

Higher Education Authority
Report of Meeting of the Board of the HEA held on 19th September 2023

Present: Mr Tony Donohoe (agenda items 1-16)
Dr Judith Eaton (agenda items 1-16)
Ms Darina Kneafsey (agenda items 1-16)
Dr Sinéad O’Flanagan (agenda items 1-16)
Mr Pól Ó Móráin (agenda items 1-16)
Dr John Wall (agenda items 1-16)
Dr Sharon Feeney (agenda items 1-16)
Mr Chris Clifford (agenda items 1-16)

Apologies Mr Michael Horgan, Chairperson

In attendance: Professor Daniel Carey, IRC Chair (agenda items 1-16)
Professor Marie Clarke, SETL Committee Chair (agenda items 1-16)

Dr Alan Wall (agenda items 1-16.1)
Ms Orla Nugent (agenda items 1-15)
Mr Padraic Mellett (agenda items 1-15)
Mr Tim Conlon (agenda items 1-15)
Ms Caitriona Ryan (agenda items 1-15)
Dr Vivienne Patterson (agenda items 1-15)
Dr Louise Callinan (agenda items 1-15)
Ms. Pearl Cunningham (agenda items 1-15)
Mr Ciaran McCaffrey (agenda items 1-15)
Ms Sheena Duffy (agenda items 1-15)
Ms Orla Christle (agenda items 1-15)
Ms Eilis Noonan (agenda items 1-15)
Mr Colin Cooper (agenda items 3, 12)
Dr Victoria Brownlee (agenda items 7,8)
Ms Teresa Gallagher (agenda items 7,8)
Mr Maurice Moynihan (agenda item 9)
Dr Deirdre Quinn (agenda item 6)
Dr Richard Brophy (agenda item 6)
Mr John Randall (agenda item 6)
Ms Maura O’Shea (agenda item 11)

Opening Remarks

Due to the absence of the Chairperson because of unforeseen illness, Dr Feeney acted as Chair of this meeting.

Conflicts of Interest

The meeting Chair, Dr Feeney advised that as she is an employee of Technological University Dublin, she would not participate in the discussion on that institution under item 15.

No other conflicts were identified by Members.

Quorum

The quorum for HEA Board meetings, six members, was met.

1. Report of previous meeting

The Report of the Special Meeting of the HEA Board on 17th August 2023 was approved.

Members approved the Report of the Board Meeting on 25th June.

2. Matters arising

ESF/PATH 2

Members were provided with an update on the impact of ESF on the PATH programme, which was raised in the June Executive Report. The Access Policy Unit have continued to engage with the Managing Authority in DFHERIS in relation to the challenges posed by the PATH programme being included in ESF for this academic year. Key agreements are yet to be finalised and the roles and responsibilities of all parties involved are still unclear. The key risk for the HEA is its capacity to deliver on what is being asked. The HEA could propose that PATH is run in the usual manner for this academic year, and that it is included next year in ESF when the necessary clarity is obtained.

Ms Ryan also noted that the PATH Impact Assessment has indicated an existing administrative burden on institutions for the existing PATH programme, which would be exacerbated by ESF reporting requirements. There could also be an impact on the other work of the Access Unit and the capacity of the HEIs to deliver on the National Access Plan.

A meeting has been scheduled with senior officials in DFHERIS to progress this conversation. Members approved the proposed approach as set out by the Executive and noted that the current proposal presents a risk to the HEA that needs to be actively managed.

3. Verbal Report of the Report of the Audit and Risk Committee 11th September

Ms. Kneafsey presented a verbal update from the meeting on 11th September.

ICT Update

IT network has been rebuilt for a secure cloud environment and a suite of updated policies were prepared. Members were impressed with the quality of these policies.

Procurement Policy

The Procurement Policy has been updated to reflect the fact that the threshold on which contracting authorities are required to advertise for goods and services on e-Tenders has increased from €25,000 to €50,000. This change is welcomed in terms of helping the HEA and particularly HEIs to achieve procurement compliance.

Consultant's Report

This report was noted and no issues were raised.

