

Higher Education Authority**Report of 400th Meeting held on 2nd July
at the HEA's Offices, 3 Shelbourne Building**

- Present¹:
- Dr Bahram Bekhradnia (items 1-13)
 - Mr Tony Donohoe (items 1-13)
 - Dr Judith Eaton (items 1-13)
 - Professor Orla Feely (items 1-13)
 - Dr Sharon Feeney (items 1-13 – via teleconference)
 - Ms Lorna Fitzpatrick (items 1-13)
 - Mr Michael Horgan, Chairperson (items 1-13)
 - Ms Darina Kneafsey (items 1-13)
 - Dr Deirdre Lillis (items 1-13 – via teleconference)
 - Dr Ronan Lyons (items 1-13)
 - Dr Jim Mountjoy (items 1-13 – via teleconference)
 - Dr Sinéad O'Flanagan (items 1-13)
 - Mr Pól Ó Móráin (items 1-13)
 - Dr John Wall (items 1-13 – via teleconference)
- Apologies: Dr Lynn Ramsey
- In attendance:
- Mr Paul O'Toole (items 1-13.1)
 - Ms Orla Nugent (items 1-12)
 - Mr Pdraic Mellett (items 1-12)
 - Mr Tim Conlon (items 1-12)
 - Dr Vivienne Patterson (items 1-12)
 - Mr Peter Brown (items 4-12)
 - Ms Pearl Cunningham (items 1-12)
 - Dr Mary Ellen Petrisko (item 4)
 - Ms Laura Austin (item 4, 11)
 - Ms Leonora Harty (item 5)
 - Ms Mary-Rose Cremin, Deloitte (item 5 – via teleconference)
 - Mr T Stewart Roche (item 8)
 - Dr Trish O'Brien (item 11)

Members at the start of the meeting considered any potential conflict of interest.²

¹ The quorum for HEA Board meetings, six members, was met.

² Dr Deirdre Lillis, a former employee of IT Tralee absented herself from discussions on the updates on IT Tralee funding and the Munster TU application

1. Reports of Special Meeting held 27th May and 398th Meeting held 28th May

1.1 The minutes for the two meetings were approved.

2. Matters arising

2.1 No issues raised.

3. CEO's Report

3.1 Senior Academic Leadership Initiative launch

The CEO and Mr. Conlon briefed the Board on the next steps. Members noted the risk of potential legal challenges and the steps taken to mitigate against this risk.

3.2 Business Plan reporting

The CEO noted some slippage in targets being met and attributed this in part to insufficient resources. The HEA continues to engage with the DES in relation to pay and non-pay resources.

3.3 IT Tralee Funding

The CEO presented a supplementary paper on the IT Tralee funding position. He noted that the Institute continues to be under serious financial difficulty due to its operational deficit and costs arising from the Kerry Sports Academy (KSA). He updated on developments in relation to the Deloitte review and funding decisions made by the DES and the Department of Transport, Tourism and Sport (DTTS). The latter has provided an additional €1m in respect of the KSA and the DES has agreed in principle to provide a €4.5 capital loan/repayable grant. Members raised the following issues;

- Capacity of ITT to address its funding position having regard to its limited capacity to grow student numbers. Members were advised that the Institute was still finalising a report outlining the commercial potential of the KSA and the Institute was hoping to raise some modest revenue through renting out its South Campus.
- Statutory review of governance arrangements – Members were advised that the DES is considering the terms of reference for such a review.

Decision: Members agreed the following;

- The Board approved an increase in emergency funding to ITT from €3.25 million to €5 million, subject to the approval of the Minister for Education and Skills that unallocated funds can be used for this purpose.
- The Board noted that the repayment of this emergency funding can be made in part by the expected availability of a capital grant /repayable loan from DES to ITT. A proposal may also be made by the Executive to increase the 2019 HEA operating grant to ITT; any such increase would also serve to reduce the amount of emergency funding to be repaid.
- The Board noted that if the repayment of the emergency funding is not addressed through the above, this funding will be a first call on the 2019 / 2020 operating grant to ITT.

