

3 May 2017

Ms Margaret Falsey
Committee of Public Accounts
Leinster House
Dublin 2

Dear Ms Falsey,

I refer to your letter of 12 April 2017 and the HEA's recent appearances before the Committee. At the hearings themselves we undertook to provide the Committee with information on a number of issues in addition to the information specifically requested in your letter.

Financial Reporting of Universities

At the Committee the Chairman raised the issue of the two sets of financial statements in place in the universities. The attached note explains in further detail the reasons for these two sets of statements and also addresses the issue of timeliness in financial reporting by higher education institutions that was raised by the Committee.

Protected Disclosures

Enclosed is a report prepared by the HEA summarising protected disclosures and other allegations of a substantive nature received by the HEA both prior and subsequent to the passing of the Protected Disclosures Act 2014.

The HEA understood that the Committee had intended to suggest the components that would make up this report. We will be happy to provide additional information if required.

WIT FeedHenry

The HEA is currently preparing terms of reference for an external validation of WIT's internal report on the FeedHenry spin-out company and will keep the Committee updated in that regard.

Review of implementation of the National Intellectual Property (IP) Protocol in higher education institutions

The HEA and Knowledge Transfer Ireland (KTI) are currently finalising the terms of reference for a review of the implementation of the National IP Protocol and the alignment of IP practices with higher education governance requirements.

The review will be conducted by an international expert in this area and is expected to commence shortly. The HEA will be happy to share the terms of reference with the Committee in due course.

Separately the HEA will also request institutions to report on any instances where those with overall responsibility for research in an institution (e.g. Vice-President for Research) hold or own any shares in spin-out companies established within the institution – this issue was specifically raised by the Committee.

Payments to private education providers

In your letter you requested a note on the instances whereby third-level institutions pay money to private companies to run specific programmes. The HEA therefore requested the higher education institutions to report on any such arrangements in place in the 2015/16 financial year. Please find enclosed a table based on the responses received. You will note that a number of institutions have reported 'nil' returns. Some institutions also pay private individuals to teach programmes or seek the services of private companies in teaching specific modules on programmes.

The HEA is strongly of the view that institutions should always ensure that such arrangements are entered into based on strong business cases and ensuring value for money. Such arrangements should also be kept under regular review. The HEA

will shortly commence its annual cycle of budget and accountability meetings with institutions and will raise this issue with them.

HEA funding for music programmes in DIT

Related to the issue of payments to private providers, at the Committee the HEA was asked about the level of funding provided to DIT in respect of its music provision.

By way of general explanation, the HEA allocates exchequer funding to higher education institutions as a block grant. Each institution's allocation is calculated on the basis of its weighted student numbers across all programmes. However the internal allocation of funding for each course or programme is a matter for each institution.

In the case of DIT's music provision, based on a category weighting of 1.7, a standard resource of €2,713 per student and the relevant student numbers in 2015/16, DIT's grant allocation for 2017 included an amount of approximately €3.5m for undergraduate and postgraduate music programmes. Please note that this does not include funding in respect of free fees for eligible students on the programme.

In addition, DIT receives a ring-fenced amount of €2.889m in its grant allocation in respect of music. This top-slice was introduced in 2011 to address the difference between the costs incurred in those institutions providing music (including the provision of pre-third level music programmes) and the relevant allocation emerging from the HEA's recurrent grant allocation model weighting for music. This top-slice is provided specifically to CIT, DIT and WIT.

In relation to the specific arrangement between DIT and the British & Irish Modern Music Institute (BIMM), it is worth noting that the provision of music programmes has traditionally represented a significant cost to the State and higher education institutions. This is reflected in unit cost data provided to the HEA and was a reason for a higher weighting of 1.7 being given to music programmes in the HEA funding model. Also arrangements such as this are consistent with the National Strategy for Higher Education which identified the possibility of private providers adding capacity to the higher education system.

I hope the above information is of assistance to the Committee. Should any further information or clarification be required, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Graham Love", followed by a large, stylized flourish that extends to the right.

Dr. Graham Love
Chief Executive

Financial Reporting of Universities

Consolidated financial statements and HEA funding statements

The university sector has, since the 2002/03 financial year, been required by the Higher Education Authority (HEA) to prepare two sets of financial statements annually. These sets of financial statements are '*Consolidated Financial Statements*' and '*Funding Statements*' and differ from one another in two major respects:

1. The range of activities within the university being reported upon
and
2. The accounting principles and policies which guide their preparation

Although the core mission of universities centres on teaching and research, universities engage in a wide range of ancillary and other related activities necessary to the delivery of their mission. Such activities may for commercial or legal reasons be more appropriately carried out by limited companies.

Consolidated financial statements cover all activities of a university and its subsidiary undertakings, be they publicly or privately funded, in the income and expenditure account and balance sheet. They are prepared using Generally Accepted Accounting Principles (GAAP) and are akin to statements published by commercial entities.

Funding statements also cover all university activities but report these in a different manner. Results of subsidiary or associate companies are not reported in the net surplus/deficit in the income and expenditure account for the year. The income and expenditure account of funding statements are principally concerned with the teaching and research activities of universities and were developed primarily to facilitate accountability and comparability in relation to State funding. These statements are uniformly prepared across the sector on the basis of Irish university sector harmonised accounting principles approved by the HEA and the Comptroller & Auditor General.

The use of both sets of financial statements in universities was also referred to in the C&AG's recent special report on financial reporting in the public sector.

