



Proceedings of the 6th HEA Forward-Look Forum: Private Providers: What Role Should They Play in the Irish Higher Education Landscape?

23rd November 2016

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

Introduction

The HEA Forward-Look Forum, 'Private Providers: What Role Should They Play in the Irish Higher Education Landscape?', was convened at St. Laurence's Church, Grangegorman Campus, Dublin Institute of Technology on 23rd November 2016 to examine the role played by private providers of higher education in Ireland and internationally. The forum was the sixth in a series of fora which the Higher Education Authority hosts bi-annually to provide opportunities for forward-looking and disruptive thinking about the future of the sector amongst key stakeholders, thereby enhancing the policy-making capacity and capability of the Irish higher education community. Cognisant of the global context within which Irish higher education operates, and of Ireland's potential to emerge as a strong player within the 'knowledge society' of the twenty-first century, the fora aim to support the cultivation of fresh, long-term perspectives on topical, cross-cutting themes through inclusive, participatory and action-oriented discussion and debate.

The sixth forum brought together representatives from across the higher education sector, government departments and state agencies, along with other stakeholders, to explore the opportunities and challenges presented by the growth of private higher education in Ireland within the context of rising domestic demand for higher education and of the fiscal constraints under which the public sector operates. Keynote addresses were provided by Professor Pedro Nuno Teixeira (Vice-Rector for Academic Affairs and Associate Professor of Economics, University of Porto), John Fielden (Director, CHEMS Consulting) and Dr. Pdraig Walsh (Chief Executive, Quality and Qualifications Ireland (QQI)). In addition two three-member panels, comprising representatives drawn from Irish higher education institutions, private providers and other stakeholder-organisations, debated the topics under consideration.

Increasingly in Ireland private providers are playing a leading role in the provision of higher education and the distinction between the public and private sectors is becoming blurred. Private providers offer courses through the HEA's Springboard programme while the proportion of public higher education institutions' funding which comes from private sources is increasing. As the *International Education Strategy for Ireland 2016–2020* illustrates, within the global higher education landscape Ireland plays a leading role, with both public and private providers making an important contribution to the country's reputation for excellence



in higher education.¹ Against the background of a wealth of strategies on higher education, the 6th HEA Forward-Look Forum provided a timely opportunity to explore how best to exploit the potential synergies between the public and private sectors in order to support the achievement of Ireland’s national ambition across a range of areas.

Changes in the higher education landscape: what is the role of private providers and what are the lessons for Ireland?

Professor Pedro Nuno Teixeira (Vice-Rector for Academic Affairs and Associate Professor of Economics, University of Porto; Director of the Center for Research on Higher Education Policies (CIPES); and Adviser to the President of Portugal on higher education)

Private supply in European higher education: major patterns and challenges

In recent decades the number of students in higher education has increased dramatically across the world—an increase which has been accompanied by a steady rise in the attainment of tertiary-level qualifications by the adult population. While the financial burden on students participating in higher education has increased in recent years, there is still a wage-premium on tertiary-level attainment. Furthermore, since the start of the twenty-first century, the international mobility of students has increased worldwide. Against this background, the opportunities presented by the development of new technologies have led to the expansion of the private higher education sector and to the emergence of alternative providers, leading to the provision of courses at lower cost and to partnerships between universities and companies in online programme-provision. The emergence of such providers, and the provision of online courses, poses a degree of threat to the viability of less prestigious, traditional higher education institutions.

Within Europe, the role played by private providers in the provision of higher education is changing. While historically the model of higher education provision in Europe was essentially private, the influence of the state in this provision increased steadily in the twentieth century, safeguarding the continued existence of higher education institutions and bestowing upon the sector a degree of legal homogeneity. However against the background of the continuous expansion of higher education in recent decades, the marketisation and privatisation of the sector have been growing trends. The costs of higher education (in total and for the student) have increased, and the ‘massification’ of higher education has created new challenges to which regulatory and technological developments have provided a response. Increasingly publicly funded higher education institutions are viewed through a market-oriented lens, transforming policy-makers’ expectations of such institutions and blurring the boundary between public institutions and non-profit private providers. At the same time, new for-profit providers of higher education have emerged (including a number of large American providers), aggressively marketing their programmes to prospective students and challenging the hegemony of traditional higher education institutions within the landscape.

¹ See <https://www.education.ie/en/Publications/Policy-Reports/International-Education-Strategy-For-Ireland-2016-2020.pdf>.



Within the European context, two European Commission-funded projects have enhanced the evidence-base for analysis of the European higher education landscape, inclusive of public and private providers. The EUMIDA European University Data Collection project, launched in 2009, entailed a census of all European universities (2,500 institutions across the 27 EU member states in addition to Norway and Switzerland) and the collection of data on universities which are research-active, the results of which are detailed in the final project-report of 2010.² Meanwhile through the European Tertiary Education Register (ETER) project the first comprehensive database on European higher education institutions was established.³ The data collected through these projects reveal major differences between public and private higher education institutions with the European higher education landscape. Public institutions significantly out-number private providers; private providers are typically much smaller in size (in terms of student-numbers) than public institutions and are more specialist in their course-offerings; and tuition-fees constitute a much greater proportion of private providers' overall budget than that of publicly funded institutions.