4. Report of Advisory Panel on TU Munster Application³

4.1 The Chair welcomed Dr Mary Ellen Petrisko, Chair of the Munster TU Expert Panel and thanked her for agreeing to present the panel's report to the Board. In her opening remarks Dr Petrisko outlined her understanding of the panel's remit, namely to assess the extent to which the application in respect of Munster TU met the criteria for designation as a TU having regard to the criteria set out in legislation and present a report to the HEA Board. With reference to section 32 of the Technological Universities Act 2018:

1. Within 120 days of being appointed, the advisory panel, having assessed the application under section 29, and having had regard to the matters referred to in section 34 (2), shall furnish a report to An tÚdarás with a recommendation whether to make an order under section 36.
2. Where the report under subsection (1) states that the applicant institutes do not jointly comply with one or more of the eligibility criteria, it shall
 - a. identify the eligibility criteria concerned, and
 - b. specify conditions (including relating to the period of time within which conditions shall be met), compliance with which, in the view of the advisory panel, would be reasonably expected to enable the applicant institutes to jointly comply with the eligibility criteria concerned.

The panel adopted the latter approach and Dr Petrisko outlined those areas where the criteria did not appear to have been met or where the panel had concerns. In particular Dr Petrisko noted that the panel's report found;

³ Dr Deirdre Lillis absented herself from this item

- An absence of integrated, coherent and effective plans or governance structures necessary to address academic, administrative and management matters required to implement the proposed new TU;
- A lack of specificity as to a research definition in respect of certain masters' programmes included for consideration under a criterion which requires that 'the percentage of students engaged in research at applicant institutions applying for technological university status is 4.0 per cent';
- A lack of specificity around supervisory arrangements for certain PhD programmes where the Act requires that all supervisors assigned to individual PhD students be research-active.

Having regard to the above and the limited options available to the panel under the TU legislation the panel recommended "that the Minister request additional and specific data and information demonstrating that plans and arrangements are in place for managing academic, financial, and administrative matters arising on the making of an order under section 36" and that these data and information explicitly address the criteria above on which the panel finds itself unable to make a judgment regarding compliance. The Review Panel further recommends that "the applicant institutions be required to submit these data and information within a six-month period from the time of the Minister's decision regarding designation."

4.2 Members raised the following issues;

- The financial position of IT Tralee. Dr Petrisko advised that the panel was not provided with any detailed plans as to how the reported financial position of Tralee would be addressed but did receive an assurance from the DES that the matter was under active consideration by the Department.
- Was 6 months long enough for MTU to address the panel's findings? Dr Petrisko noted that the 6 month timeframe would be a challenge but pointed out that what was required were plans as to how MTU would meet the criteria. In her opinion, there was a danger that momentum would be lost if a longer timeframe was set.
- Does the panel believe there is the drive and capacity within MTU to deliver the plans within 6 months? Dr Petrisko advised that there are capable people but what was required was a greater impetus to work together.
- Who should take the lead in proving clarity as regards research criteria? If this requires legislation, a period longer than 6 months will be required. Dr Petrisko indicated that the panel felt MTU had all the elements necessary to meet the research requirements, they just need to assemble this in a coherent manner, this should not be too difficult given the fact that preparations for MTU have been underway for some time. The QQI definition of research is quite broad and if research outputs from certain taught masters are deemed

to fall within that definition the 4% target would likely be met, more importantly is the need for a plan to reach 7%.

- The panel's expectations as regards the level of planning undertaken? Members were advised that notwithstanding legal and governance restrictions pre-designation (and merger), the panel would have expected integration planning to have been more advanced.
- The academic and research profile of MTU. Dr Petrisko indicated that if MTU secured TU status it would see an interesting merger of a large urban institution with a small rural institution. The sum of the parts has the potential to make a significant contribution to the region. She noted that the culture of both institutes supported greater engagement with industry, for example, this suggested the TU could be different from the traditional universities.
- What was the level of support for an MTU outside the leadership in both institutions and could communications in both institutes have been better? Dr Petrisko advised that there was a broad level of support, some however suggested that more time, more communication and more consultation was required.

4.3 Members considered the content of the HEA's submission following Dr. Petrisko's departure. The following points were noted;

- The need for consistency with the approach taken with the TU Dublin application.
- The HEA advice to the Minister should have regard to the findings of the Advisory Panel as set out in its report.
- The MTU should be asked to provide regular updates in any timeframe provided by the Minister so as to ensure momentum is maintained.
- Concern was raised as to the capacity of TUs to grow research numbers at a time when PhD numbers were flat. In relation to the wider issue of research, it was important that clarification, whether from the HEA or QQI, was provided to Munster TU and other prospective TU consortia.
- QQI should be requested to undertake a QA review of any institution seeking to be part of a TU before the application is considered.
- The need to undertake a review of landscape funding.

