers run privately and not in receipt of recurrent public funding for teaching and research as “alternative providers” while private institutions call themselves “the independent sector.”<sup>55</sup> Statistics are not routinely collected, but estimates suggest there were approximately 160,000 students studying for UK awards in independent institutions in 2011–2012, compared with 2.3m students in the publicly funded sector. Recent research identified 674 independent higher education institutions; five organisations have been granted degree-awarding powers (DAPs) under the Higher Education Act 2004. With the exception of BPP Ltd, which is a for-profit company established in 1976 and now a subsidiary of the above-mentioned Apollo Group, the rest are not-for-profit organisations. Public policy in the UK has favoured a market-based higher education system with a wider range of educational providers; a view enshrined in *Students at the Heart of the System*<sup>56</sup>, and more recently in *Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice*<sup>57</sup> and the *Higher Education and Research Bill (HERB)* currently before Parliament.<sup>58</sup>

Central and Eastern Europe experienced the (de-regulated) rise of for-profit institutions in response to a surge in demand after 1989. This was met primarily by the expansion in the number of private HEIs and funding from tuition fees, e.g. expansion relied on private rather than public contribution. High achieving, high-SES students were able to attend free public institutions while lower-SES, less-prepared students studied part-time or at the week-end, often with different teachers and conditions.<sup>59</sup> However, with falling demographics, the economic rationale for many for-profit private sector institutions has fallen away; on the back of declining legitimacy and recognition that poor quality poses a threat to national reputation, governments have used such opportunities to shut them down.<sup>60</sup> Albania recently closed several universities overnight, with implications for the students who previously received qualifications from those institutions.<sup>61</sup> In contrast, Germany has a highly developed binary structure of public higher education and has only recently developed teaching-focused private providers, reflecting the influence of the Bologna process.

In contrast to Europe, private higher education elsewhere plays a significant role in educational provision. For example, Australia has a large private sector in both higher and further education. The sector was promoted and enabled to grow rapidly to respond to the positioning of education to be one of its largest export sectors. There is now a single quality assurance framework for public and private providers. Japan also has for a long time had a large state-regulated private sector, alongside a small and elite public university sector. Finally, Chile has one of the largest market-based private system of higher education systems in the world. In 2013, 84% of all Chilean higher education students attended private institutions (OECD, 2015); and only 16 of the 60 universities are public.<sup>62</sup>



#### 4. What is and should be the role of private higher education in Ireland?

The *National Strategy for Higher Education to 2030* (2011) discusses the role of private higher education in terms of providing specialist programmes, meeting unmet future demand as well as being part of Ireland's internationalisation strategy. It also speaks of the possible expansion of the PHE sector:

In respect of private institutions, it will be open to the HEA to commission teaching and learning activity on an economic cost basis to meet identified priorities within any regional cluster. Independent providers, including those in the 'for-profit' sector will be free to tender for provision on this identified needs basis. Any such providers should be subject to the new national quality assurance processes.

It is likely that, over the period of this strategy, this sector will grow, particularly with the possible entry of large international higher education providers into the Irish market. This growth has the potential to add significantly to the overall capacity of the system to meet growing demand for higher education.

This sector also offers an opportunity to periodically reassess the value for money and effectiveness of public providers; where private providers can offer better value for money, the State should consider using them to deliver on its objectives. It would be necessary, however, to safeguard against any negative impact on quality.

While there are legal restrictions on the use of the 'university' title by education providers in Ireland, the regulatory framework governing entry to the Irish market by higher education providers will need development in order to ensure that overall quality is maintained (p. 108).<sup>63</sup>

*Investing in Ambition. A Strategy for Funding Higher Education* (2016) was of the view that

... private institutions can and should make up a greater share of the overall system. The *National Strategy for Higher Education to 2030* envisaged a greater role for private institutions in the future, specifically in terms of bidding for state-funded student places in areas of identified need. This did happen through the Springboard programme and ICT Conversion Programmes. The sector has demonstrated its willingness and capacity to respond to national needs, and it can play a vital role in meeting additional demand in coming years through programmes of this nature. The sector has also demonstrated its commitment to quality and high standards—student outcomes under the Springboard programme were strong and the sector works constructively with QQI to ensure a strong quality regulatory framework is in place (p. 48).<sup>64</sup>

The report also suggests that when deliberating on funding for part-time students, the extension of financial support to students in private institutions should also be considered (p.46).