Private providers of higher education are not always visible in official data, such as that which comprises the ETER, arguably reflecting their lack of integration into the higher education landscape. ETER data shows significant differences in the balance of public and private institutions across Europe, there being a significant presence of private providers in some countries contrasted with a negligible presence (or complete absence) in others. There is, for example, no data on private providers in Ireland included in the database.

Through the EUMIDA project, data on higher education institutions' research activities in 15 countries was collected, highlighting the lack of research capacity of many private providers. While there are some prestigious private providers in the U.S.A. which are recognised for their research, typically the teaching-focus and temporary or part-time nature of staff-members' employment-contracts in the private sector militate against research activity. The narrow disciplinary focus of many private providers also precludes the interdisciplinary and multidisciplinary research which traditional universities support. While public higher education institutions are generally geographically dispersed throughout a country, private providers tend to be focused in particular regions, as well as often being dedicated to the provision of courses in low-cost, high-demand disciplines, such as the social sciences, business and law.

Overall the private higher education sector in Europe is diversifying, with increasing differentiation between higher education institutions and some state support for their expansion in order to meet rising student-demand. Nevertheless private providers remain a weak complement to the publicly funded higher education institutions; they are typically risk-averse; and questions about their academic, political and social legitimacy often arise. In responding to the challenges of regulating private providers of higher education, it is incumbent on policy-makers to recognise that, in all of their diversity, they are part of the broader higher education landscape. Furthermore there is an imperative to endow them with

² See <https://datahub.io/dataset/eumida>.

³ See <https://www.eter-project.com/>.



greater political and social legitimacy given the contagion attendant upon the erosion of public trust in any provider. Accreditation and quality assurance are vital to this endeavour. The distinction between the public and private sectors is becoming increasingly blurred, with private providers making a contribution to meeting rising student-demand for higher education and public institutions increasingly seeking alternative revenue-streams in challenging fiscal environments. Against this background there is an imperative to manage expectations about the role of private providers and to develop policies for a more complex, multifaceted higher education system.

David O’Grady (Chief Executive, Marketing English in Ireland)

As the association of English-language schools accredited by the Government of Ireland, the members of Marketing English in Ireland (MIE) are not part of the higher education sector. The majority of the 61 schools that comprise these members are private and some are part of international chains of schools. While the English-language school sector would welcome the opportunity to foster synergies with, and to develop pathways into, higher education institutions, enhancing Ireland’s international reputation as a destination for higher education (particularly amongst non-EEA, fee-paying students) represents a challenge. Many of MIE’s members prepare students for entry into higher education in the U.K., which may be partially attributable to the low regard in which language-learning is held in Ireland. With many Irish citizens viewing this as a non-academic pursuit, there is a lack of recognition of the challenges entailed and therefore of the standing of language-qualifications attained. Problems have also arisen in the unregulated English-language school sector, in which there has been exploitation of the generous concessions made to international students who wish to work in Ireland. While the reputational damage attendant upon the closure of a number of English-language schools in Ireland was largely contained, the lack of progression-pathways open to English-language school students in Ireland continues to inhibit the development of the internationalisation of higher education.

Professor Diarmuid Hegarty (President, Griffith College Dublin)

Disruption is a critically important element in the strategic development of higher education, as a sector in which elitism continues to be a problem. The lack of progress in widening access to higher education is an indictment of the Irish higher education system. There has also been a failure to persuade the Government of Ireland of the benefits of supporting private providers of higher education to improve access for under-represented groups despite the successful engagement of a number of such providers with the HEA’s Springboard programme.⁴ It is incumbent on the Government to explore and embrace the untapped potential offered by engagement with private providers, which could usefully be supported by research by the HEA in this area.

⁴ On Springboard see <http://www.heai.ie/en/policy/springboard> and <http://skillsdirect.heai.ie/>.



Professor Caroline Fennell (Senior Vice-President Academic and Registrar, University College Cork)

There is enormous demand for Irish higher education from international students, particularly, for example, in the areas of medicine and dentistry, although the high level of tuition-fees charged to non-EU students is a disincentive. While there is a lack of data on the employability of graduates of private higher education providers, it is clear that the public higher education sector in Ireland is being transformed by the increasing dependency of higher education institutions on private revenue-streams. The increasing diversity of students entering higher education and the projected rising demand for places in the coming years also represent significant challenges, in response to which institutions are becoming more flexible in terms of programme-delivery. Accordingly publicly funded higher education institutions are increasingly mimicking the attributes of private providers.

Nevertheless the mission of publicly funded higher education institutions remains distinct, characterised by the cross-fertilisation of teaching and research and the cross-subsidy of disciplines. Research-intensive universities in particular offer a unique experience, often on beautiful, old campuses. However there is a need for the provision of places in higher education for those seeking a different kind of experience, such as adults seeking to re-train. There is a need to explore the role that private providers might play in meeting this demand.

Open discussion

The value of collaboration between the public and private higher education sectors is clear and the extent to which this has been fostered in Ireland for the benefit of students is to the credit of the Irish higher education community. Both public and private providers are united in their aim to provide students with the highest quality learning-experience, both are highly regulated, and both make an important contribution to the internationalisation of higher education. In Ireland 10% of National Framework of Qualifications (NFQ) level 8 degrees (bachelors' degrees with honours) are awarded by private providers, which make an important contribution to widening access to higher education. However there is a need for examination of the Irish higher education sector in its entirety, as well as for political leadership to enable both public and private providers to optimise their performance.