Both sets of financial statements provide a fair view of past expenditure based on the underlying principles which govern them. The GAAP consolidated results however show a significantly different financial result when compared to the long established form of harmonised funding reporting because of the application of different accounting rules. Such differences in many cases arise simply from the timing of recognition of income and expenditure or from the application of

different accounting policies. Examples of some of the key differences are set out below:-

1. *Residential & Other Ancillary Services*

Ancillary activities include activities such as student accommodation, catering, commercial research, conference facilities etc. These are generally operated on a long-term cost recovery basis. Surpluses may arise in the short-term, however these are generally required for re-investment in maintenance and refurbishment in the long-term. **The funding statements record the activity net of operational expenditures and any capital repayments** and the net result is transferred directly to the balance sheet thereby not impacting on reported surplus/deficit for the year. The GAAP consolidated financial statements, however, show the activity income less operational expenditure in the income and expenditure account. The difference (i.e. capital repayment or redevelopment provision) between the two results is reflected in the surpluses of the GAAP consolidation. **These surpluses are fully committed in the long-term to capital repayments or reinvestment.**

2. *Capital*

There are a number of areas where the treatment of capital items differ between the two sets of accounts. In the harmonised funding financial statements universities were permitted to charge equipment purchases in full to the income and expenditure account in the year in which the equipment was purchased. Under GAAP consolidated financial statements such expenditure must first be capitalised and charged to the income and expenditure account by way of a depreciation charge over the useful life of the asset. Such treatment will give rise to a surplus on the GAAP financial statements in the year of purchase relative to the funding statements. This represents a **timing difference** only over the life of the asset and does not in any way represent surplus funds available for discretionary expenditure.

3. *Departmental Non-equipment Expenditures (Internal Balances)*

Under devolved financial management procedures in most universities academic and support departments may carry forward internal balances at the financial year end. This represents unspent but not necessarily uncommitted expenditure. Under harmonised financial statements annual non-pay budget allocations of most departments are charged to the income and expenditure account while in the consolidated financial statements the expenditure in the year is charged in the year in which it occurs. When the accounts are compared the difference between the two can result in a surplus or deficit (on consolidation) depending on whether the expenditure pattern in the year is less or more than the allocation. The funds are of course subject to normal accountability and must be spend in

support of the strategic objectives of the university and of the department and within a limited time.

The above examples are intended to serve as an illustration of how the application of GAAP accounting arrangements can reflect the same activity in a very different way.

The enclosed table shows the reconciliation between the GAAP consolidated financial statements and HEA funding statements for all 7 universities for the 2013/14 financial year.

Reconciliation between GAAP consolidated financial statements and HEA funding statements (2013/14 financial year)								
	UCD	UCC	NUIG	MU	TCD	UL	DCU	
	€'000	€'000	€'000	€'000	€'000	€'000	€'000	
GAAP statements - Surplus (Deficit)	22,984	-4,955	2,843	770	-21,832	10,380	5,866	
Adjustment	Subsidiary companies	-1,194		-693	-105		-2,815	-2,128
	Unincorporated ancillary activities	-5,803			-717	28		
	GAAP adjustments	-15,798	3,303	-3,892	218	19,797	-7,251	-3,736
HEA statements - Surplus (Deficit)	189	-1,652	-1,742	166	-2,007	314	2	

It should also be noted that with effect from the 2015/16 financial year the HEA will no longer audited funding statements. This will help improve the timeliness of financial reporting in the higher education sector. The HEA will continue to require a one-page reconciliation of the surplus/deficit in the HEA Funding Statement to the surplus/deficit in the GAAP financial statements.

Timeliness in Financial Reporting

At its recent meetings, the Public Accounts Committee expressed its strong concern at the delay in financial statements prepared by universities and other higher education institutions. These delays have also been examined in further detail in the C&AG's special report on financial reporting in the public sector.

The C&AG's report noted that a number of factors have contributed to delays in the universities. These include:

- The HEA requirement for the universities to prepare annual financial statements in two formats (referred to above);
- Use by universities of commercial auditors to carry out audits of financial statements in addition to the statutory audit carried out by the C&AG;
- Issues relating to the treatment and valuation of pension liabilities;

- Consolidation of trusts, university foundations and subsidiary companies
- Accounting for heritage assets
- Treatment of research income

Significant efforts have been made by universities in cooperation with the C&AG to reduce these delays. The additional resources allocated by the C&AG to the audits of universities and specific deadlines set for the submission of draft accounts by universities is particularly welcome.

The HEA wishes to emphasise that it also shares the Committee's concern at the delays in universities' financial statements. Therefore the HEA has taken the following actions:

- With effect from the 2015/16 financial year the HEA has recommended to universities that audits of financial statements be undertaken solely by the C&AG although universities may continue to use commercial auditors.
- Continual emphasis of the requirement for timely submission of accounts, including in the HEA's annual grant allocation notification to HEIs and in the financial memorandum signed between the HEA and higher education institutions;
- Prompt engagement with HEIs where issues of timeliness of financial statements arise in order to identify reasons for delays;
- Advice to universities that trusts and foundations be consolidated into main financial statements in order to give an overall and true picture of their financial position.

The HEA also has regular meetings with the C&AG that serve as an 'early warning' system for any potential issues or delays arising in the audit of financial statements. Starting in May the HEA will commence its annual round of budget and accountability meetings with higher education institutions and this year's meetings we will also require institutions to provide us with an update on the status of their financial statements and audits.

Report on protected disclosures and other allegations received by the HEA in respect of higher education institutions

1. Protected Disclosures Act 2014

The Protected Disclosures Act 2014 came into effect on 15 July 2014. The Act is intended to provide a robust statutory framework within which workers can raise concerns regarding potential wrongdoing that has come to their attention in the workplace in the knowledge that they can avail of significant employment and other protections if they are penalised by their employer or suffer any detriment for doing so.

Statutory Instrument No. 339 of 2014 subsequently prescribed the Chief Executive of the HEA as a recipient of protected disclosures in respect of:

- (a) All matters relating to the planning and development of higher education and research in the State.
- (b) All matters relating to funding for universities and certain institutions of higher education designated under the Higher Education Authority Act 1971 (No. 22 of 1971).

