

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Déardaoín, 22 Eanáir 2015*

*Thursday, 22 January 2015*

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The Committee met at 10 a.m.

### MEMBERS PRESENT:

Deputy Áine Collins,	Deputy Gabrielle McFadden,
Deputy Paul J. Connaughton,	Deputy Derek Nolan,
Deputy Joe Costello,	Deputy Patrick O'Donovan,
Deputy John Deasy,	Deputy John Perry,
Deputy Robert Dowds,	Deputy Shane Ross.
Deputy Mary Lou McDonald,	

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

## BUSINESS OF COMMITTEE

*The committee met in private session until 11 a.m.*

**Mr. Seamus McCarthy** (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

### Business of Committee

**Chairman:** Are the minutes of the meeting of 18 December 2014 agreed? Agreed. Are there any matters arising from the minutes? No.

We will now deal with correspondence. No. 3A.1 is correspondence dated 18 December 2014 from Mr. Tom O'Mahony, Secretary General, Department of Transport, Tourism and Sport, which is a follow-up to the committee meeting on 2 October 2014 with The Irish Sports Council, to be noted and published. No. 3A.2 is correspondence dated 23 December 2013 from Ms Elaine Byrne, deputy registrar of credit unions at the Central Bank of Ireland. It is a follow-up to our meeting on 11 December, to be noted and published. No. 3A.3 is correspondence dated 27 November 2014 from Mr. John Pollock, National Paediatric Hospital Development Board, following up our meeting on 23 October 2014, to be noted and published. No. 3A.4 is correspondence dated 22 December 2014, which we referred to in our previous discussion, from the Revenue Commissioners on our meeting on 4 December 2014, to be noted and published. We might write to Mr. Ryan and ask the clerk to send either this letter or the appropriate parts of the letter where Ms Feehily responded and said she would be in touch.

I turn to individual correspondence. No. 3B.1 is correspondence dated 17 December 2014 from Mr. Brendan Ryan, CEO of the Courts Service - responses regarding expenses claims, to be noted and published. No. 3B.2 is correspondence dated 17 December 2014 from Mr. Seán Ó Foghlú, Secretary General of the Department of Education and Skills, re Gaelscoil an Ghoirt Alainn, to be noted and published. No. 3B.3 is correspondence dated 17 December 2014 from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills, re education provision in Rathkeale, County Limerick, to be noted and published. No. 3B.4 is correspondence dated 18 December 2014 from the Department of Justice and Equality re wards of court, to be noted. A draft report is being prepared for the wards of court. No. 3B.5 is correspondence dated 17 December 2014 from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills, re fee-charging schools, to be noted and a copy forwarded to Dr. Bríd McGrath. No. 3B.6 is correspondence dated 22 December 2014 from Mr. Jim Breslin, Secretary General, Department of Health, re NMBI annual accounts, to be noted and a copy forwarded to the individuals who raised the issue. No. 3B.7 is correspondence dated 22 December 2014 from Mr. Derek Moran, Secretary General, Department of Finance, re issues regarding resources in the Office of the Comptroller and Auditor General, to be noted and published. No. 3B.8 is correspondence dated 22 December 2014 from Mr. John Murphy, Secretary General, Department of Jobs, Enterprise and Innovation, re issues with payment of contractors at UCC, to be noted and published. This is a matter that was raised by Deputy John Deasy and we will come back to it when he returns. No. 3B.9 is correspondence dated 5 January 2015 from Ms. Audrey Naughton re local property tax and private management charges, to be noted and forwarded to the Department of Finance for a note on the issue. No. 3B.10 is correspondence dated 5 January 2015 from Mr. Tom Moran, Secretary General, Department of Agriculture, Food and the Marine, re cost to the State of case with Mr. John Fleury, to be noted. The Department has not addressed the issue of costs and I propose that the Accounting Officer be asked to get that information for the committee. That information is compiled by the Chief State Solicitor. Can we write directly to the Chief State Solicitor?