The national data that is available on private higher education providers in Ireland is limited because such providers are under no obligation to provide data to the HEA. While acknowledging that there is a stronger imperative to ensure the full accountability of publicly funded higher education institutions, the HEA would welcome more comprehensive data-returns from the private sector, which would enhance the evidence-base for policy-making. The multi-dimensional profiles of HEA-funded higher education institutions which the HEA publishes annually could also be produced for private providers if sufficient data were to be returned. QQI publishes data on those private providers of higher education on whose behalf QQI makes awards in addition to which Ireland's Expert Group on Future Skills Needs (EGFSN) publishes data on both public and private providers.



Increasingly the funding of both public higher education institutions and private providers is diversifying. However in Ireland publicly funded institutions are constrained in their capacity to generate private income by the governance model, revision of which would enable institutions to operate with greater flexibility. Conversely greater transparency in relation to the work of private providers in all of their diversity is a necessary pre-condition for strengthening their integration into the national higher education system. While it is acknowledged that the research undertaken in public higher education institutions enhances the quality of students' learning-experience, a broader conception of research is needed to encompass the research activities of staff of private providers. Such recognition would help to address concerns about the social legitimacy of such providers in the discourse on higher education.

The regulatory environment: how should this reflect the role of private higher education?

John Fielden (Director, CHEMS Consulting, London)

Changes to the regulatory environment in the U.K.—is any of it relevant to us?

Data published by the U.K.'s Department of Business, Innovation and Skills (BIS) in 2016 shows that, in 2014, there were 732 private providers of higher education in the U.K., the majority of which (approximately 690) were in England.⁵ In the region of 250,000–295,000 students were registered with these providers, 27% of whom came from outside of the European Union. The student-numbers of only 9 of these providers was greater than 5,000; 63% of the providers were over 10 years old; the majority were privately owned (with a few being registered charities); 64% of the providers were for-profit; and their disciplinary focus was principally in business and management, the arts and religious studies. Only 9 of the 690 private providers in England have designated awarding powers, and only 110 of these providers are eligible for student-loans, with very limited data available on the remaining 580.

The student-population of alternative providers in the U.K. is more diverse than that of the publicly funded higher education institutions, with men, mature students (over the age of 25), non-white students, and international students represented in greater proportion. Such providers offer more flexible entry-points than their public-sector counterparts with varying tuition-fee levels and often with similar levels of support from the Student Loans Company to students in public institutions. The courses offered by alternative providers are accredited by a range of bodies, with two of the for-profit providers with degree-awarding powers (University of Law Limited and Arden University Limited) having been recently acquired (along with IBAT in Ireland) by the Netherlands-based company, Global University Systems—an international network of higher education institutions catering for 40,000 students

⁵ See IFF Research, *Understanding the Market of Alternative Higher Education Providers and their Students in 2014* (May 2016), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/524453/he-alternative-providers-2014.pdf.



worldwide.⁶ Greenwich School of Management (GSM London) is a typical private provider of higher education in the U.K..⁷ Owned by the private equity company, Sovereign Capital, GSM London is the largest alternative provider in the U.K. with 7,200 students. Domestic and EU students pay £6,000 *per annum* for a 3-year undergraduate degree and £8,000 *per annum* for an accelerated, 2-year degree, while international students pay £8,500 *per annum* for the former and £12,750 *per annum* for the latter. With all courses validated by Plymouth University, GSM London was in receipt of £77 million from the Student Loans Company in 2013–2014 and, despite concerns voiced by the Quality Assurance Agency (QAA) in 2015, is of good standing.

The British Government's White Paper, *Success as a Knowledge Economy: Teaching Excellence, Social Mobility and Student Choice* (May 2016) is favourable to alternative providers in England, proposing a system through which their approval for degree-awarding powers would be fast-tracked as well as regulatory reforms which would support the development of a more diverse higher education sector.⁸ Following consultation on this White Paper, the legislation to underpin the proposed reforms—the Higher Education and Research Bill—is now being considered by Parliament, promising to create a level playing-field for all providers of higher education and greater choice for students in England. There will henceforth be one regulator for all providers—the Office for Students (OfS)—which will implement the same regulatory processes across the sector as well as enabling some alternative providers to receive public funding for teaching and research. The eligibility of alternative providers for such funding will be subject to a range of conditions imposed by the OfS pertaining to areas such as quality and standards, student-protection, transparency and the publication of information, the development and implementation of an access and participation plan, and a commitment to limit the tuition fees charged. Accordingly many unregulated providers will remain outside of the system. Examining the state of private higher education providers in England and other nations, including the U.S. and Australia, a new Higher Education Policy Institute (HEPI) report, *Alternative Providers of Higher Education: Issues for Policymakers*, by John Fielden and Robin Middlehurst, highlights the risks attendant upon the British Government's proposals to remove barriers to market-entry for alternative providers in England, which, international experience suggests, could licence questionable business-practice.⁹

The proposed reforms under consideration in England give rise to questions which can usefully be considered in the Irish context. These pertain to the optimal balance between the conditions for the registration of a provider and the incentives which this offers; and to whether it is desirable to distinguish between different categories of private providers for the purposes of registration and subsequent monitoring. Consideration of how best to assess the

⁶ See <http://www.globaluniversitysystems.com/>.

⁷ See <http://www.gsmlondon.ac.uk/>.

⁸ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523396/bis-16-265-success-as-a-knowledge-economy.pdf.

