

Higher Education Authority

Report of Special Meeting held on 26th January 2015, in Trinity College, Dublin

Present ¹ Mr. Bahram Bekhradnia (items 4-6)
Mr. Brendan Byrne
Dr. Mary Canning
Professor Maeve Conrick
Mr. John Dolan
Mr. Eamonn Grennan
Ms Siobhan Harkin (items 4-6)
Professor Eileen Harkin-Jones
Ms Laura Harmon
Mr. John Hennessy, Chairman
Mr. Gordon Ryan
Professor Anthony Staines
Dr. Brian Thornes
Mr. Declan Walsh

Apology: Mr. Paddy Cosgrave
Ms Laura Harmon
Dr. Stephen Kinsella
Dr. Maria Meehan
Dr. Jim Mountjoy
Professor Marijk van der Wende

In attendance: Mr. Tom Boland
Mr. Stewart Roche
Mr. Fergal Costello
Mr. Muiris O'Connor
Dr. Eucharía Meehan (items 2 and 3)
Mr. Padraic Mellett
Mr. Pat Harvey
Professor Ellen Hazelkorn (items 4 and 6)

1. Presentation from the Provost, Dr. Patrick Prendergast

1.1 The chair welcomed the Provost and thanked the College for agreeing to host the HEA's strategy meeting. The Provost in his address to the Board raised the following;

- How TCD compares with the average top 20 ranked HEIs in terms of income, staff numbers, student numbers and citations. The College did not compare with these institutions in terms of academic staff numbers and citations.

¹ Members present for all items unless otherwise indicated. The meeting concluded at 4.30pm

- How TCD compared with the three institutions against whom it benchmarked itself – Kings College London, Edinburgh University and Bristol University. He noted that TCD did not compare favourably with these institutions in terms of citations.
- Characteristics of TCD – diverse student body, competitive, collaborative, fearless, research orientated, promotion of academic freedom, responsible governance, publicly and privately funded (50% of TCD's income comes from private sources).
- International trends
 - Increasing trend towards private income – competitive research funding, tuition fees, philanthropic contributions
 - Increasing number of privately funded institutions
 - Increasing mobility of students – a challenge for TCD is to attract top students both from Ireland and overseas.
 - Increasing public interest in higher education – return on public investment, jobs and skills
- The choice of having a state controlled university or an entrepreneurial university. If the choice is the former there will be a need for a strong buffer body. If state funding continues to decline Irish universities will need to become more entrepreneurial.
- Strong concern over the proposed Universities (Amendment) Bill and the rights it gives to the Minister. There has not been sufficient consultation.
- TCD's success in securing ERC funding
- TCD's 2014-19 Strategic Plan
 - Vision – a University of global consequence
 - Mission – diverse student body, research focused and a desire to advance the cause of a pluralistic and sustainable society.
 - For each of the three mission objectives the College has set 3 goals under which there are 4 actions with quantitative outputs.
- TCD is happy with the co-operation it is receiving from the institutions within its regional cluster. It would argue that there should be just one cluster for Dublin. City regions are becoming increasingly important.
- Future challenges – generate revenue through taking in more full fee paying students (either EU or non EU), leverage more philanthropic income for capital developments (the PRTL model was successful in this regard) and endowments
- Should Ireland have a strategy on global rankings? He noted that TCD has lost some partnerships since moving out of the top 100.
- Given the increasing interest in higher education, the HEA has a role in ensuring the debate is informed. The HEA's work with HEIs on agreeing compacts was helpful in this regard.

1.2 Members raised the following issues;

- Should TCD be more assertive with the DES in relation to the proposed legislation? The Provost replied that TCD and the other Universities are willing to engage with the Minister and her Department in relation to the proposed legislation. They have to be realistic however in relation to their power to prevent the legislation being enacted.

- Having regard to good governance and accountability what was the Provost's view of the payment of unauthorized allowances by universities. How has the College responded to governance shortcomings in organisations such as Rehab? The Provost noted that other countries, such as Germany, allow more discretion as regards the use of state funding to enhance salaries. The President of the particular University mentioned managed to turn that institution into a world class University. TCD is fully compliant, even terminating in 2010, tutors' allowances paid since 1592 as they were deemed to be unauthorised.
- Is there an opportunity for the College to use technology to enable it cater for a more diverse community including disabled students? The Provost replied that the College has embraced the challenges and opportunities arising from new technology. The College has developed a Masters course based on virtual reality.
- Despite the deterioration in staff student ratios Ireland's standing is still quite high; this is due to staff continuing to work hard. Is there a risk that a further decline in resources will push staff beyond the tipping point? The Provost noted the reluctance to talk openly about quality having regard to the risk this poses for Ireland's standing internationally. The concerns of HEIs should accordingly be made directly to the Minister, her Department and the HEA. He cited specific pressure points currently in the College.
- The chair indicated that the HEA empathizes with the College's concerns in relation to funding and quality. The Provost suggested that enabling the College to become more entrepreneurial might lessen its need for additional funding.