**Clerk to the Committee:** We can, yes.

**Chairman:** We will do that as well as writing to the Secretary General. No. 3B.12 is correspondence dated 12 January 2015 from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills, re terms and conditions of employment in UCC, to be noted and a copy forwarded to Elizabeth Noonan. No. 3B.13 is correspondence dated 12 January 2015 from Mr. Brendan Ryan, CEO of the Courts Service, re wards of court, to be noted and a copy to be forwarded to Mr. Gerry Naughton. No. 3B.14 is correspondence dated 13 January 2015 from Mr. Jim O'Callaghan re the Irish Jewish Museum, to be noted and a copy to be forwarded to the OPW for a reply on the matters raised. Can we flag No. 3B.14 for an early reply to ensure we get a comprehensive response? It is an issue we have dealt with previously.

**Clerk to the Committee:** We have the OPW coming in very shortly.

**Chairman:** No. 3B.15 is correspondence dated 15 January 2015 from Dr. Patricia Mulcahy, President of Carlow Institute of Technology, re merger with WIT, to be noted and published. This issue can also be dealt with at today's meeting.

**Mr. Seamus McCarthy:** There was also correspondence from the President of Waterford Institute of Technology.

**Clerk to the Committee:** It was No. 3B.11.

**Deputy Joe Costello:** Is there any correspondence from the technological university of Dublin; the amalgamation of DIT, Blanchardstown IT and IT Tallaght? That seems to be the only one that is missing.

**Clerk to the Committee:** The reason there is correspondence from Waterford and Carlow is that their issue is stalled. Deputy Costello can certainly raise the other issue with the HEA when its representatives attend today. We did not have to write about it because there does not appear to be an issue.

**Chairman:** Nos. 3C.1 to 3C.5, inclusive, are the opening statements and the briefing notes from the Department, the HEA and the National College of Art and Design, to be noted and published. Nos. 3C.6 to 3C.9, inclusive, are documents received from Arthur Cox Solicitors, Eames Solicitors and Mr. Gerry Ryan which were dealt with in the earlier session.

Nos. 4.1 to 4.19, inclusive, are reports, statements and accounts received since our meeting of 18 December 2014, and they are listed in the document circulated to members. The accounts are noted but a number of issues arise which may require further examination by the committee, including that of St. James's Hospital and the HSE and the extent to which unauthorised remuneration was paid, the rates involved and the steps being taken to end those payments. I suggest we write to the HSE on the report on top-ups which was to be completed last September, but which we have not received. We should write to the HSE to get the details of where that issue is at so that the committee can discuss it.

**Deputy Joe Costello:** Is the HSE due to come before the committee?

**Chairman:** It is due in April. The Comptroller and Auditor General might outline the position in respect of the special EU programme body. Is there a report due in this context on the North-South bodies?

**Mr. Seamus McCarthy:** There is a report which I have completed. I am working with my

## BUSINESS OF COMMITTEE

colleague in Northern Ireland and we are preparing parallel reports, which will be published together. They involve the way a grant paid through the special EU programme body was administered. There are concerns about that grant. We expect the reports to be published on 3 March 2015.

**Chairman:** Can Mr. McCarthy comment in relation to FETAC and the €1.6 million cost to the State?

**Mr. Seamus McCarthy:** FETAC no longer exists. It has been incorporated with a number of other awards bodies into a single body called Quality and Qualifications Authority of Ireland. When FETAC existed, it had a premises in the East Point Business Park which was rationalised when the amalgamation happened. As it had a lease that ran until 2017, FETAC was tied into the payment commitment. At the point where the bodies amalgamated, it sub-let the property but did not get the full value back. As such, under accounting standards, it was required to recognise at an earlier date the loss that will accrue over the four years to 2017 in its financial statements. This has resulted in the provision of €1.6 million in respect of the loss. FETAC had also made repairs and improvements to the property which it was depreciating over the life of the lease, but because it will no longer get the benefit of that, it must also accelerate the depreciation. That resulted in a further write-off of €750,000.

**Chairman:** Is that on top of the €1.6 million?

**Mr. Seamus McCarthy:** Yes. The €1.6 million relates to the rent that will be paid in excess of the rent that will be taken in from the sub-tenant.

**Chairman:** Did the Department of Education and Skills have oversight in that case?

**Mr. Seamus McCarthy:** The Department of Education and Skills is the oversight body for Quality and Qualifications Ireland.

**Chairman:** There seem to be huge costs with regard to GMIT.

**Mr. Seamus McCarthy:** There was an incident of plagiarism, or an event with regard to examinations in the college. In the course of investigating it the college incurred a total cost of €436,000, of which €187,000 was incurred in the year of account ending 31 August 2013. The college disclosed the cost of the investigation in the financial statements for 2013.