⁹ See http://www.hepi.ac.uk/wp-content/uploads/2017/01/Hepi-The-alternative-providers-of-higher-education-Report-90-04_01_17-Screen2.pdf.



financial sustainability and governance of alternative providers is also of critical importance in seeking to integrate them into the wider higher education landscape.

Dr. Pdraig Walsh (Chief Executive, Quality and Qualifications Ireland (QQI))

Regulation of private higher education in Ireland

History

The issue of the regulation of private colleges in Ireland first surfaced in the 1992 Green Paper on Education which noted that

there has been a major growth in recent years in the number of private colleges and institutions offering education and training courses of varying duration at a variety of levels, including third level. Concern has been expressed that such colleges are not regulated in the interest of consumer protection. Such registration would provide a stamp of approval for those colleges obtaining registration and the publicity related to the registration process would alert the public to the need to reassure themselves as to the quality of courses on offer.¹⁰

The Green Paper goes on to describe the arrangements that were agreed with the then National Council for Educational Awards (NCEA) in relation to the designation of such colleges and the validation and certification of their programmes. The Green Paper also described how the Department of Education would agree a code of quality control for non-third-level colleges including where the qualifications were awarded by fully recognised institutions abroad. The objective was to ensure that certification could only take place if a college held a licence from the Council for Education and Vocational Awards (CEVA), in accordance with the code of quality control.

The subsequent 1995 White Paper 'Charting Our Education Future' described the designation of a number of private commercial colleges by NCEA.¹¹ It further noted that 'some of the designated colleges had chosen to have courses validated by agencies outside the State rather than the NCEA' and that there were currently 'no arrangements to ensure consistency and rigour in the appraisal and evaluation of the quality of these courses'. The White Paper goes on to describe the approaches that would be adopted for rigorous evaluation of the quality of courses, for the 'satisfactory recoument of students' investment in the event of the institution's commercial failure'. The White Paper further described the requirement to make available all relevant statistical information to the Department of Education and the NCEA. Arrangements would also be provided for the regular evaluation of the quality and standards

¹⁰ See <https://www.education.ie/en/Publications/Policy-Reports/Education-for-a-Changing-World-Green-Paper.pdf>.

¹¹ See <https://www.education.ie/en/Publications/Policy-Reports/Charting-Our-Education-Future-White-Paper-On-Education-Launch-Copy-1995-.pdf>.



in recognised institutions, as a condition of continuing approval, and that approved courses in such designated institutions would be eligible for tax-relief on fees from 1996 onwards.

The legislative provisions flowing from the 1995 White Paper included the Qualifications Act of 1999 that established the Further and Higher Education and Training Councils (FETAC and HETAC) and introduced the protection for enrolled learners' provisions and provided for the approval and review of quality assurance procedures and the validation of programmes of education and training. The 1997 Universities Act had already provided for the concept of quality assurance and review in the university sector.

Classes of higher education providers in Ireland

There are several types of bodies in Ireland offering higher education programmes. These include the so-called designated awarding bodies, the universities (including the National University of Ireland), Dublin Institute of Technology and the Royal College of Surgeons in Ireland. These bodies have self-awarding powers up to doctoral level. There are the 13 institutes of technology which make awards under delegated authority from QQI for all awards up to level 9 in the National Framework of Qualifications. Many of the institutes also have delegated authority at doctoral level in specified fields.

There are also other bodies, termed 'linked providers'. These are bodies that do not have awarding powers in their own right, but have their programmes validated by a designated awarding body such as a university and where the students receive university awards. These include all (until recently) of the initial teacher education providers, like Mary Immaculate College and Marino Institute of Education, which receive their awards from the University of Limerick and Trinity College Dublin respectively. Other linked providers include the Institute of Public Administration, the Irish Management Institute, the Institute of Bankers and the Royal Irish Academy of Music. There are also a number of other smaller providers who receive their awards from the universities.

In all of the above cases, the qualification can be said to be 'regulated' and the award is included in the National Framework of Qualifications. The linked provider is also regulated by the awarding body.

The inclusion of the term 'linked provider' in the 2012 Act establishing QQI was meant to close the lacuna whereby the quality assurance provisions of the 1997 Universities Act had really envisioned the idea of the university quality-assuring its departments, schools and faculties, and services on a 'campus' basis. The Act was silent on how it treated bodies like the teacher education colleges, which had no specific, explicit legislative provision attached to them in terms of quality assurance.

The institutes of technology were quality assured by the Higher Education and Training Awards Council (HETAC) based on the provision of the 1999 Qualifications Act. HETAC validated the programmes of the institutes of technology and certified the graduating



students. Over the course of the early 2000s, all of the institutes received delegated authority to make their own awards, some up to level 10 in the NFQ. HETAC also, of course, validated programmes for providers other than the institutes of technology. Many of these providers are also publicly funded bodies such as the Garda and military colleges, for instance. HETAC also engaged with many other private or independent colleges. These include familiar names like the National College of Ireland, Griffith College, Hibernia College and Dublin Business School.

To give an idea of the size of the regulated private sector in Ireland, it is worth noting that there were over 30,600 level 8 major awards (honours bachelors' degrees or higher diplomas) made by the institutes of technology, colleges and universities combined in 2014. In 2014, QQI made close to 3,200 major awards at level 8 in the NFQ—so close to 10% of the total.