This report to the Public Accounts Committee summarises protected disclosures and other allegations of a substantive nature received by the HEA both prior and subsequent to the passing of the Protected Disclosures Act 2014. Some of these issues have been discussed in depth at the Public Accounts Committee itself as well.

It should be noted that prior to the introduction of the Act in July 2014, the HEA wrote to all institutions under its remit in May of that year in relation to the confidential disclosure of information that is in the public interest. The HEA outlined its view that the higher education sector should not wait until the protected disclosures legislation was enacted but take proactive steps to provide as much protection as possible to those who have information relating to misconduct or mis-governance in a higher education institution.

In addition, in recent months the HEA has engaged with a Transparency International (TI) Ireland initiative known as the Integrity at Work (IAW). Integrity at Work (IAW) is a not-for-profit initiative aimed at promoting supportive working environments for anyone reporting concerns about wrongdoing. Facilitated by TI Ireland, IAW presents employers with the opportunity to demonstrate their commitment to promoting ethical workplaces and managing risk. IAW was launched by the Minister for Public Expenditure and Reform in September 2016. TI also operates a Transparency Legal Advice Centre that provides free specialist legal advice to people who have made disclosures of wrongdoing or are considering doing so.

The HEA has met with representatives of TI Ireland and IAW to further discuss the IAW initiative and how it might be adopted by higher education institutions. As the HEA is eager for the higher education sector to demonstrate its commitment to complying with the protected disclosures legislation and ensuring that staff concerns are treated properly, the HEA is considering signing up to the IAW programme and then sponsoring a number of higher education institutions to sign up to the programme as well.

2. HEA Process in Handling Protected Disclosures

The HEA has recently adopted the following process in relation to the handling of protected disclosures from employees of higher education institutions.

The Chief Executive upon receipt of a protected disclosure shall assign the matter to the Head of System Funding or another senior manager in the HEA. A disclosure should contain “information” which tends to show wrongdoing. The ordinary meaning of disclosing “information” is conveying facts, such as stating that particular events have occurred. This is different to simply making an allegation, for example, that a law is being breached.

The person assigned responsibility for the matter shall in the first instance assess the following:

- That the disclosure has been received from a worker employed in an applicable institution

- That the disclosure relates to certain wrongdoings in pertaining to the planning, development and funding of universities and HEA designated institutions. The following is a list of areas which are deemed to be covered by SI 339;
 - Receipt of grants from HEA, other state bodies and private donators
 - Receipt of research funding from HEA, other state bodies and private donators
 - Procurement
 - Travel and Subsistence
 - Banking and investment activities
 - Payroll including statutory deductions
 - Tax compliance
 - Financial statements
 - Purchase of lands and buildings
 - Planning and design of new/existing buildings
 - Furniture and fittings of new/existing buildings
- Satisfy him/herself that all investigations within the HEI concerned have been completed.

If the above criteria are not met, the person will be informed within 7 days that this cannot be considered under the Protected Disclosure legislation. If there remains merit in the HEA examining the issues raised further, the HEA will ask the person if he/she is willing to make a submission without the protection of the Protected Disclosure legislation. Subject to the above criteria being met the HEA will undertake the following:

1. Review all material presented by the person presented by the protected disclosure and determine whether further clarification is required from that person.
2. If a meeting is requested by the person making the disclosure, or if the person agrees to a meeting with the HEA to provide further clarification sought, this should be facilitated with two HEA members of staff attending. Full notes of the meeting should be taken and agreed with the person, and this document may form part of the disclosure with his/her approval

3. The HEA will then send the Protected Disclosure to the relevant institution, requesting the institution to outline in writing how the protected disclosure has been investigated, how the independence and robustness of this process has been assured, the outcome of these investigations and actions undertaken arising from the investigation. This correspondence will be directed to the President/Provost of the relevant institution, unless that person is the subject of any aspect of the disclosure. In that case, the correspondence will be addressed to the Chair of the institution audit committee.
4. The HEA Manager assigned shall review the written material received from the institution and consider this against the disclosure made. If necessary, meetings with representatives from the institution concerned will be arranged to provide further clarification.
5. If, following receipt of the response from the institution, the HEA feels that further information is required from the person making the disclosure, this will be sought either in writing or via a follow-up meeting.
6. The HEA commits to issuing its response to a protected disclosure within 20 days of receipt of all necessary information. This deadline may be extended if further investigations need to be carried out following consultation with, and agreement of the institution concerned. In such circumstances the person who made the protected disclosure will be advised.
7. If the HEA does not receive a satisfactory response from the institution regarding the matters set out in the disclosure, it will consider recommending to the Minister for Education and Skills the appointment of a visitor (in the case of Universities) or an Inspector (in the case of IoTs) to conduct an independent review of the issues.
8. The HEA will report publicly on an annual basis the number of protected disclosures made with regard to HEIs, the processes followed in each case and the outcomes from each process.

3. Protected Disclosures received by HEA

University of Limerick

Since 2015 the HEA has been in receipt of a number of protected disclosures and other allegations in respect of UL.

Disclosures made by Persons A, B and C

In April 2015 Persons B and C, staff members in the UL Finance Office, made a protected disclosure to the Chief Executive of HEA, alleging workplace bullying and a smear campaign following errors in practice and wrongdoing that they identified. The allegations included a threat of physical violence and a report to the Gardaí. In May 2015 the Chief Executive of the HEA met with Persons B and C who provided further detail on their allegations and information on a severance package that they had been offered by the University.

The HEA subsequently wrote to the President of the University with details of the disclosure made by Persons B and C drawing attention to the allegations of poor or bad practice in the Finance Office and allegations of a hostile and potentially damaging work environment.