Annual System of Internal Controls review

The Committee recommended that the Board approve the terms of reference for the annual review of the system of internal controls.

The audit fieldwork is planned for November, with the review proposed to be finished in early December.

Decision: The terms of reference were approved by the Board.

Implementation of recommendations from previous internal audit reviews

The Committee noted the good progress on closing outstanding recommendations. Previous findings around spreadsheets continue to be addressed.

It was remarked by Members that the agenda was quite light, and the Chair of the Committee will address this. Members also noted an improvement in the clarity of the documentation. It was suggested that a handover to the new committee would be appropriate.

Members noted the Committee's Report.

4. Report of the Student Engagement and Teaching & Learning Committee 26th July

4.1 Professor Clarke presented this report.

Student Engagement, Belonging and Wellbeing Project

The Committee was provided with a paper and presentation on this topic.

EDI Speak Out Anonymous Reporting Tool

The Committee was provided with background to this initiative by Dr Jennie Rothwell and Ms Suzanne Walker from the HEA's Centre of Excellence for EDI. The Speak Out tool is an anonymous reporting tool for instances of sexual violence and harassment in HEIs. It was agreed that in order to sustain and support the Speak Out Tool HEIs would need to be held accountable within a formal reporting structure.

The Committee recommended that the HEA Board approve the proposal from the HEA Centre of Excellence for EDI to establish a Governance Committee and Advisory Committee for the Speak Out anonymous reporting tool and to invite Expressions of Interest for the establishment of a Speak Out National Office.

4.2 The following issues were raised:

- There might be potential for serious matters to be reported using the tool rather than to appropriate authorities. It was clarified that the tool was intended as a way to direct the individual towards information to support them to take whatever action they feel is appropriate, including onward referral as appropriate.
- The evaluation process was queried. Members were advised that this was carried out through a series of workshops, international data was also examined and incorporated. Issues around resourcing were highlighted through this process.
- A further report will be brought to the Board in due course through the Committee. It will consider resource issues in greater detail and focus on the next steps on governance and management of the tool. It is clear from stakeholders that the initiative is very worthwhile and valuable.
- The proposed role of the national office highlights the potential seriousness of the issues.

Decision: Board approved the proposal to establish Governance and Advisory Committees for the Speak Out tool and to invite EOIs for the establishment of the Speak Out National Office.

4.2 Open Courses Expressions of Interest

It is proposed to launch an EOI for the further development of open courses. There is already oversubscription in some a number of areas including sustainability, digital transformation and universal design. There will be €100,000 allocated under this EOI, with up to €20,000 in support per successful application. It is hoped courses will be available for spring or autumn 2024.

The Committee recommended that the Board approve the Expression of Interest process for Open Courses administered by the National Forum for the Enhancement of Teaching and Learning.

Decision: The EOI process was approved by the Board.

4.3 SATLE funding

The Committee discussed the issue of capturing the impact of this fund. In order to accurately define measurable impact a formal national consultation was suggested. The 2023 reporting template will be reviewed at the next National Forum Associates meeting.

Decision: The Board approved the proposed approach to the SATLE fund.

4.4 Nominations for International Committee Members

Nominations are being sought for international committee members and suggestions are welcome.

Decision: The Board noted the Committee's request.

Members noted the Committee's report.

5. Report of the Irish Research Council 28th July

5.1 Professor Carey presented this report.

International funding agency models

The Council reviewed a report on international funding agency governance models, and the IRC Executive will continue to look into these structures in further detail.

RIA Collaboration

The IRC Director advised that the Evidence for Policy Unit in the Department has published an 'areas of research interest' document, which will be followed by an open consultation to understand how researchers engage with policymakers. The Director suggested that there may be scope for IRC/RIA to come together to build on previous work and collaborate on a response to the consultation process. The IRC Chair noted that this had been a productive collaboration previously and has had a positive impact.

AI and implications for research funders

The use of AI in the application process has been added to the IRC risk register.

Postgraduate Stipend

This was noted by the Council as an ongoing concern.