**Chairman:** We should get a note on it. Our work programme is on the screen. Next week we will deal with the Department of the Arts, Heritage and the Gaeltacht, which accounts for the National Gallery of Ireland.

**Clerk to the Committee:** Yes, a number of issues arise there.

**Chairman:** I have asked the clerk to make arrangements for a meeting to hear from the various individuals affected by the investigations of the special investigations unit with regard to costs. I suggest we arrange this meeting as soon as we can, perhaps on a day other than Thursday.

**Clerk to the Committee:** We have a free day on 19 February. We will certainly do it.

**Chairman:** I suggest we do it earlier than this if we can, in late January or early February.

**Clerk to the Committee:** That is fine.

## COMMITTEE OF PUBLIC ACCOUNTS

**Deputy Joe Costello:** The Dublin Docklands Development Authority is conspicuous by its absence from the work programme. I indicated on a number of occasions that matters with regard to the disposal of property need to be queried and it would be great if it came before the committee at an early stage.

**Clerk to the Committee:** It is scheduled to come before the committee on 26 March. It has very few staff and is dependent on a consultant to produce its annual statements. The annual statements have not yet been published for 2013. They have been signed off. It is a timing issue. I have asked the Dublin Docklands Development Authority for a note on the issue raised by the Deputy with regard to the disposal of property and I will have it for next week's meeting.

**Deputy Joe Costello:** When is the Comptroller and Auditor General's report due?

**Mr. Seamus McCarthy:** In what regard?

**Deputy Joe Costello:** The financial statements of the Dublin Docklands Development Authority.

**Mr. Seamus McCarthy:** The 2013 financial statements have been signed. I have completed it. I am not sure whether it is with the Dublin Docklands Development Authority or the Department. They should be submitted to the Minister.

**Deputy Joe Costello:** That is fine.

**Chairman:** In Deputy Deasy's absence we dealt with correspondence on the payment of contractors. If Deputy Deasy wishes he can examine it and we can come back to it before the end of the meeting.

**Deputy John Deasy:** I thank the Chairman.

**Chairman:** We also dealt with correspondence regarding the Irish Sports Council and an issue arising from the Millstreet events centre. The request was made by the committee before Christmas that intervention be made to try to resolve the issues. We received correspondence by courier prior to our last meeting in December but it did not resolve the matter. I will ask the clerk to write to the agency concerned with a request for a report, following which we can have an early separate meeting on the matter to determine the exposure to the State and how the agency intends to resolve it. It is an unresolved issue from the meeting and it is important that we hear it. We can have a separate meeting on it or we can meet before a scheduled meeting to get the up to date report on it.

Are we satisfied with the work programme?

**Deputy John Deasy:** I wish to ask the clerk whether he knows off the top of his head how many times the Department of Social Protection and the HSE come before the committee per year. Is it normally once or twice?

**Clerk to the Committee:** It depends on the number of chapters in the Comptroller and Auditor General's report. Normally the HSE comes before the committee at least twice a year and the Department of Social Protection generally comes before the committee once a year although it is a big spending Department.

**Deputy John Deasy:** That is my point. The Department of Social Protection spends approximately €20 billion. The amount has been reduced slightly in recent years. The Depart-

## BUSINESS OF COMMITTEE

ment of Health spend is probably approximately €13 billion. We must deal with every agency, and in some cases we deal with them once every two or three years. Some of the agencies do not see the inside of this room during the term of an Administration and I understand this. Is there a case to be made that the Department of Social Protection and the HSE should come before the committee more frequently considering the amount of money involved? The remit of the committee is to examine spend and value for money. The Department of Social Protection comes here only once a year. An argument can be made it should come before the committee more frequently. This is not to say it is doing anything wrong or spending money improperly, but based on the spend it is reasonable.

**Clerk to the Committee:** We can examine it.

**Chairman:** In writing to the Office of the Chief State Solicitor we might ask when the proceedings against Mr. Shine in Donegal were initiated so we can determine when the Department of Agriculture, Food and the Marine instructed the Office of the Chief State Solicitor and when it took action. It is with regard to detail rather than an intervention.