In June 2015 the Director of HR in UL responded to the HEA on behalf of the University. In his letter he advised:

- Persons B and C were involved in three ongoing complaints under the University's Policy and Procedures for Workplace Dignity and Respect by and against them involving other persons in the Finance Office;
- Persons B and C had made claims of alleged penalisation for making a protected disclosure to a Rights Commissioner of the Workplace Relations Commission.
- Persons B and C had been supported by the University since they first made their complaints and were not put under pressure to take paid leave;

- UL had appointed its internal auditors, Deloitte, to review the allegations of poor or bad practice in the Finance Office.

Persons B and C were subsequently suspended by the University on disciplinary grounds and are currently still suspended.

In respect of the cases brought by Persons B and C to the Workplace Relations Commission, a Rights Commissioner subsequently found no link to his satisfaction of any act of penalisation resulting from the making of the protected disclosure.

Person A, a former member of staff in the Finance Office in UL, also approached the HEA to discuss allegations she had previously made in relation to irregularities in the processing and payment of expenses starting in 2009. She also described the attempts she made to return to work in the Finance Office following a period of ill health 2010 and the difficulties she faced in seeking to do so. These matters were first brought to the attention of the HEA (as well as Department of Education and Skills, C&AG and Public Accounts Committee) in 2012. At the time UL responded to the C&AG strongly refuting the allegations made by Person A.

These allegations were repeated to the HEA by Person A shortly after the HEA's engagement with Persons B and C in 2015. In October 2015, the Chief Executive of the HEA met with Person A where she outlined the irregularities relating to the treatment of expenses. By this time Person A had already retired from UL on ill-health grounds and had signed a confidentiality agreement with the University.

In October 2015 the HEA appointed Mazars to undertake an independent review of the process employed by UL to inquire into the allegations made by Persons A, B and C. An interim report detailing Mazars's engagement with Persons A, B and C and UL management was provided to the HEA in December 2015. A copy of this interim report was forwarded to the Public Accounts Committee and C&AG. As part of its work Mazars also received submissions from other parties offering further detail or context with regard to the University procedures under review.

The final report was published in February 2016. The review established that the incidences of inappropriate claims made to the Finance Department did occur as alleged and that the staff correctly challenged them. It also established that in all cases the University addressed the issues raised by their staff and that no inappropriate payments were made. The report set out a number of recommendations for UL to strengthen their finance and HR practices.

In its response to the Mazars review the HEA outlined its concern that there may have been, or may still be, a culture in the University of inappropriate expense claims being made until challenged and about the absence of policies in relation to key financial transactions at the time that they occurred in UL (while noting that the situation had been addressed in the meantime). The HEA also referred to failures in the management approach in UL to, and application of, HR policies around management of the absence of Persons A, B and C (including processes relating to return to work of staff on sick leave).

UL rejected the HEA's own findings in relation to the review. Persons A, B and C also set out their concerns that the Mazars review did not fully address all of the issues that they originally raised.

The Mazars report itself made a total of 15 recommendations. UL subsequently advised the HEA and Public Accounts Committee that it had identified and implemented most of the process improvements recommended in the report. In relation to Recommendation 14 on external members of disciplinary panels, UL advised that following legal advice and lengthy consideration it was not in a position to implement the recommendations as to do so would be contrary to the Universities Act 1997. In relation to Recommendation 15 (criteria for suspension of employees), UL advised that a full review was undertaken but after consideration it was decided that existing procedures did not need to be revised. Also, in relation to the recommendation to review and update its grievance procedure, the University is currently awaiting sign-off from the local trade union.

During the course of engagement with Persons A, B and C and after the publication of the Mazars report, a number of other staff, former staff and students of the University

approached the HEA with a range of allegations, which are broadly linked by a common theme of poor HR management practice within the University (e.g. around disciplinary proceedings against staff, use of confidentiality agreements).

Actual protected disclosures received by the HEA in addition to those made by Persons A, B and C are as follows:

Disclosure made in respect of the Student Health Centre

In early 2016 a former member of staff in the Student Health Centre in UL made a disclosure to the HEA setting out a range of concerns which can be broadly summarised as follows:

- Matters relating to the administration and operation of the Student Health Centre including the decision-making process;
- Matters relating to clinical decisions in the Student Health Centre;
- UL's handling of an appeal made by the discloser against the findings of an investigator appointed by UL to examine complaints made against the discloser by another member of staff in the Student Health Centre. In particular the discloser asserted that the process was flawed and that he was not given a meaningful opportunity, e.g. oral hearing, to put his case forward as part of this appeal. The discloser was subsequently removed from his position in the University;
- Potential conflict of interest in respect of a senior member of staff in UL and his relationship with companies providing agency workers.

The discloser in this case was an additional contributor to the Mazars review referred to above.

In its response, UL provided information on the complaints made both by and against the discloser and on a settlement reached with the discloser which represented a full and final settlement of any claims. UL was of the view that it was inappropriate for these issues to be re-opened. The University also rejected the allegations made in

respect of the senior member of staff in UL and his relationship with subsidiary companies.

Disclosure made in respect of the employment of a person in the Medical School

In March 2016 a member of the public contacted the HEA alleging that a person employed in UL's Graduate Medical School had previously been dismissed from employment in a local hospital due to serious clinical concerns and probity issues. The disclosure described the attempts made by the discloser to raise this issue with the University and his concerns at the lack of response he has received.

Details of the disclosure were forwarded by the HEA to UL. In its response the University advised that the allegations against the person concerned were being reviewed by the HSE and that his employment in UL does not involve contact with patients. It advised that there were no complaints against the person in question in his role as a tutor.