Formation of new research funding agency

The Council was joined by CEO designate of the new research agency, Professor Phillip Nolan, who provided a progress update. It is expected that the Bill will be going before the Houses of the Oireachtas shortly. Professor Nolan emphasised the need for stability within the system.

The Council raised the importance of the ongoing commitment to fundamental research. The Council questioned the merits of an AHSS council in the new agency, and it is hoped to revisit this. They also discussed the proposed Board composition and SFI centres.

Professor Nolan will lead on the consultation process with all stakeholders, including the HEA Board. It is envisaged this will get underway in the second week of October. A consultation map has been developed, with the HEA Board and Executive included as key stakeholders. It is anticipated that the Minister will attend the next Council meeting.

5.2 The following queries were raised:

- What are the implications if legislation is not passed in lifetime of the government, in the context of a crowded legislative agenda? If this occurs, the situation remains as is with two separate organisations in existence, and a lack of strategic direction for research.
- It was noted that there is likely to be a delay on the proposed establishment date of 1st January 2024. It is possible for agency to be set up on an administrative basis, although this is unlikely to be a proposed option.

Members noted the Committee's Report.

6. Memorandum B42/23 Corporate Strategic Plan

The Board welcomed Mr Randall who presented this item.

6.1 The draft Plan was brought to the Board for review and input before being issued for consultation. In particular, the Board's views on the proposed strategic objectives and performance measures were sought. It was intended for the proposed strategic objectives and performance measures to flow from the four pillars of the Plan, and to bring coherency to the Plan. The proposed strategic objectives and performance measures also set out to encourage collaborative work across the organisation.

6.2 The following issues were raised:

- It was remarked that a lot of work has been done by the team, and they were commended on the clarity of approach for the sector in terms of reporting.
- It was noted that the vision for the HEA set out in the Plan appears similar to those set out by HEIs. It was confirmed that this was intentional- the HEA with oversight for the sector would have similar strategic objectives to institutions. The HEA's functions as set out in the 2022 Act should be set out clearly by the Plan.
- A question was asked around the process of defining the strategic objectives and priorities-how did the list develop the way it did? Does it fit with vision set out in the way it was done? The process was outlined- 120 KPIs were submitted by the various sections of the HEA, the team looked at all commonalities and laid them out thematically. The precise order was not intentional and will be reviewed as suggested by the Board.

- An observation around KPIs was made, and the need to distinguish them against deliverables- KPIs need to be quantifiable and as precise as possible in terms of timelines. While deliverables are set out in the Plan, more precise KPIs will most likely end up in annual plans as these are more resource dependent. The Executive agreed to look at the language again.
- It was suggested that the area of research might need more emphasis in the Plan. Once the Research legislation has passed, there will be further clarity on the HEA's ongoing role in Research Policy. A new section in the HEA has been created to manage this. A key concern for HEA will be continuing to ensure a balance between teaching, learning and research within the HE landscape, the system should not be solely driven by competitive research. The intention will be to ensure an integrated, embedded research, teaching and learning ecosystem across the sector.
- It was noted that due to his absence, the Chairperson can provide feedback directly after meeting.

Decision: Members approved the draft Plan, and agree that subject to reordering, this draft can form the basis of the consultation with DFHERIS and other stakeholders.

7. Memorandum B43/23 TU Capacity Building Update

7.1 Dr Brownlee and Mr Conlon presented this Memorandum. Members were provided with information relating to funding to support capacity building in the technological sector under the Technological University Transformation Fund (TUTF), the Technological Sector Advancement Fund (TSAF), and the National Recovery and Reliance Plan (NRRP) funded National Technological University Transformation for Recovery and Resilience (N-TUTORR) project. Members were also asked to approve an allocation of €10m in funding to progress N-TUTORR project activities in Year Two.

In terms of the N-TUTORR project, it was noted that project expenditure has been low to date. The Executive put forward a case (based on advice provided by DPENDPDR) in February 2023 requesting a short extension for the final project report, which is currently due in December 2024. This extension would provide some additional time for project expenditure, to December 2024, with the report due in early 2025.