The process by which a provider becomes eligible for access to QQI awards is termed initial access. This is a voluntary procedure as Ireland does not operate a licensing system for education and training providers. Currently Ireland protects the university title in law. The term 'institute of technology' is also protected in law but there is no restriction on institutions calling themselves 'colleges of technology' or 'international college'. No organisation established post-1997 can use the term 'university' without ministerial permission. A quick search of the Companies Registration Office website reveals defunct companies such as the Catholic University of Mayo in Ballina and the even-more geographically challenged Dublin Metropolitan University, which is based in Drumcliffe, Co. Sligo.

The legislative decision to restrict the university title in Ireland dates back to 1997. There is a mechanism under Section 9 of the Universities Act for a higher education institution to be evaluated for the university title but it has never been successfully pursued. Indeed there is no clear steer in the 1997 legislation as to what a university is. The Port report commissioned by the Minister for Education in 2007 as to whether Waterford Institute of Technology (WIT) was in a position to make a Section 9 applications found that

a complicating factor in assessing WIT's application is that there is no unambiguous and transparent set of criteria against which (an assessor), or WIT, or any other body can test this application.

It further noted that

the profile of WIT would not look out of place in a university in the U.K.. However, the question the Government needs to ask is "would it look out of place in Ireland", which is a different country with a different policy and tradition from that in the U.K..

The 2011 *National Strategy for Higher Education to 2030* clearly came down against establishing any new universities alongside the current ones through the Section 9 route but



came down on balance with a recommendation of permitting the institutes of technology to pursue the status of technological university.¹²

Unlike the 1997 Act, however, the Technological University Bill that was introduced by the last government had a clear definition of the bar that is required to be achieved for technological university designation in terms of matters like minimum staff-qualifications and broad fields of offering. That Bill fell with the last administration and the legislation has yet to be revived by the current government. The current strategy for the university title is sustainable in a purely nationally regulated system but would come under strain if overseas' providers, particularly those from the U.K., sought to establish in Ireland.

Under the 1992 universities legislation in the U.K., the former polytechnics were granted both full degree-awarding powers and university title. Ireland's approach has been more cautious whereby state-regulated higher education institutions receiving QQI awards can be assessed for and granted delegated authority to make their own awards but there is currently no process available to receive full degree-awarding powers other than pursuing the Section 9 route or through the putative technological university route which requires further legislation.

Under the 1999 legislation that established the Higher Education and Training Award Council (HETAC), the only higher education institutions that were eligible for such delegated authority were the institutes of technology and indeed, all of them have now received delegated authority from HETAC, now QQI, up to level 9 (master's level) and a number have delegated authority at level 10 (doctoral level) in specified fields. The 2012 legislation establishing QQI offers the possibility of other higher education institutions, including those in the private sector to be able to pursue delegated authority to make their own awards but only under regulations specified by the Minister. These regulations have not, as yet, been made but the criteria are envisioned in the legislation as requiring any such institutions to have established a track record with QQI for offering a number of awards for a period of time.

QQI is currently consulting on a White Paper on delegated authority to update the previous HETAC policy in the light of the 2012 legislation, and the feedback received indicates that there is some appetite from private higher education institutions to pursue such a route. The submissions to the consultation on this White Paper and the analysis of the feedback are published on the QQI website.

Developments in the United Kingdom (or England, really)

The growth of private higher education in the U.K. (or, in reality, England) has been facilitated by the changes in funding for higher education whereby the introduction of progressively higher student-contributions with a fee-cap that recently moved from £3,000 to £9,000 with almost all providers charging the maximum fee. This means that the former public or publicly

¹² See <http://www.education.ie/en/Publications/Policy-Reports/National-Strategy-for-Higher-Education-2030.pdf>.



supported system has essentially moved over to a private or student-supported system. Undergraduate education (with the exception of some high-cost fields in STEM areas) is almost entirely supported from student-fees in the form of income-contingent loans. Access to such loans is based on the higher education provider being deemed eligible for such loans. Legislation currently being debated by the U.K. Parliament is looking at the abolition of the Higher Education Funding Council for England (HEFCE) and its replacement by an Office for Students (OfS). Eligibility for recruiting loan-approved students will initially be based on providers having a current clean bill of health from the Quality Assurance Agency for Higher Education (QAA). Thereafter, if a university wishes to increase its fees, it will only be permitted to do so on the basis of participating in the newly established Teaching Excellence Framework (TEF). The ability to vary fees upwards will be determined by the receipt of a Gold, Silver or Bronze award.

These changes in the U.K. may have implications for Ireland and even more so post-‘Brexit’. Currently there is no necessity or even incentive for U.K. universities to establish themselves in Ireland. A number of U.K. universities validate programmes and make awards for some private higher education providers in Ireland but in these cases the university is not established here.

Under the 1997 Act, U.K. or other foreign universities would not be permitted to establish themselves in Ireland with the title ‘university’ without Ministerial permission. Thus, currently for instance, the Irish American University has to style itself American College Dublin in respect of its QQI award offerings.

There is no internationally-accepted definition of the term ‘university’. In the U.K. the title is currently restricted based on a minimum of 1,000 students and a minimum breadth of higher education programmes offering. Full degree-awarding powers up to doctoral level are restricted to universities. The Higher Education and Research Bill currently going through Parliament proposes to lift the restriction on size and amend the breadth of programme-portfolio offering.