More recently, *Irish Educated. Globally Connected. An International Education Strategy for Ireland, 2016-2020* has spoken of the need for "internationally-oriented globally competitive

higher education institutions” without distinguishing between public and PHE. In addition, it specifically situates the ELE sector within the “broader international education package [in order to]... improve the ability of our Agencies to sell Ireland as a destination for international students”, once the “appropriate improvements to the regulatory system are in place.”<sup>65</sup>

Given this context, what is and should be the role of private higher education in Ireland?

PHE providers offer a broad range of professional education programmes at the BA and sometimes the MA level to domestic and international students. They are currently seeking public funding for eligible students on the proviso that they would fund the top-up tuition fee themselves. One of the reasons PHE have been successful pertains to greater flexibility around contractual issues, work practices, redirecting resources and physical capacity. They can also often offer multi-entry points during an academic year.

While many private colleges are accredited by QQI, and previously by HETAC, in theory anyone could open a college and start offering unaccredited courses. This is because currently there is no licensing system in Ireland for education and training providers, and no requirement for providers to be subject to national (or international) regulation. Providers are not obliged to engage with the National Framework of Qualifications (NFQ). Those providers seeking to offer national awards on the NFQ, do so on a voluntary basis by submitting their QA procedures to QQI for approval and subsequently seeking programme validation from QQI. Such providers are then subject to QQI monitoring and review. Providers may also seek to offer programmes leading to the awards of the designated awarding bodies i.e. the universities, DIT and RCSI (i.e. become linked providers). The same process applies to QA and programme approval by the awarding body followed by monitoring and review.

All “private, voluntary and public providers of QQI validated programmes or with delegated authority (unless exempt) who charge fees and offer programmes of three months or longer duration” are obliged to provide protection for enrolled learners (PEL).<sup>66</sup> However, some PHE and ELE providers choose not to engage with the NFQ and national regulations, and may choose instead to offer UK or other international qualifications or offer programmes which have no external accreditation or QA oversight. Should an institution be allowed to recruit students and/or offer programmes without being accredited by the regulatory system?

As discussed above, there is no complete inventory of student data for PHE as there is no obligation to provide data to the HEA on the student register system, although QQI collects data on students enrolled on QQI-accredited courses. The Department of Justice and Equality has figures on the numbers of visas issued per programme and per provider, but this is not a complete picture, as Irish and EU students are not captured. On a related issue, despite limited ELE school closures since 2014, there remains a lack of regulatory authority.

In many countries, where public funding is provided to private higher education, it is usually common for there to be tighter regulatory controls. To counterbalance a stronger regulatory environment, consideration might be given as to whether private providers should be able to access public facilities or receive financial incentives or assistance. Students attending private institutions are not eligible for SUSI grants; should this change? On the other hand, would opening up the higher education sector introduce unnecessary competition and duplication

of public resources or would it introduce wider choice? Given restrictions on public funding for higher education, would making further resources available to the PHE make the public sector unsustainable? What regulatory processes would be required to ensure a high-quality, high-reputation education system at home and abroad? What are the policy options and the implications for both the public and the PHE and ELE sectors? How can the “public interest”, and “public benefits” of the higher education system, be protected in a future regulatory environment?

---

<sup>1</sup> State-aided institutions are: All Hallows College; Burren College of Art; Carlow College (St Patrick's College); Church of Ireland College of Education; Colaiste Mhuire Marino (Marino Institute of Education); Garda Sioichana College; Kimmage Development Studies Centre; Milltown Institute (Institute of Theology & Philosophy); St Patrick's College, Thurles; St. Patrick's College, Maynooth (Pontifical University); The Cadet School; in addition NCI and RCSI are indicated as semi-state funded institutions. Shannon College of Hotel Management is no longer in this category since merging with NUIG.

<sup>2</sup> HECA members include: College of Computing Technology; Dublin Business School; Galway Business School; Griffith College; Hibernia College; National College of Ireland; IBAT College; IICP Education and Training; Institute of Physical Therapy & Applied Science; Irish College of Humanities & Applied Sciences; SQT Training Ltd; Irish Institute of Purchasing & Materials Management; Dorset College Dublin; Open Training College; Setanta College; and St. Nicholas Montessori College Ireland.

<sup>3</sup> HECA (Higher Education Colleges Association) <http://www.heca.ie/about-us/>

<sup>4</sup> J. Fielden & R. Middlehurst (2012) "A Policy Guidance Note on private higher education providers", Draft Report for the HEA, Unpublished. London: CHEMS Consulting, p. 2.