Disclosure by a former member of staff in relation to an investigation by the University against him

In March 2016 a former member of staff in UL contacted the HEA alleging flawed processes and implementation of HR procedures in respect of an investigation of student complaints against him resulting in personal, professional and financial consequences for him. The discloser was an additional contributor to the Mazars review referred to above.

Other allegations made in respect of UL

In addition to these formal protected disclosures described above, during the same period as the Mazars review and engagement with the University and the disclosers, the HEA received other allegations or correspondence from other staff, former staff and students of the University. The allegations are broadly linked by a common theme of poor HR management practice within the University (e.g. around disciplinary

proceedings against staff, use of confidentiality agreements). They are summarised as follows:

- Complaints about irregular payments and promotion procedure for Head of Department
- Complaint from a contractor in relation to the raising of health and safety issues
- Anonymous allegations in relation to the recruitment of an existing employee as a contractor
- Complaint from staff member that he was given sabbatical leave after he raised issues and concerns
- Allegations of racism made by student who is currently banned from the UL campus
- Complaint from former staff member in relation to the severance packages paid by UL and disclosures made by Persons A, B and C. He suggested that there are other severance/confidentiality agreements that need to be examined.

It was clear to the HEA that the ongoing controversy relating to the set of allegations and resulting negative commentary had created the risk of considerable reputational damage to the University, its staff and students as well as the higher education sector as a whole. The HEA has no statutory powers to conduct inquiries in a University. In May 2016 the HEA therefore wrote to the President of the University and the Chair of its Governing Body in relation to its concerns in that regard and recommended that the University agree to the appointment of an independent person to carry out a full review of the allegations. The Chief Executive subsequently met with the Chair of the Governing Body on the matter as well.

In a response received from the Chair of the Governing Body in June 2016, the University was of the view that such a review would undermine the integrity of due process and the principle of fairness and rejected the HEA's request.

It remained the HEA's view that without some independent external exercise to consider the matters at hand and the respective positions of the University of Limerick

and the individuals involved, the reputation of the University and the wider higher education sector would continue to be undermined. It was also acknowledged that there are processes in place which should not be compromised by a parallel review exercise at this stage. Having regard to the entrenched positions of the respective parties and the growing and public antagonism between them, the HEA following consultation with the Department of Education and Skills decided to appoint an independent skilled facilitator to meet with key parties and investigate how the issues could be addressed and the dispute ultimately resolved. The HEA engaged Ms Jane Williams of Sia Partners for this purpose, given her considerable expertise and experience in dispute resolution and track record in key leadership positions.

Ms Williams met the disclosers and representatives of the University in the summer of 2016 and reported to the HEA in September. In her report Ms. Williams concluded that a facilitation process was unlikely to succeed.

The Chief Executive formally wrote to the Department of Education and Skills with Ms Williams's findings in October 2016 and advised that the HEA had exhausted its efforts and statutory powers in relation to these matters. The Chief Executive highlighted the absence of a comprehensive range of measures that could be deployed by the HEA to avoid unnecessary escalation and undue delay when a University is unwilling/unable to resolve a matter that would normally fall under its auspices. Short of the powers invested in the Government to appoint a Visitor under the Universities Act, the HEA noted that any external intervention can only be with agreement with the University.

The disclosers met with the Minister for Education and Skills in February 2017. Officials from the Department and the HEA also met the President and UL management in March 2017. At that meeting the Department expressed its view that UL needed to provide a comprehensive response as to how it had dealt with these range of allegations and related matters. In addition the University was required to explain how further assurance and confidence supporting measures could be put in place to address the wider issues relating to HR and financial accountability.

In its response the President of UL outlined the assurances that he as President of the University was able to provide in relation to the range of issues. The letter also set out the University's responses to the specific allegations made by the disclosers. Finally, the President proposed that further assurance and confidence supporting measures could be put in place by means of the HEA's rolling governance reviews. Rolling governance reviews were introduced by the HEA as part of its Governance Framework for the Higher Education System. The first such review took place in 2016 and focussed on procurement issues. The HEA and Department are currently considering the President's response and will decide on next steps shortly.

National University of Ireland, Galway

In 2015 the HEA received via the Department of Education and Skills a protected disclosure from a member of staff in NUIG.

A number of allegations were made:

- Allegations of bullying-type behaviour
- Expenditure on consultancy services without proper procurement
- University wilfully avoiding its statutory responsibilities in respect of redundancy payments
- Failure to investigate allegations of financial impropriety
- Abuse of procedures in relation to the appointment and promotion of staff
- Appointment of person to a permanent post without any recruitment procedure.

The HEA forwarded the allegations to NUI Galway for response. Following a review of the University's response and a meeting between the CEO and the discloser, the HEA responded to all parties in May 2016. The HEA noted its satisfaction that a satisfactory review of the allegations had been conducted by NUI Galway and, subject to some points of clarification, it considered the issues dealt with and/or matters to be primarily the concern of the University and its governance structures.

In relation to procurement, NUIG acknowledged that procurement guidelines were not followed on the basis that the overall cost was negligible given the savings in not filling

the post concerned. The HEA expressed its disappointment and decided to refer this matter to the C&AG for information and action. The HEA also raised its concerns at a perceived conflict of interest in relation to the filling of an appointment in the Law School while noting the assurances provided by the University. The discloser himself expressed his satisfaction in relation to the way the HEA handled the matter.

Institute of Technology Tallaght

In 2015 the HEA received via the Department of Education and Skills a protected disclosure from a member of staff in IT Tallaght.

The allegations covered areas such as:

- Bullying, aggressive behaviour and unfair treatment
- Breach of bullying and harassment procedures
- Failure in duty of care
- Unfair treatment following allegations of plagiarism in another higher education institution

The HEA wrote to the President of IT Tallaght seeking a response to the allegations and a meeting subsequently held with the President of the Institute.