The attitude of U.K. universities to establishing branches or overseas campuses in Ireland may be coloured by ‘Brexit’ and the current political environment in the U.K. in relation to overseas students, where these students are currently included in the immigration figures. Controlling immigration has come through as the single biggest issue in the ‘Brexit’ vote and the current U.K. Prime Minister, Theresa May, adopted a much tougher line on student-visas than her predecessors when she was Home Secretary.

Even prior to ‘Brexit’, QQI had received some queries from some U.K. universities thinking of establishing branch campuses in Ireland with an overt declaration that the market for students was predominantly (probably exclusively) visa-required students. These were not pursued further when it was explained to these institutions that they would not have an automatic right to use their ‘university’ title and that the student immigration regime in Ireland has also recently been strengthened.



Almost all of the U.K. universities that validate programmes in Ireland come from the former polytechnic stable. Should they choose to operate in Ireland, they would have an expectation to be able to use their university title. However it is likely that this would be opposed by other non-university institutions in Ireland on understandable grounds. As there is no universal definition or bar set for the university title, the institutes of technology would reasonable make the claim that were they operating in the U.K., they would have university title and this would also be the case in many other countries in Europe and in North America.

The incentive for any new higher education institutions to establish in Ireland is certain to be strongly influenced any changes in the funding model and the student-support system in particular that may arise from the recommendation in the Cassells report.¹³ Currently only students attending so-called public institutions, such as the universities, institutes of technology and the teacher education colleges, are in receipt of the ‘free-fees’ (free for students, that is; €3,000 *per annum* if you are a parent). Students attending private colleges, including those offering QQI awards, are required to pay the full-fee, although the top-up portion is eligible for tax-relief. Furthermore eligibility for student grants through SUSI is restricted to the ‘free-fee’ programmes. Students pursuing QQI-validated programmes in private colleges are not currently eligible for SUSI grants. This anomaly was the subject of discussion at an Oireachtas Committee meeting earlier this year.

Under the funding options outlined in the Cassells report, particularly if an income-contingent loan system is put in place, the programmes that are eligible for access to such loans will have to be clearly defined. Of course, there are other options for funding outlined in the Cassells report and these were recently debated at the recent Joint Oireachtas Education Committee meeting. However it is important to consider the possible effects on the provider landscape prior to any decision on the future funding model. Any change to the current funding model will most likely impact on the private higher education sector already existing in Ireland and may also affect the attractiveness of new providers setting up in Ireland, and U.K. universities in particular.

Regulation of U.K. higher education

It is useful to look at how U.K. universities are regulated and how this impacts on their transnational provision, in particular. Awarding powers are currently the preserve of the Privy Council and new providers currently receive degree awarding powers following a positive evaluation from the quality assurance agency QAA.

Bodies that can award their own degrees are termed ‘recognised bodies’. In addition, there are other higher education institutions, without their own degree-awarding powers, that are able to have their programmes validated by recognised bodies such as universities. These are called ‘listed bodies’ and are similar to Ireland’s linked providers—similar but not the same. The ‘listed bodies’ are limited to the territorial borders of the U.K.. There is no such list for

¹³ See <http://www.education.ie/en/Publications/Policy-Reports/Investing-in-National-Ambition-A-Strategy-for-Funding-Higher-Education.pdf>.



bodies operating elsewhere, including in Ireland. U.K. universities are, like Irish universities, able to exercise their degree-awarding powers overseas but such so-called transnational education is not explicitly regulated by primary legislation.

The primary tool for regulating quality in U.K. higher education is the Further and Higher Education Act 1992 whereby the funding councils such as HEFCE have to ensure that quality is being maintained. From 1992 up to earlier this year, this was contracted by HEFCE and the other funding councils in Scotland and Wales and the Department of Learning in Northern Ireland, to the Quality Assurance Agency QAA, who evaluated the universities on a periodic basis to ensure that, among other things, they complied with the QAA quality code to remain eligible for continued funding. Part of the quality code includes the area of collaborative provision, including any transnational education. The quality assurance regime changed earlier this year when HEFCE tendered, for the first time, for bodies to contract the quality function. In the end, QAA won the tenders for 5 of the 6 institutes of technology, including the lot for trans-national education (TNE).

QAA has exercised its oversight of TNE in different ways. They used to separately look at the TNE of individual providers and how a university quality assures each the bodies whose awards they were validating in so-called collaborative audits which were separate from say, the institutional review of the 'home campus'. QAA has also frequently conducted country audits, most notably in Asia and the Gulf, in countries like China, Singapore, India but also in the Caribbean and more recently in Greece and now the Eastern Mediterranean. QAA has never performed a country-audit in Ireland.

QAA and QQI do however work together in the European Higher Education Area (EHEA), most notably through the pan-European quality assurance association of agencies, ENQA, of which Pádraig Walsh is the current president and on which numerous QAA staff have served as Board members, Vice-President and President. QQI and QAA signed a memorandum of association and information-sharing agreement in 2013. This MoU is active and the two bodies meet twice yearly either in a Dublin or in QAA's London office or via video-conference.