**Deputy John Deasy:** Will the clerk respond to my question?

**Clerk to the Committee:** It is a matter entirely for the committee. Sometimes the issue with the Department of Social Protection is regularity, as the majority, or 99%, of the payments are fine. It is only when the Comptroller and Auditor General raises specific concerns about individual schemes that we are inclined to examine the issue. I will speak to the Chairman about it and we will see whether we can have a more regular schedule for the Department of Social Protection. Sometimes it is difficult when it comes before the committee because members want to raise a range of issues. It is very hard to compartmentalise and deal with one scheme.

**Deputy John Deasy:** Ultimately the question is for the Comptroller and Auditor General. Given its budget of €21 billion can he really deal with the Department of Social Protection in one meeting per year considering the complexity and variety of issues? I know what I deal with in my constituency offices. The problems people experience usually take up half a day because they are complex. Policy issues arise all the time with regard to how money is spent or not spent. An argument can be made that the Department should come before the committee more frequently.

**Mr. Seamus McCarthy:** I suggest the committee examines the programme and schedule issues to discuss with the Department. Rather than bringing in the Department of Social Protection to cover everything, the committee could identify some issues to be discussed with the Department. The meeting could focus on these and the committee could explain to the Department that it will be brought before the committee again to discuss the remainder of the issues. Accounting Officers coming before the committee for a meeting which has a completely broad canvas must prepare everything with regard to their business. They are able to deal with many issues, not exactly off the cuff but because they have general familiarity, but if the committee flags specific interests to an Accounting Officer it could lead to a more focused and effective meeting.

**Chairman:** There is one other matter. The Committee of Public Accounts and its equivalent in Northern Ireland must meet some time in March in relation to a Comptroller and Auditor General's report, and the clerk to the committee is preparing the detail of that. When it is available, we will come back. The meeting will be held in Belfast.



## COMMITTEE OF PUBLIC ACCOUNTS

As there is not any other business, is it agreed that our agenda for Thursday, 29 January 2015, will be to examine Vote 33 - Arts, Heritage and the Gaeltacht, Chapter 9 - Accounting for the National Gallery of Ireland Expenditure, and Financial Statements of the National Library of Ireland 2012 and 2013? Agreed.

### **Financial Statements of the Higher Education Authority 2013**

#### **General Report No. 85 of the Comptroller and Auditor General: Accountability and Governance on the National College of Art and Design**

**Mr. Seán Ó Foghlú** (*Secretary General, Department of Education and Skills*), **Mr. Tom Boland** (*Chief Executive Officer, Higher Education Authority*) and **Professor Declan McGonagle** (*Director, National College of Art and Design*) called and examined.

**Chairman:** Before we begin our examination of the Financial Statements of the Higher Education Authority 2013 and the Comptroller and Auditor General Report No. 85: Accountability and Governance on the National College of Art and Design, I remind members and witnesses to turn off their mobile telephones as the interference from them affects the sound quality and transmission of the meeting.

I advise witnesses that they are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the committee to cease giving evidence on a particular matter and continue to do so, they will be entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a Member of either House, a person outside the House, or an official by name or in such a way as to make him or her identifiable.

Members are reminded of the provisions within Standing Order 163 that the committee should refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government, or the merits of the objectives of such policy or policies.

I welcome Mr. Seán Ó Foghlú, Secretary General of the Department of Education and Skills and I ask him to introduce his officials.

**Mr. Seán Ó Foghlú:** I am joined by Christy Mannion, principal officer, and Anne Marie Grenham, assistant principal officer.

**Chairman:** I welcome Mr. Tom Boland, chief executive officer, CEO, of the Higher Education Authority.

**Mr. Tom Boland:** Good morning. I am joined by Fergal Costello, principal officer, and Stewart Roche, management accountant.

**Chairman:** From the National College of Art and Design, NCAD, I welcome Professor Declan McGonagle.

**Professor Declan McGonagle:** I am Declan McGonagle, the director of NCAD. With me

are: Seán O'Laoire, the chair of the board, Damian Downes, the registrar, and Aidan McElwaine from the accounts section.

**Chairman:** Who is representing the Department of Public Expenditure and Reform?

**Mr. John Burke:** There is just myself, John Burke.

**Chairman:** I ask the Comptroller and Auditor General to make his opening statement.

**Mr. Seamus McCarthy:** The Higher Education Authority is the statutory planning and policy development body for higher education and research in Ireland. It is the funding authority for the universities, teacher training colleges, institutes of technology and a number of other designated education bodies and carries out a related oversight and regulatory role. It also has wide advisory powers throughout the third level education sector. The HEA disbursed over €1.2 billion in grants to third level institutions in 2013. Most of its income comes directly from Vote 26 for Education and Skills.