<sup>5</sup> DES (2016) *Irish Educated. Globally Connected. An International Education Strategy for Ireland, 2016-2020*. Dublin: Department of Education and Skills, p.56.

<https://www.education.ie/en/Publications/Policy-Reports/International-Education-Strategy-For-Ireland-2016-2020.pdf>

<sup>6</sup> A. O'Faolain (2013) "Language schools succeed in legal challenge to new regulations", The Irish Times, 13 January, Accessed 15 January 2015, from <http://www.irishtimes.com/news/crime-and-law/courts/high-court/language-schools-succeed-in-legal-challenge-to-new-regulations-1.2064712>

<sup>7</sup> DES (2016) *Irish Educated. Globally Connected. An International Education Strategy for Ireland, 2016-2020*. Dublin: Department of Education and Skills, p. 19.

<https://www.education.ie/en/Publications/Policy-Reports/International-Education-Strategy-For-Ireland-2016-2020.pdf>

<sup>8</sup> IRC, Eligible Higher Education Institutions (HEIs),

[http://www.research.ie/sites/default/files/eligible\\_higher\\_education\\_institutions\\_in\\_ireland\\_2016.pdf](http://www.research.ie/sites/default/files/eligible_higher_education_institutions_in_ireland_2016.pdf)

<sup>9</sup> Tax relief is available for Third Level Education tuition fees paid by an individual to an approved college in respect of an approved course including at a PHE.

<http://www.revenue.ie/en/tax/it/leaflets/it31.html>

<sup>10</sup> 11 closures occurred in 2014, and the remaining 5 occurred in the first half of 2015, prior to the introduction of the regulatory reforms.

<sup>11</sup> "Students protest after 16 English language colleges close in just one year", *the journal.ie*,

<http://www.thejournal.ie/english-language-college-closures-ireland-2085691-May2015/>; J.

Humphreys (2015, 15 January) "State may face damages claim over English language register", *The Irish Times*, <http://www.irishtimes.com/news/education/state-may-face-damages-claim-over-english-language-school-register-1.2067796>

<sup>12</sup> P. O'Donoghue (2016, 10 January) "Fear of Closures as English language school rules to come into force", *Irish Independent*, <http://www.independent.ie/irish-news/education/fear-of-closures-as-english-language-school-rules-to-come-into-force-34349048.html>; A. O'Faolain (2013) "Language schools succeed in legal challenge to new regulations", The Irish Times, 13 January, Accessed 15

---

January 2015, from <http://www.irishtimes.com/news/crime-and-law/courts/high-court/language-schools-succeed-in-legal-challenge-to-new-regulations-1.2064712>

<sup>13</sup> Interim List of Eligible Programmes (ILEP), Department of Justice and Equality, Ireland.

<http://www.inis.gov.ie/en/INIS/Pages/Interim%20List%20of%20Eligible%20Programmes%20-%20ILEP>

<sup>14</sup> See S. Marginson (1997) "Imagining Ivy: Pitfalls in the Privatization of Higher Education in Australia", *Comparative Education Review*, 41(4), p.461.

<sup>15</sup> D. L. Bennett, A. R Lucchesi & R.K. Vedder (2010) *For-Profit Higher Education: Growth, Innovation and Regulation*. p19, Washington, D.C.: Center for College Affordability and Productivity Retrieved from [http://www.centerforcollegeaffordability.org/uploads/ForProfit\\_HigherEd.pdf](http://www.centerforcollegeaffordability.org/uploads/ForProfit_HigherEd.pdf)

<sup>16</sup> Nearly one-third of the world's population (29.3%) is under 15. Today there are 158 million people enrolled in tertiary education. Projections suggest that that participation will peak at 263 million in 2025. Accommodating the additional 105 million students would require more than four major universities (30,000 students) to open every week for the next fifteen years. See S. Uvalić-Trumbić (201) "Highlights", *UNESCO Global Forum. Rankings and Accountability in Higher Education: Use and Misuse*. Accessed 22 September 2014, from

<http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/ED/pdf/RANKINGS/Stamenka-JohnDaniel.pdf>; see also A. Schleicher (2016, 16 March) "China opens a new university every week", BBC News, <http://www.bbc.com/news/business-35776555>

<sup>17</sup> J. Fielden & R. Middlehurst (2012) "A Policy Guidance Note on private higher education providers", Draft Report for the HEA, Unpublished. London: CHEMS Consulting, p. 5, 9.