Arising from this and having considered the allegations made, the HEA was satisfied that appropriate responses were put in place with regard to the discloser, and that there were a series of internal institutional processes still ongoing in IT Tallaght with regard to discloser and the wider issues raised.

The discloser was subsequently informed that the HEA was not empowered to get involved in specific HR matters relating to an individual employee of a higher education institution and in relation to the allegations of plagiarism nothing in the material provided which would give the HEA any cause to intervene.

Other allegations and complaints received by HEA

During the course of HEA's work and its engagement with higher education institutions, the HEA has received other allegations or complaints from staff of these institutions or others on issues relating to funding, governance and HR issues. Some of these predate the Protected Disclosures Act 2014 and may not ordinarily be considered a disclosure or allegation. Some however been the subject of e.g. discussion at meetings of the Public Accounts Committee.

UCC

In February 2015 the HEA received anonymous correspondence in relation to the re-employment of retired staff in an academic department in UCC. The HEA sought and a response was provided by UCC on the issues raised. UCC subsequently sought retrospective approval for the post-retirement reemployment of staff in the department concerned.

NUIG

in 2012 the HEA, Minister for Education and Skills and several public representatives received correspondence from a person making allegations in respect of procurement practices in NUI Galway as well as a number of issues relating to finance and HR. The HEA subsequently wrote to the University seeking a response to the issues raised. The substance of the allegations relating to procurement focussed on an external report commissioned by the University to review its procurement processes. The final report made a number of recommendations for NUI Galway to adopt in relation to its procurement practices.

The University referred to this matter when it appeared before the Public Accounts Committee on 6 April last.

UL

In April 2015 a former postgraduate student submitted a complaint to the HEA in relation to hostile treatment from an academic member of staff and assessment of the student's academic work. The HEA sought and a response was provided by UL on the issues raised.

In August 2016 a PhD student based in a university in another EU Member State contacted the HEA about a complaint she made to UL in relation to a member of staff there. The individual was advised to avail of the services of the Office of the Ombudsman in relation to her complaint.

DCU

In February 2016 a member of staff in DCU contacted the HEA with a complaint about an internal industrial relations issue and the application of Temporary Rehabilitation Remuneration (TRR i.e. sick pay). The staff member later submitted a pension appeal to the HEA on the pensionability of her TRR. This appeal was not upheld and she was advised that she may appeal further to the Pensions Ombudsman.

National College of Art and Design (NCAD)

In January 2015 the HEA received correspondence from a member of staff in NCAD outlining concerns in relation to recruitment policies and procedures in the College. The HEA sought a response from NCAD who subsequently outlined its work in reviewing all relevant policies. The College has implemented a range of updated HR policies as part of its overall Governance Master Plan.

Athlone Institute of Technology (AIT)

In November 2015 the Department of Education and Skills forwarded to the HEA correspondence from the family of former member of staff in AIT who subsequently took his own life after leaving the employment of the Institute. The family referred to the individual's experiences and treatment as an AIT employee and requested an independent inquiry. They also stated that AIT had a legal obligation under the Safety, Health and Welfare at Work Act to reasonably accommodate the staff member's needs.

The HEA subsequently wrote to AIT seeking a response to the issues raised. This response was provided in March 2016. On the basis of this response the HEA and Department were satisfied that there was no requirement for further action. There has been further correspondence again recently with the staff member's family.

Cork Institute of Technology (CIT)

In March 2014 the C&AG received anonymous correspondence containing a number of serious allegations in respect of CIT. The correspondence was subsequently forwarded to both CIT and the HEA. Following a competitive tender process facilitated by CIT's legal advisors, KPMG was subsequently commissioned by the Audit Committee of CIT's Governing Body to review and report on these allegations.

In late December 2014 a further set of anonymous allegations relating to CIT were forwarded by the C&AG to CIT, the HEA and Department of Education and Skills. KPMG was engaged by CIT's Audit Committee to review these allegations as well. KPMG carried out a detailed review and investigation of the allegations with only minor matters of clarification identified by KPMG. On the basis of these findings, the Audit Committee prepared a report for the CIT Governing Body. In its report the Audit Committee found that all individuals/agencies carried out their professional duties highly diligently and with total integrity and that no further response or action was required from the CIT Executive.

The HEA also reviewed both KPMG reports and their findings. On foot of this it too sought additional information from CIT for clarification purposes and identified areas for improvement. The HEA understands that CIT also liaised with the C&AG in relation to queries raised by that office.

The matters were also discussed in detail at the Public Accounts Committee in December 2015.

Dublin Institute of Technology (DIT)

In December 2015 the C&AG forwarded to the HEA anonymous correspondence making allegations of fraud in respect of timetabling in one of DIT's campuses. The HEA sought a response from DIT in relation to the allegations. The Institute's response received in March 2016 found no evidence of fraud and timetabling was carried out in accordance with procedures.

Dundalk Institute of Technology (DKIT)

Anonymous correspondence was received by the HEA in March 2017 in respect of Springboard courses in DKIT. The HEA is following up with DKIT in that regard.

Galway-Mayo Institute of Technology (GMIT)

In September 2015 the HEA, Department of Education and Skills and GMIT appeared before the Public Accounts Committee in relation to the costs and processes associated with an investigation of plagiarism in GMIT. The salient incidents themselves predated the Protected Disclosures Act 2014.

An incident of suspected plagiarism in relation to a student on a Master's degree programme was detected by a lecturer in the 2009/10 academic year. The incident was determined to be one of minor plagiarism and accordingly the incident was considered by the relevant School Plagiarism Committee who found the student guilty of plagiarism and imposed a penalty in relation to the work submitted.