Decision: Members agreed that the Executive would draft a letter to the Minister. The draft letter will be circulated electronically to Members and include the following key points;

- The HEA welcomes and notes the panel report and does not recommend designation at this stage, specifically the HEA recommends postponement.
- As per the panel report, MTU should be required to provide detailed plans towards any TU status as outlined in the Expert report;

- These plans should include how IT Tralee will return to financial sustainability;
- The Minister should consider a longer timeframe for submission of such plans;
- A further external evaluation should be carried out on plans submitted;
- QQI should be requested to undertake an external review of institutes prior to any designation;
- The need for greater clarity as to a national definition of ‘research’ and ‘supervision’ regarding research masters and supervisory teams;
- A mid-cycle review of the €35.5m funding provided to support landscape reform should be undertaken.

5. Report of Finance and Governance Committee

The Chair presented the Committee’s report.

5.1 HEA Administration Budgetary and Estimates Process

Members were informed that the Executive would develop a workforce plan which will inform the 2020 estimates submission. Mr Mellett advised that the DES has requested the HEA to submit its 2020 estimates. The Department will be advised that the HEA’s submission will be subject to consideration by the Board at its September meeting. The Executive was requested to ensure priority was given to the development of a new Finance system and funding required for office modifications.

Decision: Members agreed that the Board should in future have input into the HEA’s administration grant estimates prior to their submission while noting the particular urgency in relation to the 2020 estimates process.

5.2 Updated procedures for making Protected Disclosures under SI 339/2014

Decision: Members approved the revised procedures.

5.3 Governance Rolling Review on Pay, Pensions, Travel & Subsistence and Leave

The Chair welcomed Ms Cremin from Deloitte who joined the meeting via teleconference. He noted that the Finance & Governance Committee had recommended a number of changes to the report including the need for staff to be given a minimum 5-year advance notification of likely pension entitlements. This will enable them plan for any other arrangements they deem necessary. She outlined the key findings in the report in relation to;

Pay – variation in the rates of pay with common/similar titles, lack of standard job descriptions, some contracts absent/not signed.

Superannuation – clarity of the appropriate scheme a new staff member should be admitted to, issue of annual pension benefit statements, basis for the award of professional added years.

Travel and subsistence – only two of the institutions have a fully automated system, role of Finance in approving claims.

Leave – Lack of clarity as regards annual leave entitlement in the HEIs, monitoring of leave taken.

5.4 Members raised the following issues;

- Consideration needs to be given to scenarios where full annual leave is not claimed and travel and subsistence not claimed due to a lack of available funding. Ms Cremin noted employers owe staff a duty of care as regards the taking of leave. Untaken leave needs to be accounted for in the institution's financial statements.
- To what extent has the cost of rectifying mistakes been identified? Ms Cremin indicated that the most significant costs will arise from the need to introduce new systems. The Chair noted that the Finance and Governance Committee recommended that the Executive seek some additional funding in the 2020 estimates to assist HEI's put in place the necessary systems.
- Role of the HEI's internal auditors in identifying mistakes. Ms Cremin agreed that internal auditors formed part of a three-line defence open to the HEA and HEIs. The other two lines were – Management and the systems and controls they put in place to detect such mistakes and the risk management processes put in place.
- How can the HEA Board ensure there is greater accountability at HEI level? Ms Cremin noted the importance of ensuring a wide range of Executive Management were involved in the preparation and review of institutional annual governance accountability statements. This would promote a greater culture of accountability.
- There needs to be consideration as to the extent to which institutions have discretion in relation to the implementation of a particular policy and whether there should be system wide policies. It was felt that pay, pensions and travel and subsistence should follow public norms, the practice as regards annual leave might vary somewhat across grades and institutions.

Decision: Members agreed the following next steps;

(1) Finalise the report following consultation with the 7 HEIs who were involved in the rolling review.

(2) The final report to be circulated to the Governing Body in each of the HEIs requesting that they arrange for institutional management and internal auditors to assess the extent to which the issues in the report might apply to them.

(3) The final report to be submitted to the DES with an outline of the next steps agreed/recommended by the HEA.

(4) Consideration be given to arranging for future rolling reviews to be carried out by HEI internal auditors with the HEA undertaking a validation exercise.

Members approved the report of the Finance and Governance Committee.

6. Report of Policy and Planning Committee

Ms Kneafsey introduced the Committee's report.

6.1 Digital Transformation Roadmap

Members were advised that the Committee requested the roadmap to be revised having regard to comments made at the meeting. The Board will have the opportunity to discuss this matter at its September meeting.

6.2 HEA Legislation

Members were advised that there would be a further opportunity for the HEA to engage in this process once the Department launches a new round of consultations following consideration of this matter by the cabinet. Mr Mellett outlined how the Ministerial Observer process operates in New Zealand.