QQI collects some intelligence on the activities of U.K. universities operating in Ireland, initially through the Internationalisation Register, on behalf of the Department of Education and Skills and the Department of Justice. Following the concerns caused by the closure of the private schools offering English-language and other U.K.-validated further education programmes, new immigration reforms were introduced in June 2015 and an Interim List of Eligible Programmes was established under the Department of Justice. This list is exclusively for the purpose of recruiting students who require immigration permission. It lists a number of private Irish colleges that are offering awards validated by U.K. universities. QQI has no oversight of these colleges other than where they also provide QQI awards or where QQI accredits their English-language provision, on a non-statutory legacy contract basis.

There is no definitive information about how these U.K. universities are quality assuring their provision in Ireland. We have no evidence that they have conducted site visits to the colleges



and we know that QAA has not visited any of these colleges recently as part of collaborative audits and that QAA has not conducted a country review in Ireland, even though Ireland is, according to HESA, the 10th most popular place of domicile for students studying for U.K. Awards through TNE. QQI is aware that the Department of Justice has had concerns about some private colleges recruiting students onto programmes awarded by some U.K. universities where it was unable to reconcile the numbers of visas issued with the registration of those same students with the awarding university. The Department has suspended the issuing of visas for students in some colleges on this basis. QQI is also aware that some private colleges who were unable to receive approval from QQI to validate programmes subsequently had similar programmes validated by U.K. universities. On foot of this and other information and a request from QQI, QAA is considering undertaking a country-audit of U.K. awarding in Ireland in 2017.

As mentioned above, legislation is currently going through the U.K. Parliament to abolish the HEFCE; to establish the OfS, which will have responsibility for the TEF; and to merge the research councils into a new body. The TEF will award Gold, Silver and Bronze awards to providers on the basis of a number of publicly available performance-measures related to the national student satisfaction survey, progression and completion rates and employment/graduate-entry statistics. Initially the TEF awards will be made at institutional level and will cover undergraduate education only. It will not apply to an institution's TNE (transnational education) which will raise questions as to what a university award truly means in this context.

The OfS will have responsibility for assessing the 'gateway' to degree-awarding powers. This will involve the OfS evaluating the soundness, including the financial soundness, of new providers and also requesting the designated quality body (yet to be defined but likely to be QAA) to evaluate the academic soundness and quality of the proposed academic offering.

Information on colleges providing QQI awards

While neither QQI nor anyone else has comprehensive data on the number of students studying in private colleges in Ireland and the range of programmes involved, we do of course have information on our own awards. It is interesting to look at the mixture of college type, size, student-cohort and specialisations.

In 2015, QQI made major awards at NFQ level 8 (honours bachelor or higher diploma) in 18 independent colleges. In 2015, QQI made over 800 awards at level 8 in Dublin Business School, over 700 at Hibernian College, close to 600 and 400 at National College of Ireland and Griffith College. Some of these colleges' level 8 output is comparable to some of the smaller institutes of technology. There were also 11 colleges where less than 50 awards at level 8 are made annually. Many of these colleges offer QQI awards of course at lower levels in the NFQ and awards of other bodies also.



In terms of the mixture of QQI validated programmes on offer, many are in the areas of business (including marketing, accounting and management) and ICT (including multimedia and data analytics) but there are also offerings in media, journalism, photography and design and there are specialist colleges devoted to Montessori education, physical therapy, public relations, counselling and psychotherapy, for instance.

In terms of the international mix, QQI collects data, for the future purposes of the code of practice for international students and the international education mark, from the colleges that offer QQI awards. Some of the colleges recruit largely Irish (or other EEA) students while some others recruit mainly visa-required students. In 2015 there were 17,140 students enrolled on programmes leading to QQI awards in higher education. Of these 13,436 (78%) were EEA nationals (including Irish nationals) and 3,704 (22%) were non-EEA citizens requiring immigration permission to be in the country for educational purposes. Of the four largest colleges enrolling between 1,400 and 3,800 students, the non-EEA cohort varied between 5% and 40%. Two further colleges with over 500 students had over 50% and 87% visa-required students on QQI programmes.

Current QQI legislative provision and monitoring

Under the 2012 legislation establishing QQI, a prospective provider wishing to access QQI certification, has to establish quality assurance procedures, in accordance with QQI statutory quality assurance guidelines and submit them to QQI for approval. The provider then may submit a programme or programmes for validation according to the QQI validation policy and criteria and if successful may offer the programme for a period of 5 years, after which it must be re-validated, this time by the provider. QQI monitors the programmes on a desk-base. This may occur by requesting enrolment data and progression rates and through monitoring requests for certification.

If QQI has concerns (whether through its own monitoring or on foot of, for instance, learner complaints), we can institute a review of the validated programme or programmes and on foot of a recommendation from an expert panel report withdraw validation of the programme. QQI can also review the effectiveness of the quality assurance procedures of a provider at any time under what is termed a 'for cause' review. If the quality assurance procedures are found to be defective and approval is withdrawn, the validation of all QQI programmes falls. QQI has instigated a number of reviews of validation since its establishment and has withdrawn programme validation from some providers.

There is provision in the 2012 Act (carried through and modified somewhat) for so-called learner protection, where prior to validating a programme, the provider must have in place either academic (two similar programmes elsewhere) or financial (the requirement to refund the most recent fee (usually the previous year's fee)) bonding. This provision has had to be invoked a number of times, either when a provider collapses financially or where programme-validation is withdrawn. The operation of so-called PEL has never been entirely satisfactory and the government has committed to amending the 2012 Act in this and other respects.