In November & December 2010, reports in relation to the incident appeared in the media, implying that the matter had been improperly handled. Following an initial review by the Registrar and HR Manager, the then Acting President of GMIT, following receipt of legal advice, decided that an external investigation was required to safeguard the reputation of the Institute and he informed the Governing Body of his intention to establish an inquiry to review the processes involved in the subsequent investigation. Prof. Bairbre Redmond was appointed by Mr Fennell to undertake the investigation. Prof. Redmond requested a second investigator be appointed, and, on the recommendation of Prof Redmond, Mr Ed Madden BL, was appointed as co-investigator.

As it was important that the investigators operated independently of the Institute, it was not appropriate for the Institute to influence the conduct of the investigation or to terminate the investigation. While this respected the independence of the process, it also resulted in significant unforeseen time and costs of over €400,000 being incurred when the process concluded. A number of issues emerged which substantially lengthened the duration and complexity of the investigation, and directly contributed

to the significant increase in costs. These included non-participation of a key person; timeline of events/conflict of evidence; data and information issues; cost of investigators and disagreement between the investigators.

The HEA expressed its major concern in terms of the failure of the Institute's processes (both academic and administrative), the costs in terms of money and time, and reputational damage to both GMIT and the higher education system. GMIT subsequently implemented a number of actions to ensure the cost of any future investigations will be controlled. In May 2015 the HEA also issued a letter to all institutions requiring that appropriate controls are included in the terms of reference for any future investigations.

Separately, in October 2016 the HEA received details of a complaint made by the family of a student in GMIT who had been accused of cheating and of the processes employed by the Institute in dealing with the issue. The HEA engaged with GMIT on the matter and was satisfied that the Institution followed the relevant procedures.

Letterkenny Institute of Technology (LYIT)

Anonymous correspondence was received by the HEA (and Minister for Education and Skills) in April 2017 in respect of LYIT. The allegations relate to academic programmes and management decisions. The HEA has sought a response from LYIT in that regard.

Separately, in April 2017 the Department of Education and Skills also forwarded correspondence it received from a member of staff in LYIT in relation to internal HR issues in LYIT. The HEA has also sought a response from LYIT in relation to these issues.

IT Sligo

Following correspondence from a former student regarding suspicion of misappropriation of funding in IT Sligo Students' Union, the HEA sought copies of accounts from IT Sligo SU. The HEA reviewed these accounts and those of IT Sligo for the same period. The HEA requested clarification on a number of issues and also

visited IT Sligo to meet with senior management on this issue. Separately, Deloitte, the Internal Auditors for the IOT Sector, conducted as part of their work programme for 2014/2015, a review of the disbursement of institute funds to students' unions.

Institute of Technology Tallaght

In July 2015 the HEA together with the Minister for Education and Skills and Minister for Public Expenditure and Reform and the Chairman of the Public Accounts Committee received anonymous correspondence in relation to governance and management practices in IT Tallaght. The HEA sought a response from the Institute in relation to these allegations – this was provided by IT Tallaght in December 2015. In its response the Institute set out how it addressed the issues raised and outlined its view that there was no substance to the assertions made in the anonymous correspondence.

Institute of Technology Tralee

In 2012 members of academic staff at Institute of Technology Tralee made a complaint of plagiarism with reference to a thesis submitted in 2008 for which a MA degree was awarded.

The complaint was referred to Quality and Qualifications Ireland (QQI) which requested the Institute to address the complaint under its quality assurance procedures and appoint three external independent persons to carry out an investigation into the complaint. The panel issued its report in February 2013 and found that plagiarism did occur in certain chapters of the thesis and that the MA degree was attained in an unjustified manner but was not attained in a fraudulent manner.

The individual appealed this outcome to the Institute's Examinations and Assessments Appeal Committee which overturned the previous decision. It concluded that the degree was not obtained in an unjustified or fraudulent manner and that the graduate was not guilty of plagiarism as defined in the Institute's regulations.

QQI subsequently notified the Institute that it intended to conduct a review of the validation of postgraduate programmes at the Institute for which it had 'discipline-area research approval' status granted from QQI. This would entail a review of programme

validation under Section 46 of the Qualification and Quality Assurance (Education and Training) Act, 2012.

The QQI review published in October 2013 made a number of recommendations on areas including anti-plagiarism policy, oversight of the operation and management of research degree programmes and their assessment. In September 2014 QQI's Programme and Awards Executive Committee confirmed that IT Tralee had fully implemented the recommendations of the review panel report although it was also noted that corrigenda notification had not been added. IT Tralee subsequently confirmed that the corrigenda notification had been submitted by the individual and the Institute was seeking an external reviewer to complete the process.

In October 2013 anonymous allegations in respect of IT Tralee were circulated in letters within IT Tralee and to the HEA. Allegations were made about certain members of senior management of the Institute in respect of, amongst others, establishing companies, business class trips abroad being charged to IT Tralee, improper awarding of substantial research awards, provision of false documentation for passing of exams, diversion of gratuity gifts, forging of correspondence, lack of transparency in relation to appointment and other general allegations.

Deloitte & Touche were appointed by the Institute to investigate these allegations. Deloitte completed its work in November 2013 and issued a report which concluded that no evidence had been found to support the allegations. It further stated that in its view the Institute "cannot do anymore" to respond to allegations of this nature.

A further anonymous letter was sent to IOTI at the end of April 2014, which made the same allegations in respect of IT Tralee. This letter was considered by the Audit Committee of IT Tralee and subsequently the Governing Body of IT Tralee, which decided that no further action would be undertaken by the Institute as there was nothing new that had not been investigated already.

Waterford Institute of Technology (WIT)

In October 2015 the former Chief Executive of WIT's Diverse Campus Services (DCS) wrote to the Public Accounts Committee in relation to the Carriganore Sports Complex in WIT and funding arrangements and project delays in relation to same. The matter was discussed at the Committee in December 2015 with representatives of WIT, HEA and Department of Education and Skills.