The Executive noted that the Year 2 funding for N-TUTORR had not yet been dispersed due to the low rate of expenditure but proposed that a portion (€10m) of the Year 2 funding (€21m) be allocated to the project in Q3, pending confirmation from the PMO of an improvement in the rate of expenditure. The Executive is awaiting up-to-date information on committed and actual expenditure. The remaining €11m of project funding is expected to be allocated in Q4, subject to a review of project progress by the Executive in the interim report and further engagement with participating institutions later this year.

7.2 The following queries were raised:

- A risk was noted around providing institutions with further money if they are unable to spend it. It was confirmed that the HEA were engaging with institutions and the

Project Management Office on the rate of expenditure and better outcomes are anticipated in the next quarter.

Decision: Members approved the allocation of €10m in funding to progress N-TUTORR project activities in Year Two.

8. Memorandum B44/23 Update on System Performance Framework and Approach to the Development of the Strategic Dialogue Process

8.1 Mr Conlon presented the Memorandum. Members were presented with an update on the development and launch of the System Performance Framework and were asked to note a small change to the final allocation amount for Performance Funding 2023. Members were asked to approve the proposed approach to the development of the Strategy and Performance Dialogue process.

Update on Performance Funding 2023 Allocations

Following revision to the final financial report of one of the PF2019 projects, the final balance from Performance Funding 2019 is now €595,938.11 (€8,736 lower than previously communicated). As previously agreed with DFHERIS, this balance has been reallocated for Performance Funding in 2023. This brings the total performance funding for allocation in 2023 to €5,595,938.11. The amended allocations are outlined in Table 1 below (changes in bold).

Table 1: Proposed allocations of Performance Funding 2023

HEI	Impact Assessment Case Study Title	Proposed Allocation
UL	Greentown: Reducing the influence of criminal networks over children and families	€1,297,969
University of Galway	The Active* Consent programme: Leading on sectoral culture change.	€1,297,969
SETU	SETU & An Cosán: Using the power of community education to create transformative higher education pathways for social inclusion and sustainable development	€1,000,000
TU Dublin	TU Dublin: A Beacon for Sustainability	€1,000,000
UCC	Barr na gCnoc: University Assisted Community Schools Pilot Initiative	€1,000,000
Total		€5,595,938

Update on the System Performance Framework

Consultation with DFHERIS on the System Performance Framework included meetings and written correspondence and concluded in August 2023. This engagement informed the final System Performance Framework and Performance Agreement Process, which is to be published on 25th September 2023. The description of the Framework has been refined to clarify the distinction between the pillars and transversals. The pillars of the Framework represent the key domains of activity within HEIs, while the transversals represent key areas

of impact for the system. International has been added as a transversal area of impact rather than a pillar.

Strategy and Performance Dialogue Process

HEIs will report annually in a two- step written report followed by engagement with senior leadership and HEA Executive as part of a strategic dialogue meeting. Reflecting the change to the key pillars, HEIs will now be required to identify four performance objectives in their Performance Agreements. The performance agreement process will allow HEIs to benchmark themselves and provides a much broader, flexible tool that reflects discussions the HEA Executive is having with institutions on an ongoing basis.

8.2 The following queries were raised:

- The fact that HEIs will be able to identify their own priorities as part of this process was commended.
- The opportunities for dashboards was recognised and where possible existing administrative data should be used.
- The data on HE outcomes was seen as very powerful, and if it could be sliced and diced on an institutional basis this would be very useful.
- Energy efficiency baselines- how have these been established? SEAI collect that data and have provided measures and indicators.

Members noted this update and congratulated the team on this work.

Decision: The Board approved the proposed approach to the development of the Strategy and Performance Dialogue process.

9. Memorandum B45/23 Protocol Underpinning the Exercise of Legislative Provisions available to the HEA

9.1 Mr Moynihan and Ms Christle presented this item. Members welcomed Mr Moynihan as the new Legal Advisor to the HEA, and congratulated Ms Christle on her new position as Head of System Governance.