2. Purpose of meeting – Chair's opening remarks

2.1 The chair noted that the meeting was timely. It was vital that there was confidence in the HEA's processes. Issues to consider included the TU process, funding and top-slices, the role of the HEA vis a vis the DES, and the recent PAC meeting and governance oversight of the HEIs. Having regard to the latter, it was important to note that while the system was not broken lessons should be learned from what went wrong in the NCAD. In relation to top-sliced funding the question is how can the Board be satisfied that the funding provided was used effectively? There is a concern that more immediate action is not being taken to address the funding problems of the vulnerable institutions. He summarised the concerns of members as follows;

- Risk management and reputation of the HEA
- Speed of reform – is it too fast or too slow?
- HEA's capacity to take on its new mandate
- HEA's standing with its stakeholders
- Role of the HEA vis a vis the DES

2.2 The CEO welcomed the opportunity for the full senior management team to engage with the Board in this strategic way. It was important that there was a high level of mutual understanding and confidence between the Board and the Executive.

3. PAC meeting and HEA Governance Oversight Role

3.1 The CEO outlined the background to the C&AG's report on the NCAD. While the report was submitted to the HEA and DES last September, it was on a confidential basis until December. He indicated that the HEA can make the argument in response to the C&AG's report that its powers over the College were limited. He referred members to the discussion he had previously with the PAC in relation to the WIT Inspector's report. That said, the Finance Committee and the Board should have been advised in advance about the PAC meeting on NCAD.

3.2 The Board had considered the HEA's governance and regulatory role in September and the proposals emerging from that were now subject to consultation with the sector with a view to early implementation. This would go some way to addressing the issues identified by the C&AG and the role of the HEA. However, it was now necessary to consider if further measures were needed, given that reliance on assurances from NCAD was the source of the HEA's difficulty. We need to consider how best to ensure that high governance standards operate within the sector without taking on the responsibilities of the HEIs or disproportionately impacting on institutional autonomy.

3.3 A number of other issues arose at the PAC meeting in addition to the NCAD. These related to St. Angela's College, GMIT, and LIT. The meeting was provided with an update on these matters (Mr. Grennan exempted himself from the St. Angela's briefing). The CEO assured members that these matters were being dealt with satisfactorily by the HEIs concerned and the HEA.

3.4 Mr. Roche advised members that the C&AG has not finalised the 2011/12 accounts for a number of universities due to differences with the universities auditors over the treatment of deferred research income. This is a matter of on-going engagement with the HEIs, the C&AG and the HEA.

3.5 Members raised the following issues;

- The HEA should not take responsibility for auditing. By taking on an auditing role the HEA will move into a different space and risk getting drawn into more incidents like the NCAD rather than providing strategic leadership for the sector.
- The HEA needs to ensure that institutional governing bodies take responsibility for governance in their own institution
- The Universities (Amendment) Bill. It was agreed that this could be considered at the March meeting. The CEO advised members that the Minister has undertaken to consult the universities on this legislation in the context of other HR reforms under consideration. The point was made that this legislation is being considered at a time when reversal of the FEMPI legislation and public service pay cuts is under consideration.

Agreed Actions: The Executive will prepare a paper for the Audit Committee outlining an approach that will address the root causes of the Special Report of the C&AG and subsequent PAC meeting. It was also agreed to give members a

copy of the document provided by the HEA to the C&AG together with the minutes of the inaugural meeting with the C&AG.

The CEO will ensure that all governance oversight risks in the HEIs are reported to the Board through the CEO's report.

The Executive will formalise its dealings with HEIs by sending requests for information and updates in writing.