I have issued a clear audit opinion in respect of the HEA's 2013 financial statements. However, as in prior years, the audit opinion draws attention to the HEA practice of funding certain universities for notional employer pension contributions in respect of members of pay-as-you-go model pension schemes, and also allows those universities to retain the related employee pension contributions. The universities account for the accumulated funds on their balance sheets as sums due to the HEA. The balances held in the five universities concerned stood at €125 million at 30 September 2013 — up from €94 million at end September 2012. The HEA intends that the funds will be used by the universities to pay certain pension liabilities in the future, and thus they reduce the level of Exchequer grant funding that it will have to provide in the future. The HEA does not recognise the funds as assets on its own balance sheet.

The National College of Art and Design is one of the colleges that fall within the funding and oversight remit of the HEA. The college has existed in various forms for over 250 years. Its current structure was established under the National College of Art and Design Act 1971 and it is governed by a board appointed by the Minister for Education and Skills. Since 2011, it has been a recognised college of University College Dublin, UCD, which now validates the college's degrees.

In the 2012-13 academic year, the college had almost a thousand full-time students, and a significant programme of part-time continuing education courses. It has an annual turnover currently in the region of €20 million. In recent years, the college has received annual grant funding of around €10 million from the Higher Education Authority.

The timely presentation of independently-audited annual financial statements is a key mechanism in ensuring effective public accountability in respect of State funding. Section 15 of the 1971 Act that reconstituted the college requires the board to prepare annual financial statements and to present them to me for audit. The Act also requires the college to report to the Minister on an annual basis on its proceedings during the previous academic year.

Significant delays have occurred in the presentation by the board of draft financial statements for audit. In addition, there have been delays by the college in the provision of adequate explanations and information to allow audits to be completed. The result has been the elapse of up to 39 months between the end of the period of account and the audit certification of financial statements, as indicated in the figure now on screen.



## COMMITTEE OF PUBLIC ACCOUNTS

My Office has also repeatedly raised with the college our concerns about the adequacy of controls and governance arrangements arising in the course of successive audits. These included no evidence of competitive tendering for almost all goods and services procured by the college; no evidence over many years that the board had carried out required annual reviews on the effectiveness of the system of internal financial control; and a minimal role for the college's audit committee and an inadequate internal audit function.

Unfortunately, it was evident during the 2009 and 2010 audits that the college's senior management and board were not addressing the accounting and governance deficiencies or taking adequate mitigating actions in a timely way. As a result, I decided to report formally to Dáil Éireann my concerns about the ongoing accountability and governance deficiencies at the college. This has resulted in the special report that is before the committee today.

In parallel with the drafting of the report, and in order not to allow a further build-up of audit arrears, we sought to proceed with the audit of the college's financial statements for the academic year ended 30 September 2011. Having received the draft financial statements in December 2013, we started the audit fieldwork in February 2014 but had to suspend the audit because we found that the draft financial statements contained material errors, and not all the information and explanations required for the audit could be provided to us. The audit recommenced in July 2014 but significant issues remained to be resolved. This required additional audit testing and the provision of advice to the college to assist it in finalising the financial statements. I eventually signed off on the audit on 28 December 2014. Significant weaknesses in the college's accounting system, compounded by the departure from the college of experienced accounting staff, resulted in considerable challenges during the audit of the 2011 financial statements. By carrying out substantial additional testing, the audit was able to gain reasonable assurance in respect of areas such as State grant income, student fee income, expenses, debtors, creditors and cash and bank balances. However, in the end, the books and records of the college did not enable the financial statements to be readily and properly audited in all material respects. Specifically, I qualified my opinion on the financial statements because the audit was unable to obtain sufficient appropriate audit evidence regarding the amounts recognised in respect of staff pension liabilities, or to support fully the breakdown of certain income and expenditure classifications.

