

**Department of Education & Skills**

**Note for the Public Accounts Committee on the 2013 Financial Statements of Waterford Institute of Technology and the 2014 Financial Statements of Cork Institute of Technology**

**1. System Governance in the Education Sector**

**Bodies under the aegis of the Department**

There are 17 non-commercial agencies, including the Higher Education Authority (HEA), under the aegis of the Department of Education and Skills. Due to the complex and diverse nature of bodies under the Department's remit a one size fits all approach to monitoring corporate governance is not appropriate or feasible. Bodies differ in their relationships, roles and responsibilities to the Department and in their compliance obligations, reporting procedures and assurance arrangements. Accordingly the Department's internal considerations centre on developing a consistent approach to managing governance and accountability oversight of its bodies.

In general bodies under the Department's remit can be grouped into the following categories:

- non-commercial state agencies
- Education and Training Boards (ETBs)
- Higher level institutions (HEIs)

**Relationship between Department and State Agencies**

The Department is strengthening its role in relation to governance and accountability oversight of all institutions and bodies right across the education sector working with stakeholders, including the Comptroller and Auditor General, and striving for improvements in processes so that the utilisation of public funds is done within a framework of high standards of accountability, compliance and oversight.

The Department has formal agreements with its state agencies which govern the relationship between it and the agencies. In particular the use of service level agreements (SLAs)/performance agreements has now become the norm. These agreements provide an opportunity for the Department and the body to develop a shared interpretation and understanding of what is meant by performance for the body, to clearly define responsibilities and to put in place procedures to ensure effective accountability/monitoring measures.

A formal Memorandum of Understanding between the Department and the HEA was adopted in 2012. This was subsequently replaced with an annual Service Level Agreement, first introduced in 2014. The Department and the HEA are currently in the process of drafting the 2016 SLA.

The SLA sets out the purpose and scope of the agreement and defines the roles for both organisations. The core activities and key services which are to be provided by the HEA are agreed and set out for each year together with how each service commitment is to be measured. In addition to regular meetings between the Department and the HEA, specific meetings are held to review progress on the actions outlined in the agreement.

### **MAC Committee on Sectoral Governance and Accountability**

Earlier this year, a MAC Committee on Sectoral Governance and Accountability was established and there have been two meetings to date. The Committee's role is to support the development and implementation of best practice governance arrangements across the sector through oversight and regular assessment of its approach to governance.

The Committee will focus on three sectors, non-commercial state agencies, Higher Education Institutes and Education and Training Boards.

The Committee's membership includes the Chief Executive of the Higher Education Authority and an external member who can provide an additional element of insight and experience in the area of governance oversight.

### **Establishment of sub groups**

A Principal Officers' Sectoral Governance and Accountability Network has also been established. Its role is to support the work of the MAC sub-committee by facilitating discussion regarding compliance requirements, to provide feedback, highlighting issues arising in each sector and to disseminate best practice across the Department's bodies.

It has been decided, in principle, to establish an Internal Audit Sector Forum for personnel with internal audit functions in the Department, its agencies, higher education institutes and the ETBs.

### **Corporate Governance Compliance Reviews**

The MAC Committee on Sectoral Governance and Accountability recently approved the commencement of a review programme of the Department's oversight of governance compliance. Accordingly, a governance review questionnaire has issued to the Department's National agencies. The questionnaire focuses on adherence to the 2009 Code of Practice. However, as the corporate governance environment has evolved significantly since the 2009 Code of Practice was introduced, it also takes account of 2013 Public Spending Code, the draft 2015 Code of Practice as well as the stipulations of the Department of Public Expenditure and Reform's Circular 13/2014 concerning the Management and Accountability for grants from Exchequer Funds.

In tandem with the roll out of this review work the Department in conjunction with the HEA intend to commence a series of Corporate Governance Compliance Reviews utilising a centralised procurement framework to deliver Reviews which will evaluate the effectiveness of governance in organisation against stated policy, best practice, national and international standards. The Review process may focus on a specific aspect or area of governance or may be broader in scope.