The 2012 Act also introduced the concept of a Code of Practice for the provision of education to International Learners and the power for QQI to award the International Education Mark (IEM) to providers who can demonstrate compliance with the Code of Practice. Following a High Court case in 2015, QQI sought legal advice on some of the provisions of the 2012 Act. Further scrutiny by the Office of the Attorney General has determined that it is not possible, under the current legislation for QQI to explicitly recognise awards in the National Framework of Qualifications and this has meant that QQI has been unable to pursue the awarding of the IEM.

The recent adoption by the Government of Ireland of a new *International Education Strategy*, and the experiences over the past number of years of the difficulties with the operation of and disorderly closure of some English-language schools, has prompted a re-think about some of the provisions pertaining to the assessment of provider-fitness, the protection for learners, the recognition of qualifications and the bodies that award such qualifications; and it is expected that these changes will be reflected in any amending legislation for the 2012 Act. The expectation is that, following the enactment of this legislation, the introduction of the International Education Mark will make it possible to distinguish between providers who are offering a genuine high-quality Irish brand of higher education to international students and those who are not. QQI intends to play its part in ensuring that the intention of the new *International Education Strategy* becomes a reality.

Brid McElligott (Vice-President for Research and Development, Institute of Technology, Tralee)

Collaboration between the public and private sectors will be essential to responding to the rising demand for higher education in Ireland in the coming years given the fiscal constraints under which higher education institutions operate. The Institute of Technology, Tralee collaborates with a wide range of partners in the private sector in research and development work in addition to the provision of programmes. Nevertheless the paucity of investment in the capital development of the physical infrastructure of higher education institutions in recent years coupled with reduced annual operational budgets inhibits institutions in their endeavours to expand their capacity to accommodate additional students, while also negatively impacting on the entire student-experience.

Gina Quin (President, National College of Ireland)

Regulation is vital to ensuring the credibility of providers of higher education and needs to be equitable across the entire higher education system. This imperative is reflected in the movement in the U.K. towards one regulatory system for the broad diversity of providers which operate in England. Regulation is important for students and for employers, with students embarking on academic and professional development courses in particular requiring reassurance that their qualification will be recognised and valued. Nationally and internationally it is important to recognise the diversity of independent providers of higher education, of which there are a range of models. This is exemplified by the hybrid model of the National College of Ireland, which is a not-for-profit, private, independent institution



offering undergraduate courses included within the Government's 'Free Fees' scheme as well as a range of postgraduate programmes.

Teresa Heeney (Chief Executive, Early Childhood Ireland)

Early Childhood Ireland (ECI) is the largest representative organisation for the early childhood education sector in Ireland, representing 3,500 early childhood education settings. The early-years sector is an emerging profession in which a range of courses at NFQ levels 5–9 are delivered. The Department of Education and Skills (DES) has recently published research on this provision, specifically examining the efficacy of further education in preparing professionals for work in this area. The DES found that 50% of respondents to the research were ill-prepared for professional practice. The early-years sector in Ireland is inspected by both the DES and by the Child and Family Agency, TULSA—inspections which are vitally important in the absence of a professional standards framework for the sector.

Open discussion

The provision of U.K.-validated degrees by providers in Ireland poses a risk to the integrity of the Irish higher education system which is nevertheless mitigated by cooperation and information-sharing between QQI and the QAA. More broadly the provision of TNE, in which the U.K. (followed by Australia and the U.S.) is a world-leader, carries reputational risks for participating countries. However TNE is nonetheless an important strand of the internationalisation of higher education, albeit one which rarely generates significant income for participating higher education institutions. In the early-year sector in Ireland, TNE has contributed to the expansion of programme-provision, with the number of providers in this area increasing from 4 in 2002 to approximately 25 in 2016. There is therefore arguably a need to develop transnational governance arrangements, especially given the range of U.S. providers seeking to operate in the country.

At national level extensive consideration has been given to how best to meet the rising domestic demand for higher education against the background of fiscal constraints. This is reflected in the wealth of strategies and action plans pertaining to higher education which have been published in recent years, in the implementation of which the DES and HEA will play a leading role. In particular, the implementation of the *Strategy for Funding Higher Education* (March 2016) will be critical to ensuring the future financial sustainability of higher education in Ireland. Recognising that quality and equity are central issues for the future of the sector, it will be vital to ensure that higher education institutions continue to be flexible and responsive to the emerging needs of employers and the wider community and that their focus on producing high-quality graduates is maintained. Within this context, the introduction of the TEF in the U.K., and its impact on student-recruitment patterns (as a potential antidote to university rankings), will be observed with interest by policy-makers in Ireland.

The oversight of private providers of higher education in Ireland provided by QQI is rigorous, but there is arguably a need to streamline the regulation of the private sector in all of its diversity. In particular consideration needs to be given to the role of private providers in



contributing to addressing wider social and economic needs. There is also arguably a case for the revision of the HEA's funding model in order to extend financial support to private providers and, in particular, to support the provision of courses online.

Closing remarks

The 6th HEA Forward-Look Forum provided a timely opportunity for discussion in the public domain about the role of private providers in the Irish higher education landscape, in respect of which many complex public policy issues arise. There is a need to map the private providers which operate in Ireland as well as to explore further the provision of TNE. As the market for the provision of higher education to 18–100-year-olds expands, along with increasing demand for the provision of higher education on a flexible basis (with multiple entry-points for students), there is a strong imperative to support system-wide innovation which will enable all citizens to reach their full potential.