<sup>18</sup> K. Kinser & D.C. Levy (2007) "For-Profit Higher Education: U.S. Tendencies: International Echoes", in J. J. F. Forest and P. G. Altbach (Eds.), *International Handbook of Higher Education* (Vol. 18, pp. 107–119). Dordrecht: Springer Netherlands. <http://doi.org/10.1007/978-1-4020-4012-2>, p.111

<sup>19</sup> J.A. Knee (2016) "Why For-Profit Education Fails", *The Atlantic*, <http://www.theatlantic.com/magazine/archive/2016/11/why-for-profit-education-fails/501140/>

<sup>20</sup> BIS (2013) *International Education: Global Growth and Prosperity*. London: Department of Business, Innovation and Skills.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/340600/bis-13-1081-international-education-global-growth-and-prosperity-revised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/340600/bis-13-1081-international-education-global-growth-and-prosperity-revised.pdf)

<sup>21</sup> D. Levy (2010) "East Asian Private Higher Education: Reality Policy", Unpublished paper, University of Albany, New York, Accessed 19 September 2014, from

<http://siteresources.worldbank.org/INTEASTASIAPACIFIC/Resources/EastAsianPrivateHigherEducation.pdf>

<sup>22</sup> Anon (2014) "The higher-education business", *The Economist*, 28 June, Accessed 19 September, from <http://www.economist.com/news/business/21605925-two-big-brazilian-education-firms-now-process-merging-show-how-universities-can-do>

<sup>23</sup> M. Skilbeck (2001) *The university challenged. Review of international trends and issues with particular reference to Ireland*, Dublin: Higher Education Authority; M. Skilbeck (2003). Towards an integrated system of tertiary education: A discussion paper, Unpublished.

<sup>24</sup> A. Sursock (2015) *Trends 2015: Learning and Teaching in European Universities*. EUA Publications 2015. Brussels: European Universities Association. p98. Retrieved from

[http://www.eua.be/Libraries/publications-homepage-list/EUA\\_Trends\\_2015\\_web](http://www.eua.be/Libraries/publications-homepage-list/EUA_Trends_2015_web)

- 
- <sup>25</sup> R. Middlehurst & J. Fielden (2011) "Private Providers in UK Higher Education: Some Policy Options", London: HEPI, Accessed 18 September 2014, from <http://www.hepi.ac.uk/2011/05/05/private-providers-in-uk-higher-education-some-policy-options/>
- <sup>26</sup> <http://www.laureate.net/OurNetwork/Europe/UnitedKingdom/LaureateOnlineEducationBVUniversityofLiverpool#t1>
- <sup>27</sup> J. Fielden & R. Middlehurst (2012) "A Policy Guidance Note on private higher education providers", Draft Report for the HEA, Unpublished. London: CHEMS Consulting, p. 10.
- <sup>28</sup> <http://www.olin.edu/>
- <sup>29</sup> <http://www.charteroak.edu/>
- <sup>30</sup> <http://www.earth.ac.cr/en>
- <sup>31</sup> <http://www.questu.ca/>
- <sup>32</sup> <https://www.khanacademy.org/about>
- <sup>33</sup> <https://minerva.kgi.edu/>; Graeme Wood (2014) "The Future of College?", The Atlantic, 13 August, Accessed 18 September 2014, from <http://www.theatlantic.com/features/archive/2014/08/the-future-of-college/375071/>
- <sup>34</sup> A. Labi (2010) "A For-Profit College Gains Special Government Status in Britain", *Chronicle of Higher Education*, 22 August, Washington D.C., Accessed 19 September 2014, from <http://chronicle.com/article/A-For-Profit-College-Gains/124097/>
- <sup>35</sup> S. Marginson (1997) "Imagining Ivy: Pitfalls in the Privatization of Higher Education in Australia", *Comparative Education Review*, 41(4), p.479.
- <sup>36</sup> R. Middlehurst & J. Fielden (2011) *Private Providers in UK Higher Education: Some Policy Options*, London: HEPI, p10, Accessed 19 September, from <http://www.hepi.ac.uk/2011/05/05/private-providers-in-uk-higher-education-some-policy-options/>
- <sup>37</sup> [http://www.upi.com/Business\\_News/2016/08/26/US-Dept-of-Education-drops-hammer-on-ITT-Tech-with-devastating-restrictions/8701472237496/](http://www.upi.com/Business_News/2016/08/26/US-Dept-of-Education-drops-hammer-on-ITT-Tech-with-devastating-restrictions/8701472237496/)
- <sup>38</sup> CHEA (n.d.) "Important Questions about Accreditation, Degree Mills and Accreditation Mills", Washington, D.C. Accessed 19 September 2014, from <http://www.chea.org/degremills/>
- <sup>39</sup> B. Rammell (2016) *Protecting the Public Interest in Higher Education*. Occasional paper 15. Oxford: Higher Education Policy Institute (HEPI), p. 45.
- <sup>40</sup> Y. Sharma (2016, 21 October) "Stricter controls on private institutions offering TNE", *University World News*, Issue 433.  
<http://www.universityworldnews.com/article.php?story=20161021130753781>
- <sup>41</sup> Committee on Health, Education, Labor, and Pensions, US Senate (2012) "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success", Washington D.C., Access 19 September 2014, from <http://www.gpo.gov/fdsys/pkg/CPRT-112SPRT74931/pdf/CPRT-112SPRT74931.pdf>; see also <http://www.nytimes.com/2014/07/03/upshot/corinthian-colleges-is-closing-its-students-may-be-better-off-as-a-result.html>; <http://www.timeshighereducation.co.uk/news/private-provider-drop-out-rates-and-loan-access-laid-bare-by-nao/2017302.article>
- <sup>42</sup> P. Fein (2016, 16 June) "Getting Touch with a Gatekeeper", InsideHigherEd., <https://www.insidehighered.com/news/2016/06/16/education-department-recommends-eliminating-national-accreditor-many-profit-colleges>; A.A. Smith (2016, 26 August) "U.S. cuts off ITT Tech", InsideHigherEd., <https://www.insidehighered.com/news/2016/08/26/education-department-bars-itt-tech-enrolling-new-students-federal-aid>