The accounting and governance weaknesses have been acknowledged by the board and, as explained in the 2011 statement on internal financial control, comprehensive steps are now being taken by the college to address them. Progress in implementing the required improvements will be monitored by my office in future audits. I welcome the formal commitment expressed by the board in that regard and my office has undertaken to work constructively with the college to help it to bring its financial accounting up to date as speedily as possible. The special report also examines the response of the HEA to the ongoing delay in the presentation of audited financial statements and other governance issues in the college. Annual governance statements were submitted to the HEA by the college each year from 2009 to 2013. These disclosed the college's ongoing accounting delays and were not fully compliant with the HEA's requirements for such governance statements, but there is no evidence that concerns about the college's governance were highlighted to the board of the HEA. While the HEA has stated that it did ask college staff from time to time about the delays in accounts production, in my view, the HEA should have been more active in requiring the college to remedy the situation. It seems that it was only after my office formally sought the views of the HEA on the matter that it escalated the issue to the appropriate level with the college. More generally, my office has commenced an examination of oversight by the HEA of higher education institutions. This looks at the

oversight framework the HEA has in place and how well the higher education institutions are adhering to it. We are also examining how the HEA processes the information it receives from the institutions and the action it takes on foot of that analysis. I expect to prepare a special report on the results of that examination in due course.

**Chairman:** I thank Mr. McCarthy. I now call Mr. Seán Ó Foghlú to make his opening statement

**Mr. Seán Ó Foghlú:** I thank the Chairman for the opportunity to make a statement concerning the report of the Comptroller and Auditor General on accountability and governance at the National College of Art and Design. The Department of Education and Skills is very concerned with a number of issues arising from this report. The Department is concerned at the failure of the college to comply with the code of governance for third level institutions issued to them in 2009. The college has been informed of the seriousness of the Department's concerns. The report of the Comptroller and Auditor General has highlighted the level of non-compliance across a range of areas such as the role of the audit committee and the absence of annual reviews of the effectiveness of the systems of internal financial control and procurement. This level of non-compliance is not acceptable, regardless of the financial constraints on NCAD, which are no different from those experienced by all other third level institutions. In carrying out their duties, the governing authority and the executive of the college must place a high priority on financial and governance accountability.

I acknowledge that NCAD has educated many students down through the years and continues to do so, in this specialised field, through what have been challenging times for all areas including the education sector. Notwithstanding that, the college is in receipt of substantial State funding and, as a State body, is required to operate in line with relevant Government procedures in relation to governance and accountability. The Department has instructed the HEA to continue to work closely with NCAD and the Office of the Comptroller and Auditor General to ensure the implementation of the recommendations in the special report. The Department of Education and Skills, in conjunction with the HEA, will put in place a robust mechanism to continuously review the implementation of these recommendations.

The report has shown up significant weaknesses in the processes employed by the HEA in this case to oversee the operation of the NCAD. These weaknesses are also a cause of concern to the Department. They build upon weaknesses already identified in processes within the HEA following reviews by the Comptroller and Auditor General and meetings of the Public Accounts Committee and subsequent recommendations, which were made in October 2014. Subsequent to these reviews, meetings and recommendations, the Department of Education and Skills has been reviewing with the HEA the oversight arrangements in place within the sector on these and a range of other issues. Some initial amendments in oversight arrangements have been initiated by the HEA and the Department. The HEA has recently set out a governance and regulatory framework for the sector which is to be agreed and implemented commencing in April of this year. This includes the strengthening of the HEA's executive processes in relation to oversight on governance and internal controls in the institutions.

My own Department is in the process of strengthening its role in relation to governance and accountability oversight of all institutions and bodies right across the education sector, not just at third level. We will continue to work with all stakeholders, including the Comptroller and Auditor General, to strive for improvements in processes so that the utilisation of public funds is done within a framework of high standards of accountability, compliance and oversight.

**Chairman:** I thank Mr. Ó Foghlú. May we publish his statement?

**Mr. Seán Ó Foghlú:** Yes.

**Chairman:** I now call Mr. Tom Boland.

**Mr. Tom Boland:** The special report of the Comptroller and Auditor General on accountability and governance at the National College of Art and Design is timely, coming as it does when the higher education system is undergoing major reform and when, as part of that reform, the HEA is reshaping our governance and regulatory relationship with the sector. The weaknesses identified in the report, although specific to NCAD, serve to alert the HEA and the higher education system to the need for constant vigilance to ensure that processes designed for accountability are fit for purpose and operating as intended.