4. HEA – DES Relationship

4.1 The chair referred to the PAC meeting and the apparent divergence of views between the HEA and the DES. He also enquired whether there were issues of strategic importance in the proposed SLA that might be of concern to the HEA. The CEO made a short presentation noting that the HEA's current role was approved by Minister Quinn. His presentation addressed the following;

- HEA mandate – the HEA exercises a leadership and central governance and regulatory role in respect of the strategic development of a coherent system of diverse HEIs. The HEA will need to operate within Government policy and seek to ensure that institutional strategies align with national objectives. Other objectives of the HEA include enhancement of teaching and learning, funding of higher education, promoting equality of access, research capacity building, policy research and advice to the Minister, data collection and analysis and advocacy and communicating higher education.
- The DES mandate includes determining national policy across all dimensions of higher education, determining the level of public funding for the sector, developing the legislative framework for higher education and holding the HEA to account for the performance of the sector. The Minister also approves HEA funding and staffing.
- HEA capacity to implement its new mandate – within the executive a new section on System Governance and Performance Management is in place and link teams have been put in place to assist with the assessment of performance. The HEA has enhanced capacity for data collection, management and analysis on institutional and system basis. The review of the HEA's governance and regulatory roles carried out by the Board was done in the context of the expanded mandate.

4.2 The following issues were raised;

- *To what extent was the proposed SLA aligned with the HEA's work programme and what new features have emerged?* The SLA raises no major issues in so far as it does not introduce anything not already on the work programme.
- *Areas of tension in the relationship between the DES and the HEA.* While the relationship with the DES reflects a high level of confidence on the part of the DES as regards the HEA's technical and operational capacity, there is a trend towards all Government Departments requiring more centralised control of agencies across all of government – a trend evident in the HEA/DES relationship. In general the HEA seeks to operate in a partnership role with the DES but from time to time friction has arisen. One such area was in

communications, when the HEA expresses views which the DES does not regard as helpful. This highlighted the line that needed to be negotiated between independence and pragmatism

- The point was made that HEA members were appointed by the Government, and as such have a national responsibility, not just a responsibility to the Minister and her Department. As a result, there may be times when the HEA has to make a judgment as to what is best for higher education having regard to the evidence available, irrespective of the views of the DES.
- *The role of a buffer body such as the HEA.* Mr. Bekhradnia outlined his experience from England. The practice there is for Government to set broad policy directions with HEFCE given the discretion to operate within that direction. With the increasing interest in how public funding is spent, there is a trend internationally towards more central control of higher education. The Irish situation was therefore quite typical. However micromanagement of higher education is neither wise nor feasible. The question is whether the public (and Government) value the independent voice of universities.
- *The extent to which the HEA is accountable for quality in the sector and our responsibility if it is thought that quality is at risk.* The HEA has responsibility for the quality of the outcomes from the system and overall quality, albeit that QQI have a specific statutory quality assurance role. In that context, the HEA has a duty to advise the Minister and Government of any risks it perceives. Action or advice in respect of quality needed to be done on a sound evidence base, based on a trend analysis as there are significant implications for access, points, skills and the reputation of higher education. Mr. Boland noted that as matters stand it is clear that the HEA's concerns as to the risk to quality were not shared across Government.
- If/when more resources become available the HEA needs to ensure any additional funding received is used in a targeted and effective way rather than allocated across the board.

Agreed Actions: The chair noted that the HEA's funding role is not challenged. In relation to its policy advisory role, the HEA needs to choose the issues on which it takes an independent stance carefully and consider potential obstacles and conflicts in accordance with Government Policy, the agreed MoU and the HEA's regulatory role. The HEA should take a constructive and systematic approach.

5. TU designation process

5.1 The chair summarised developments to date. Two applications have proceeded to Stage 4. While there will be an opportunity for the HEA to engage with TU legislation, it is unlikely that the process as implemented to date can be changed substantially. The CEO acknowledged that the process to date had thrown up the fact that there was insufficient mutual understanding between the Board and the Executive as to the precise TU process. To avoid any recurrence, the Executive will prepare a detailed memo on how the process should operate across all stages, without changing the actual process. In doing so, a particular focus will be on how the Board can have a more direct involvement.