Decision: Members approved the Committee's report.

7. Decision Making in the HEA

7.1 The CEO introduced this item noting the need for greater codification as to how decisions are made in the HEA. Members noted that while new legislation might provide some clarity on this matter, it will take some time for new legislation to be enacted.

Decision: Members agreed that the Executive should undertake a comprehensive exercise to clarify and document decision making both within the HEA and between the HEA and the DES.

8. 2018 Annual Report

8.1 Members were informed that the Comptroller and Auditor General has now issued his certificate following completion of the 2018 audit. There were no

qualifications or matters of emphasis in his report. The Chair thanked Mr Roche and all staff involved in the preparation of the 2018 accounts for the work undertaken. He noted Mr Roche would be finishing at the end of September and thanked him for his dedicated service to the HEA over the last 21 years. Any changes Members wished to make should be forwarded to Mr Mellett.

Decision: Members approved the Annual Report subject to any further comments to be submitted electronically. The report will then be professionally edited before being translated and published.

9. Risk Register

Decision: Members approved the register noting that a further review will be undertaken later in the year. In undertaking a further review the Audit and Risk Committee will consider the appropriate number of risks to be included in the register and the extent to which actions to mitigate against the risks are being implemented. The need for some turnover in risks was noted.

10. Membership of the Board of the Forum for the Enhancement of Teaching and Learning

Decision: Members approved the appointment of Ms Claire McGee Head of Education Policy, IBEC, Dr Sharon Feeney, Deputy Chair HEA and Mr Tim Conlon, Head of Policy and Strategic Planning HEA as the HEA nominees. Dr Feeney's membership will be reviewed in 12 months' time. It was noted that the DES will be consulted on these appointments.

11. Support for higher education landscape reforms – Outcome to calls for submissions 2019

11.1 Mr Conlon introduced this item noting that to date €35m has been allocated, a further €14m allocation was now being proposed following consideration of the 2019 submissions. He outlined the breakdown of the amount involving 10 consortia and 21 HEIs. Given the amounts allocated to date it was proposed that an exercise be undertaken to look back at how the funding provided to date has been used. There is however limited scope to pause funding for some of the projects currently in receipt of funding.

11.2 Dr O'Brien process auditor for the allocation outlined her role in the allocation. She was satisfied that the proposed allocations are consistent with the criteria set out in the call. She identified a number of process improvements for future calls. Dr O'Brien advised that while she reviewed the process, she was not part of the

final decision-making process, rather, this was left to the Executive given their greater knowledge of the sector.

11.3 Members noted the broad use funding has been used to date, in some cases it has contributed to landscape consolidation such as TU Dublin and DCU Institute of Education. The funding has also been used to enhance research capacity in Institutes of Technology aspiring to become part of a new TU. The CEO noted the review will take time so suggested a percentage of the funding be held back.

Decision: Members approved to recommend to the Minister the proposed allocation of €14m in principle subject to certain conditions and to recommend the undertaking of a review of funding provided to date. If the review is to proceed it was noted that stage payments from the fund may be required prior to completion of any review agreed by the Minister. The nature of this review to be considered by the System Development and Performance Management Committee if it is to proceed.

12. Capital Programmes Unit – Funding Programmes Update

12.1 The CEO introduced this item noting that the HEA acts as an agent for the Department. Each capital project is subject to the approval of the Minister. The Executive committed earlier this year to provide a report twice annually on funding managed by the CPU. Ms Nugent outlined how the level of capital funding being managed by the HEA is set to grow over the next few years. Members were advised that the C&AG has completed a report on capital project overruns in the HE sector.

12.2 Members raised the following issues;

- Funding of specialist equipment under PPP projects – Mr McCaffrey advised that the HEIs were advised in 2017 of the need to plan for such funding from own resources.
- It was commented that the list of PPP projects appeared to have a STEM focus. Members were informed that the list flowed from the Institutes' own priority list in 2016.
- Role of the HEA in approving capital projects. Members were advised that these projects were approved by the Minister and his Department. The HEA's statutory approval was limited to land purchases by IoTs. Once the DES approves a project the HEA Executive has a responsibility to oversee the management of this project.

Decision: Item noted

13. Members only session

13.1 Appointment of new CEO

The Board was informed of arrangements for the selection of a candidate for appointment of CEO. Preliminary interviews are planned for July 23 and 24, with final interviews on August 14. It is hoped to have a Board meeting before the end of August to make the appointment.

Next Meeting

3rd September 2019

Chairperson

Date