Ms Christle set this document in the context of the overall work of the Governance section of the HEA. After the Governance Oversight Framework was brought to the April Board meeting, the next step is communicating to the sector how we plan to exercise the governance functions of the HEA in light of the powers afforded by the HEA Act 2022.

The aim of this document is to act as a procedural guide, to ensure transparency and consistency in the exercise of the HEA's powers. It can be described as an inventory of provisions available to HEA in the Act and in other sectoral legislation, including abilities to initiate or conduct reviews, seek information and take appropriate action. It is planned to publish this Protocol following consultation with the relevant stakeholders.

9.2 The following queries were raised:

- In Section 1.2.7- page 13, it states *“These guidelines will not be binding on a university and the HEA shall not, as a result of such departure, impose restrictions or conditions on the use of moneys paid to the university by the HEA or otherwise limit moneys payable to the university by the HEA.”* Is this quoting the Act? This is a very close paraphrasing of the relevant section of the 1997 Universities Act. It was noted that there are provisions in the legislation where it is indicated that the HEA ‘shall’ or is obliged to act, while elsewhere it is indicated that options are open to the HEA whereby it ‘may’ act, rather than this being a compulsory obligation. It was clarified also that there are parts of the legislation where the HEA’s role is subject to decision (‘consent’) by the Departments, particularly in relation to the pay, pensions and staffing of designated institutions.
- To what extent will building on the recent TU experience be allowed for new designated institutions and probability of greater options there? Questions around designation will require Minister to draw up separate protocols.
- It was remarked that the framing of document was slightly confusing in terms of the protocols themselves and the other background information. It was suggested that the structure of the document be looked at to present clearly upfront the provisions available to HEA to take appropriate action
- It was clarified that references to fair procedures and natural justice as the foundation for decision making mirrored the language of Irish constitutional law.
- Should the HEA choose not to exercise a power, would that present a risk? The Board would be notified if a particular action was not taken in a particular case, along with the rationale for that decision.
- While there are separate guidelines published in relation to the procedures for making a protected disclosure to the CEO of the HEA as a prescribed person, this document referenced protected disclosures as one way that the HEA can receive information.

Decision: Members approved the document subject to the suggested amendments being made and approved that version to be circulated to stakeholders for consultation. The document should then be brought back to the Board with responses, for final decision.

10. Memorandum B46/23 Legislative Obligations of the HEA

10.1 Mr Mellett presented this memorandum which outlined the legal obligations of the HEA, under the HEA Act 2022 and other related sectoral legislation. It is intended that this document will be updated in the event that the HEA becomes subject to additional legal requirements.

10.2 The following query was raised:

- The final document should be shared with DFHERIS for information. HEA Executive agreed to do this.

Decision: Members noted this Memorandum and the contents of this document.

11. Memorandum B47/23 HEA Annual Report 2022

11.1 Ms Duffy presented this Memorandum. Members were requested to approve the draft 2022 HEA Annual Report.

11.2 Members raised the following queries:

- The excellent data that is set out in this Report should be highlighted when the publication is being publicised in targeted communications to HEA stakeholders.

Decision: Members approved the draft Annual Report and its submission to DFHERIS, pending the Chairperson's review of his letter to the Minister.

12. Memorandum B48/23 Contract for ICT Security Services

12.1 The Board was requested to approve the appointment of Presidio Limited as ICT Security Services Provider for the HEA. Presidio was selected via a tendering process using an existing framework from HEAnet. The estimated cost of this contract is €250,000 (excluding VAT) over a maximum of a four-year term.

Decision: The Board approved this appointment.

13. Memorandum B49/23 Capital Programmes Unit- Authority Update

13.1 Mr. McCaffrey presented this update. Capital projects are progressing well, and the CPU continue to monitor progress and update DFHERIS on a regular basis. The Energy Efficiency and Decarbonisation Pathfinder Programme has been through two iterations, and a third has been launched by the CPU, with Expressions of Interest received in February of this year, and the evaluation process has concluded.