The Department has recently agreed with the HEA that the first 'rolling review' of governance compliance will be on procurement and will look at practices across the third

level sector and make appropriate recommendations. The terms of reference for this review are currently being finalised with the review expected to be undertaken in the first quarter of 2016.

## **2. Higher Education Governance**

The principle of good governance in Irish higher education institutions is well established in relevant legislation and in Codes of Practice. Codes of Practice for Governance in Universities and Institutes of Technology were agreed in 2007 and 2009 respectively. These Codes were updated in 2012 to reflect the provisions of the 2009 Code of Practice for the Governance of State Bodies and will be updated again when the draft Code of Practice for the governance of State Bodies (2015) is effected.

The Codes of Governance for the HEIs require the Governing Authority and the Chief Officer of each HEI to make a formal Annual Governance Statement to the HEA affirming that the Governing Authority is responsible for and is satisfied that the institution is in compliance with all statutory obligations applicable to the institution and providing confirmations in relation to a range of areas. The Statements are reviewed by the HEA and any required follow-up action is identified.

Up to recently there was a timing issue with these returns e.g. statements for the 2012/13 financial year were formally submitted to the HEA in the last quarter of 2014. In order to improve the timeliness of reporting, HEIs will now be required to submit an annual Statement of Governance and Internal Control no later than 6 months after the end of each financial year end, subject in some cases to audit by the C&AG.

### **HEA and institutions' engagement with C&AG**

In February last the HEA met with representatives of the C&AG to discuss how to enhance the working relationship between the HEA, institutions and C&AG with particular reference to delays in the preparation and audit of financial statements as well as information exchange and communications relating to any difficulties or issues arising from C&AG audits of institutions. One of the benefits of this new process is that there will be an early flagging of any issues in the sector.

The HEA and C&AG emphasised the importance of maintaining a strong working relationship which will facilitate both organisations in delivering on their respective missions. A number of meetings between the HEA and the C&AG have taken place during this year.

Following on from the discussions between the HEA and C&AG; a HEA, IUA and C&AG Working Group on university audit issues was also set up.

### **Performance Management in the Sector**

A new framework for performance management across the higher education sector has been developed. This is underpinned by a new funding and accountability relationship between the state and institutions which seeks to improve the performance of the higher education system as a whole and to align the requirements for performance, autonomy and accountability. This new arrangement represents a fundamental change in the relationship between the state and the institutions and is intended to provide a strong framework for incentivising and rewarding performance in line with national priorities.

The elements of this relationship include clear articulation of cross-government expectations of the higher education system; formal three year agreements reached between the HEA and each HEI on its mission, planned profile and performance targets; and a proportion of public higher education funding allocated to institutions on the basis of performance against agreed targets.

The first System Performance Framework was published in 2013 and clearly set out the Government's high level objectives for the system for the period 2014-2016<sup>1</sup>, together with a supporting framework of over 40 system performance indicators. It is the responsibility of the HEA to use this framework to conduct a process of strategic dialogue with higher education institutions, to agree with each HEI a strategic direction and a set of performance targets in the form of a three-year compact, to monitor and assess HEI performance against

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<sup>1</sup> System Performance Framework 2014–2016 <http://www.education.ie/en/The-Education-System/Higher-Education/HEA-Higher-Education-System-performance-Framework-2014-2016.pdf>

the agreed compact and, finally, to allocate a proportion of institutional funding based on this performance.

### **3. Specific Higher Education Issues Raised with the Committee**

#### **Waterford Institute of Technology – Carriganore Sports Complex**

In July 2013, Mr Dermot Quigley, former Revenue Commissioners Chairman, published his report into the relationship between Waterford Institute of Technology (WIT) and a group of companies that provided services to the Institute. On foot of that report, the Minister for Education and Skills sanctioned the capital allocation of €10m to WIT to meet the once-off costs of acquiring the Manor Village student accommodation development and completing the Carriganore Sports Complex, due to the importance of these facilities for WIT. The funding will be fully recouped from the Institute through an annual charge.