5.2 Members raised the following points;

- There should be a detailed standing operational procedure setting out who is responsible for what at each stage of the process.
- The setting up of TUs represented Government policy and as such the process was for the Minister to determine. The HEA should however have the opportunity to make representations to the DES. In future it may help if the HEA Board had a representative on evaluation panels to be set up. This should enhance the confidence of the Board vis-a-vis the panel and ensure the panel is fully aware of the Board's views.
- It was acknowledged that the Executive needed to ensure that the process was not exposed to legal challenge.
- *To what extent will quality be a criteria for a Stage 4 application?* The CEO noted that nothing specific is set out in the criteria. Furthermore a Stage 4 application may not proceed until legislation has been enacted. Mr. Costello noted that there are detailed expectations as regards research performance. The CEO noted the importance of being clear in advance of the criteria an application is to be benchmarked against. He suggested that the evaluation panel have regard to the totality of the application's activities in assessing whether it meets the expectations of a high quality TU.
- *The criteria for Stage 2.* These are a commitment to institutional merger and to maintain level 6 and 7 provision.
- *The timing of the TU legislation* was raised. The CEO indicated it needs to proceed as soon as possible having regard to the TU 4 Dublin plans.
- *Will the legislation list the consortia which make up the TU?* It has been suggested that other institutions could be incorporated at a later date. The CEO indicated this would be subject to a separate process under section 8 of the Universities Act.
- PhD Equivalence

Agreed Actions: The Executive will develop operational procedures for the TU process. The Executive will consult widely on the issue of PhD equivalence.

6. Funding

6.1 The chair outlined the issues of concern to the Board. These included the need for structures around discretionary funding, progress on the vulnerable HEIs and the funding allocated to support structural reform. Mr. Costello outlined the key points of a paper circulated to members noting that much of the recurrent funding was based on the RGAM formulae. A decision had already been taken by the Finance Committee and Board not to adjust the RGAM to assist vulnerable HEIs. The Executive had expected that progress would have been made sooner on a voluntary redundancy scheme. In relation to top-sliced funding it was important to note that there were different components, some such as nursing are numbers driven and only applied to institutions offering such courses. Some are top-sliced at the request of the institutions' representative bodies, IUA and IoTI. The amount set aside by the HEA itself in 2014 was €10m.

6.2 Members raised the following issues;

- Should an equal cut apply across all activities funded by the HEA?
- The need for a policy and more accountability on top-slices.

- The immediate strategy as regards the vulnerable HEIs. Each HEI must continue to have a responsibility to manage their funding situation. Where HEIs develop plans, they need to be carefully interrogated by the HEA to ensure that they are realistic.
- The HEA needs to consider the approach to adopt if an institution does not have the means to breakeven.
- *The current strategy in respect of LyIT.* Discussions that have taken place with LyIT were outlined. While the HEA is endeavouring to secure a voluntary redundancy scheme for the Institute, it did not represent a complete solution and the Institute itself has a responsibility to look at its cost base. Together these measures may make the Letterkenny campus viable. There were particular issues relating to the Killybegs campus. The provision of additional funding could not be justified on education grounds alone. There was a need to consider what role other stakeholders, such as the tourism and marine industry, could play. The Executive is staying closely in touch with the Institute and will report back to the Finance Committee.
- Concern was expressed at the time being allowed LyIT to come up with a solution. This could soon emerge as a reputational issue for the HEA. The Committee recognised the work undertaken by the Executive to date, however there was unhappiness over the lack of progress to date. There was now an urgency in resolving the matter. Consideration should be given to whether there are particular measures which could be implemented sooner. The DES also needs to be advised of the options and consequences of a failure to come up with solutions. Mr. Costello indicated that the DES was fully aware of the HEA's concerns in relation to LyIT and the other vulnerable institutions.
- An important consideration in institutions such as LyIT was the extent to which they serve regional needs and their wider social and economic value in the region which makes closure a highly impractical option. In order to ensure that plans were sustainable, the HEA needs to carefully project manage recovery plans. This includes working with, and holding the governing body to account and to ensure that any cuts or other measures were sustainable. The appointment of an Inspector or a Commission to run an institute were options available to the Minister. Overall, there was a need for the HEA to have a clear strategy for vulnerable institutions.
- Concern was expressed over the financial difficulties facing Tralee IT having regard to the significant costs associated with institutional mergers.

6.3 The Board also considered the issues of top-slices and the funding of restructuring/mergers, it was suggested that the funding being provided was not sufficient.

Agreed Actions: The Executive recognised the Board's concern for urgent action in the case of LyIT. If significant progress does not emerge from the forthcoming meeting with the President, the Chair of the Governing Body will be contacted. The Executive will continue to push the DES for a package of HR flexibilities including a voluntary redundancy scheme. The Executive will prepare a strategy on vulnerable institutions for consideration by the Finance Committee and the Board. Once approved the strategy will be communicated to the sector and the DES.

In relation to top-slices it was agreed that the Board would agree each November a strategy for top-slices with the outcome of the previous year's top-slices reviewed at each March meeting.

Padraic Mellett
12th February 2015