- 
- <sup>43</sup> See S. Hunt, C. Callender & G. Parry (2016) *The entry and experience of private providers of higher education in six countries*. London: Centre for Global Higher Education, UCL Institute of Education, p6. <http://www.researchcghe.org/perch/resources/publications/ppreport.pdf>
- <sup>44</sup> D. Lederman (2015, 23 February) "Blurring the Non-profit/For-Profit Divide", *InsideHigherEd* <https://www.insidehighered.com/news/2015/02/23/nonprofit-university-becomes-benefit-corporation-further-blurring-profit-divide>
- <sup>45</sup> D. C. Levy (2012) "How Important Is Private Higher Education in Europe? A Regional Analysis in Global Context 1", *European Journal of Higher Education*, 47(2).
- <sup>46</sup> D. Salto (2014) "Brazil: A For-Profit Giant", *International Higher Education*, 74, Accessed 5 September 2014, from <http://ejournals.bc.edu/ojs/index.php/ihe/article/view/5471>.
- <sup>47</sup> See Program for Research on Private Higher Education, SUNY, Accessed 17 December 2014, from <http://www.albany.edu/dept/eaps/prophe/index.html>
- <sup>48</sup> D. C. Levy (2012) "How Important Is Private Higher Education in Europe? A Regional Analysis in Global Context 1", *European Journal of Higher Education*, 47(2).
- <sup>49</sup> W. G Tierney (2011) "Too Big to Fail: The Role of For-Profit Colleges and Universities in American Higher Education", *Change: The Magazine of Higher Learning*, 43 (6).  
doi:10.1080/00091383.2011.618079.
- <sup>50</sup> C. Parr (2014) "The 20 most searched universities in the world on Google", *Times Higher Education*, 24 September. Accessed 25 September 2014, from <http://www.timeshighereducation.co.uk/news/the-20-most-searched-universities-in-the-world-on-google/2015972.article#.VCLow7S0IAE.twitter>
- <sup>51</sup> J. A. Douglass (2012) "The rise of for-profit universities and colleges", *University World News*, 15 July, Accessed 18 September 2014, from <http://www.universityworldnews.com/article.php?story=20120710160228719>
- <sup>52</sup> European Tertiary Education Register presentation, Accessed 17 December 2014, from [http://eter.joanneum.at/eterDownload/highlights\\_results.pdf](http://eter.joanneum.at/eterDownload/highlights_results.pdf)
- <sup>53</sup> S. Hunt, C. Callender & G. Parry (2016) *The entry and experience of private providers of higher education in six countries*. London: Centre for Global Higher Education, UCL Institute of Education. <http://www.researchcghe.org/perch/resources/publications/ppreport.pdf>
- <sup>54</sup> S. Woodfield (2014) "Private Higher Education in the United Kingdom: Myths and Realities", *International Higher Education*, no. 76, Summer, p. 11.  
<https://ejournals.bc.edu/ojs/index.php/ihe/article/viewFile/5523/4918>
- <sup>55</sup> S. Woodfield (2014) "Private Higher Education in the United Kingdom: Myths and Realities", *International Higher Education*, no. 76, Summer.  
<https://ejournals.bc.edu/ojs/index.php/ihe/article/viewFile/5523/4918>
- <sup>56</sup> BIS (2011) *Higher Education: Students at the Heart of the System*. White Paper Presented to Parliament. London.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/31384/11-944-higher-education-students-at-heart-of-system.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31384/11-944-higher-education-students-at-heart-of-system.pdf)
- <sup>57</sup> BIS (2016, May) *Success as a Knowledge Economy: Teaching Excellence, Social Mobility & Student Choice*, White Paper Presented to Parliament. London.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/523546/bis-16-265-success-as-a-knowledge-economy-web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523546/bis-16-265-success-as-a-knowledge-economy-web.pdf)
- <sup>58</sup> BIS (2016) *Higher Education and Research Bill: factsheet*. BIS/16/285