The DCS and the Carriganore complex issues were examined as part of a statutory inspection commissioned by the Minister for Education and Skills in November 2012 in relation to companies headed by DCS that provided a range of services in WIT. This arose from findings made by the C&AG in his special report on education audits. Mr Dermot Quigley, former Chairman of Revenue Commissioners, was appointed to carry out the inspection

Mr Quigley published his report in June 2013 and made a number of recommendations centred on the acquisition and consolidation of the companies as subsidiaries of the Institute. On foot of that report, the Minister for Education and Skills sanctioned an initial 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 would be fully recouped from the Institute. In addition, in November 2015 the Minister for Education & Skills agreed to make available, on a fully repayable basis, the final amounts required to complete the complex. This brought 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. WIT commenced repayment of the funding provided in 2015 and continues to do so.

Since the publication of the Quigley report, WIT has taken steps to address and implement the recommendations made in the report. During 2016 the HEA reviewed the implementation of the Quigley recommendations by WIT. The HEA identified that the vast majority of actions have progressed satisfactorily.

Details of funding provided by higher education institutions to private providers for courses/programmes

<u>Institution</u>	<u>Course/programme name</u>	<u>Name of provider</u>	<u>No. of students (headcount)</u>	<u>No. of students (FTE)</u>	<u>Rationale for arrangement - please also refer to any reviews or planned reviews of arrangement (e.g. value for money reports)</u>	<u>Total amount paid over to provider in 2015/16 academic year</u>
TCD	MPhil in Creative and Cultural Entrepreneurship was established as a collaborative programme in partnership with Goldsmiths, University of London. There were only two student intakes in 2013 and 2014 although there are still students yet to complete	Goldsmiths, University of London	2015/16: 1 (FT), 3 (PT)		Established as a collaborative programme	€19,028 was paid in the 2015/16 academic year for teaching in the 2014/15 academic year.
DCU	BSc in Horticulture	Teagasc	9	9	Teagasc have the direct expertise in delivering a subset of the modules on this programme. (The programme was jointly developed with Teagasc.)	€34,440
	Professional Certificate/Diploma in Special and Inclusive Education	Institute of Child Education & Psychology Europe (ICEP)	221	221	On line delivery of modules on the programme. (The programme was jointly developed by St Patrick's College and ICEP with funding from the Teacher Education Section of the Department of Education and Skills.)	€82,875
IT Carlow	Certificate in Preparation for Higher Education	Swan Training	8	8	Modules as part of a Foundation Course for International Students - Teaching English as a foreign language. This is a self-financing award and is not funded from recurrent grant. Tender June 2015 for 3 years. Reviews undertaken each term with the provider.	€56,210
DIT	Bachelor of Arts (Hons) Commercial Modern Music	BIMM Dublin Ltd.	634	633	<p>This provision was developed because of high demand from students and remains one of the highest first preference choices within the DIT portfolio. Such provision did not exist in Ireland at the time of establishment, and without it, Irish students would have had to go abroad to access such provision. It remains the only commercial modern music degree in Ireland.</p> <p>In order to develop such provision, DIT would have had to develop facilities at the expense of the taxpayer and it was decided that engagement of the third party was the best way of delivering the provision to meet the demand.</p> <p>The current provider is a multi-national company with an excellent reputation in the sector. As per the arrangements, DIT works emphatically in ensuring the quality of the provision.</p> <p>In terms of value for money, this provision is currently out for tender as part of a procurement process.</p>	The delivery of this programme is the subject of a current public procurement exercise. As the contract has not yet been awarded, publication of associated financial details at this juncture would compromise this live procurement process. The expected timeline for completion is August.

IADT Dun Laoghaire	BA in Creative Music Production	Sound Training College	82	80.3	Educational Partnership Agreement	€181,145
	Research Masters	Sound Training College	2	2	Educational Partnership Agreement	€3,782
GMIT	BACHELOR OF BUSINESS IN RURAL ENTERPRISE AND AGRI-BUSINESS	Mountbellew Agriculture College	Year 1 and Year 2 (Mountbellew) - 77 Students	Year 1 and Year 2 (Mountbellew) - 75.58 FTE	Certain academic skill set, practical facilities, agricultural equipment and farm livestock do not reside in GMIT to deliver this programme. Mountbellew Agricultural College has the relevant and necessary academic skill set, practical facilities, agricultural equipment and farm livestock for the effective delivery of this programme. Memorandum of Understanding under review.	€108,549
	BACHELOR OF SCIENCE IN AGRICULTURE AND ENVIRONMENTAL MANAGEMENT	Teagasc	Year 1 and Year 2 (Mountbellew) - 75 Students	Year 1 and Year 2 (Mountbellew) - 73.17 FTE		€110,010
	ARD-DIPLÓMA SAN EALAÍON Í nGAEILGE FHEIDHMEACH AGUS AISTRIÚCHÁN **	Europus Teo	11 Students	11 FTE	The costs of this Programme are fully funded by Údarás na Gaeltachta	€89,000
WIT	Ard-Diploma sna hEalaíona i Leiriu Teilifíse	Nemeton	11	11	No specialist TV training facilities on campus - course supported by Údarás na Gaeltachta	€126,000
	Cert. Int to Radio Broadcast	BEAT FM	13	13	No specialist radio Broadcast training facilities on site	€4,330

Nil returns submitted by:

AIT
 IT Blanchardstown
 CIT
 DKIT
 LYIT
 IT Sligo
 IT Tralee
 UCD
 UCC
 NUI Galway
 University of Limerick
 Mary Immaculate College
 St. Angela's College
 National College of Art and Design

NB - some institutions may pay private individuals or companies to teach specific modules on programmes