13.2 It was acknowledged that the construction sector has experienced very significant and well-documented challenges, including logistical supply chain delays, resulting in additional cost and delays in delivery timeframes. These impacts are being addressed on a project-by-project basis as they develop.

13.3 Ministerial approval has been provided for capital funding of circa. €6m to support the creation of the additional healthcare places which will be administered by the HEA.

13.4 The HEA have notified all HEIs under its aegis of the requirements of the Public Sector Climate Action Mandate (PSCAM). The Mandate applies to bodies covered by public sector decarbonisation targets. The public sector is to lead by example, demonstrating the necessary climate action to reduce Ireland's greenhouse gas emissions by 51% by 2030.

13.5 The following queries were raised:

- The HEA initiative of measuring utilisation was remarked on as well-founded. Is this going to be voluntary or required utilisation? Utilisation measurement is not established practise across the HE sector. The CPU have developed and recently

published a methodology and approach to be implemented across all HEIs under the aegis of the HEA.

- What will be pace of spending on capital projects look like for the rest of the year? It is expected to ramp up significantly until the end of the year.
- What is the role of the HEA in the delivery of student accommodation? The CPU is actively supporting the DFHERIS Student Accommodation Unit in a number of programmes regarding student accommodation supply.
- Has the issue of under-resourcing of the HEA CPU been resolved? Sanction has been granted for additional staff, and recruitment is progressing. However, this is challenging given the current market.

Decision: Members noted this Memorandum.

14. Corporate Risk Register Review

14.1 Members reviewed the Corporate Risk Register.

Members raised the risk around the use of Employment Control Framework data not being a statistically robust data collection methodology. Is there anything in the System Performance Framework to identify data issues? The CEO advised that discussions were ongoing in relation to replacing the ECF with an alternative mechanism.

Decision: Members noted the Corporate Risk Register.

15. Memorandum B50/23 Executive Report

TU Dublin

15.1 The Board received an update from the CEO in relation to the concerns identified in TU Dublin and outlined the proposed next steps for consideration by the Board. The meeting Chair did not participate in these discussions.

Following engagement, TU Dublin requested the assistance of the HEA under Section 142 of the HEA Act. The HEA have agreed and commissioned an external review of TU Dublin's financial reporting issues and to provide recommendations to assist the institution in preventing these issues arising in future. The review is expected to be completed by mid-October. This was prompted by growing concerns identified by the HEA through its regular engagement with the institution, including the Budget and Accountability process and regular reporting.

Through the course of its engagement, the HEA's concerns have grown in relation to wider issues in the institution, including concerns relating to governance, the ongoing provision of apprenticeships and support services for access students in the institution.

15.2 Without pre-empting the outcome of the external review, the Board was asked to consider further options open to the HEA once the review has been completed, should further action on the part of HEA be necessary. Any further action taken will be carefully considered to ensure proportionality.

Members were keen to understand whether these issues were unique to this institution or whether these issues were arising in other institutions. TUs in general are facing challenges as they develop as new entities but the scale of concerns re TU Dublin are not evident across the sector.

Members confirmed that the key priority was to protect and support the institution as they work through the concerns identified. As part of this engagement, Members requested the HEA Executive to ensure lessons learned are captured and reported back to the Board in due course.

Members approved the proposed approach as set out by the HEA Executive in terms of next steps, which was to provide an update to the Department in relation to the ongoing concerns, and to progress next steps as required once the report is available. The Executive will revert to the Board to provide an outline and to allow Members to consider these next steps.

Decision: Board noted this update and approved the proposed approach set out by the Executive.

Delegated Funding Allocation

15.3 Members were requested to note a funding allocation made under the delegated funding process. €20,920 was allocated to Trinity College Dublin for College Awareness Week.

Decision: Members noted the Executive Report.

16. Members Only session

Members expressed concern that there is no final decision from DPER and the DFHERIS regarding the contract terms for the CEO and requested that the Chair liaise with the CEO and the Departments involved to pursue this matter.

Next Meeting: The date of the next meeting was agreed as Monday 6th November.



Chairperson Date