---

London: Department for Business, Innovation and Skills.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/543500/bis-16-285-higher-education-research-bill-summary.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/543500/bis-16-285-higher-education-research-bill-summary.pdf)

<sup>59</sup> P. Dubarle, E. Hazelkorn, J. Goddard & M. Kuczera (2012), *Higher Education in Regional and City Development: Wroclaw, Poland 2012*, OECD, Paris, chapter 2.

<sup>60</sup> M. Kwiek (2015) "From Privatization (of the Expansion Era) to De-privatization (of the Contraction Era). A National Counter-Trend in a Global Context" in S. Slaughter & B.J. Taylor (eds.) *Stratification, Privatization and Vocationalization of Higher Education in the US and EU: Competitive advantage*. Dordrecht: Springer. Accessed 13 January 2015, from [http://www.cpp.amu.edu.pl/kwiek/pdf/Kwiek\\_Slaughter\\_Final.pdf](http://www.cpp.amu.edu.pl/kwiek/pdf/Kwiek_Slaughter_Final.pdf)

<sup>61</sup> In Albania, 18 private HEI's and 7 public HEI branch campuses had their licenses revoked and so were obliged to close. 13 other private HEI's were temporary suspended. Only 13 institutions were evaluated as being adequate (but with recommendations for improvement) and could continue their work without interruption. It is estimated that there are 6,000 current students affected by these closures. Accessed 17 December 2014, from <http://www.shqiptarja.com/home/1/mbyllen-universitetet-si-do-transferohen-6-mij--student---231099.html>

<sup>62</sup> The Chilean President originally proposed to close private universities, but given the economic crisis, has now focused on greater regulation.

<http://www.buenosairesherald.com/article/217371/chile-gov%E2%80%99t-to-present-controversial-education-bill>

<sup>63</sup> Report of the Strategy Group (2011) *National Strategy for Higher Education to 2030*. Dublin: Department of Education and Science.

[http://www.heai.ie/sites/default/files/national\\_strategy\\_for\\_higher\\_education\\_2030.pdf](http://www.heai.ie/sites/default/files/national_strategy_for_higher_education_2030.pdf)

<sup>64</sup> Report of the Expert Group on Future Funding for Higher Education (2016) *Investing in Ambition. A Strategy for Funding Higher Education*. Dublin: Department of Education and Skills.

<https://www.education.ie/en/Publications/Policy-Reports/Investing-in-National-Ambition-A-Strategy-for-Funding-Higher-Education.pdf>

<sup>65</sup> *Irish Educated. Globally Connected. An International Education Strategy for Ireland, 2016-2020*.

Dublin: Department of Education and Skills, p.8. <https://www.education.ie/en/Publications/Policy-Reports/International-Education-Strategy-For-Ireland-2016-2020.pdf>

<sup>66</sup> QQI (2012) *Protection of Enrolled Learners: Protocols for the Implementation of Part 6 of the 2012 Act*, Dublin, p.3

<http://www.qqi.ie/Publications/Policy%20for%20Protection%20of%20Enrolled%20Learners%20V2%20Sep%202013.pdf>; QQI (2012) "Operating Principles for PEL", Dublin. <http://www.qqi.ie/Publications/Operating%20Principles%20for%20PEL.pdf>