€7.1m of this funding has already been provided to WIT for Manor Village leaving €2.9m for the completion of the Carriganore Sports Complex. Since then, discussions have been ongoing between the Department of Education and Skills and WIT in an effort to assist WIT in ensuring a final resolution of the issues which were the subject of Mr Quigley's report. WIT has confirmed to the Department that a maximum investment of €5.2 million is required to fully complete the Carriganore project. The Institute has also secured a Sports Capital grant of €200,000 towards the project, leaving a balance of €5m to complete it.

In that context, WIT has sought a further funding allocation from the Department of Education and Skills of €2.1 million for completion of the project. Cognisant of the difficult financial situation presenting at the Institute and being mindful of the benefits that such a facility would realise to the Institute and the community itself, the Department has approved this funding. The funding brings the Department's total outlay towards both the purchase of the Manor Village student accommodation development and the completion of the Sports Complex to €12.1m. Repayment of the entire funding (less the €1.2m which has already been repaid) will be extended over a period of twelve years.

## **WIT/Carlow IT Merger – Kelly Report and Subsequent Developments**

The Minister for Education and Skills received Mr. Kelly's report on 2nd July last and subsequently met with the Chairs and Presidents of Institute of Technology Carlow (ITC) and Waterford Institute of Technology (WIT) on 21<sup>st</sup> July to discuss the findings and recommendations in the report. The report was then published on 27<sup>th</sup> July 2015. As outlined at the time of publication, it was agreed that a project plan for a process of facilitation would be developed by mid-August for consideration at ITC and WIT Governing Body meetings planned for end-August. The facilitation process is the first step recommended by Mr. Kelly.

The Governing Bodies of both institutions held meetings at the end of August and agreed to engage in the proposed facilitation process. The facilitator (Ms. Jane Williams of SIA Partners) was proposed by the Department of Education and Skills and agreed to by the Chairs and Presidents of both institutions. The facilitation is being undertaken as the leadership of both institutions wishes to engage in a process to develop a Technological University for the South East (TUSE). Recognising the challenges and issues that must be addressed to be successful, the leadership wishes to do some facilitated preparatory work to strengthen its capacity to lead this significant development.

This facilitation process has been underway since early September 2015 and there has been strong engagement in the process by both parties. This work recognises that the development of a TUSE is huge, complex, risky, attractive, exciting, of strategic and major significance and carries the hopes of lots of people in each institution, in the region and nationally. It also recognises that the participants have tackled this task before and moved it to a certain point. This experience usefully identified issues that will need to be addressed in this next development. Knowing these, the leadership understands the need to invest in enhancing its capacities so that it can tackle this task successfully.

The facilitation process will involve a series of meetings not all of which have been scheduled yet so as to allow the participants time to reflect and to complete any tasks required to move the process on. Therefore, the exact end date for the facilitation process is not fixed at this point.

### **Cork Institute of Technology (CIT)**

Two anonymous correspondences were sent to the Public Accounts Committee, C&AG, the Department of Education & Skills and the HEA covering a wide range of issues in CIT. The Department requested that the HEA liaise with CIT to have the allegations thoroughly investigated. CIT referred the first set of allegations to its Audit Committee who took legal advice on the matter and subsequently appointed independent consultants, KPMG, to undertake a thorough review of the allegations. The report on the first set of allegations involved a review of the 175 allegations identified within the anonymous correspondence. KPMG also provided a detailed report on the 21 allegations contained in the second anonymous letter.

Both consultant's reports have been submitted to the HEA and they have found no evidence to support the main thrust of the allegations. The HEA followed up with CIT in relation to some minor issues that arose during the review and these matters have since been addressed. CIT has provided redacted copies of the two KPMG reports which the Department sent to the Committee in July (Department's letter dated 6<sup>th</sup> July 2015 refers). The HEA has confirmed to the Department that, based on the KPMG reports and supporting information supplied by CIT, it is satisfied with the process implemented by CIT in investigating the allegations.

Since the PAC hearing of 24<sup>th</sup> September last, the issue of providing the Committee with un-redacted reports has been discussed and I understand that, notwithstanding their legal advice on the matter, CIT is reviewing its position on the matter in order to be in a position to address the concerns of the Committee in relation to this issue.