It is well established internationally that higher education institutions are most effective when they have high levels of autonomy over their internal affairs. This is well established policy and practice in Ireland, with statutory backing, and was most recently endorsed by the national strategy for higher education. The counterbalance to autonomy, however, has to be an effective system of accountability for outcomes from the sector and for funding. The HEA has a key role in this as a part of a system of accountability for public funding and expenditure, which also includes the institutions themselves with primary responsibility and the Office of the Comptroller and Auditor General.

The principles of good governance and accountability have been well established for many years in the higher education sector in primary legislation such as the Universities Act 1997 and the Institutes of Technology Act 2006. These have been supported by the publication and adoption of a code of governance for Irish universities and a code of governance for the institutes of technology sector. The principles of governance that apply to these groups of institutions also apply to all higher education institutions funded by the HEA, including NCAD.

I do not want to sound blasé, but no system of accountability will guarantee success at all times and for all institutions, and the report shows up flaws in the HEA's processes, both in our examination of audited accounts from a governance perspective and in an over-reliance by us, at the very least, on the accuracy of governance reports received from higher education institutions. In response to the new mandate given to the HEA under the national strategy, the HEA board has, since earlier last year, been considering our governance and regulatory role and the measures necessary to enhance it and to reflect our new mandate. The agreed measures, which are at present the subject of consultation with the sector - as the Secretary General says, we hope to implement them in April this year - will go some way towards addressing the weakness identified in the report of the Comptroller and Auditor General. They include: the submission of annual statements of governance and internal control no later than six months after the end of each financial year; expansion of the format for required returns; more detailed analysis by us of institutional responses and appropriate follow-up; and the introduction of a programme of rolling reviews by the HEA, which would cover specific elements of governance processes to provide assurance that they are operating effectively and to assist in the development of best practice approaches.

It should be also noted that the Office of the Comptroller and Auditor General is currently carrying out a review of the HEA's general governance and regulatory role. This is a most welcome development and is opportune as we undertake our expanded mandate under the national strategy. However, we need to consider if we should go further than the measures about which

we are in consultation with the sector, given the findings relating to NCAD. In particular, we will now consider with the Department of Education and Skills - and the Office of the Comptroller and Auditor General to an appropriate extent - whether we should exercise a formal audit function, either generally or on a spot-check basis. This will be a significant extension to our current role and if it were to proceed, it would be desirable to underpin it in legislation and it would have some resource implications.

More immediately, however, the impact will be achieved arising from the recent reform of the HEA's funding role to include a performance-related element. As part of this development, performance funding will take into account institutional compliance with governance requirements and procedures and other statutory requirements. For example, if an institution was found to be in serious breach of governance requirements and was considered to have made inadequate efforts to correct such breaches, funding could be withheld and will be withheld in the future.

The HEA is greatly concerned with the issues identified in the Comptroller and Auditor General's report, both as they relate to NCAD and as they relate to the HEA. Higher education institutions make a very significant economic, social and cultural contribution to Irish life, but in order to do so and, most important, to retain public confidence, it is essential that they have effective systems of governance and accountability in place. I acknowledge that the college is now actively addressing the issues identified by the Comptroller and Auditor General and is taking action to bring its processes for the production of accounts, as well as its procurement and internal audit policies, up to best practice. However, given the significance of the findings in this special report and the fact that the HEA has previously relied on assurances from the college which were subsequently found to be inaccurate, the HEA will conduct a full review of the implementation by NCAD of the full range of measures now under way to address the findings and recommendations in this report and to assure ourselves that the governance and accountability procedures in the college are in line with best practice. That review will have to dovetail with whatever review the Comptroller and Auditor General is carrying out.

I am also available to discuss any matters of interest or concern in respect of the HEA accounts.

**Chairman:** I thank Mr. Boland. May we publish Mr. Boland's opening statement?

**Mr. Tom Boland:** Yes.

**Professor Declan McGonagle:** I thank the committee for the opportunity to make this statement. The report by the Comptroller and Auditor General has set out a number of lapses and failures in compliance by NCAD. We acknowledge and accept those findings. Clearly, we regret those failures, both that they were allowed to occur in the first place and that such customs and practice built up over a period and that the legacy was not reformed in a timely fashion.

I would stress that while the report paints an accurate picture of the situation at the time of its writing, much progress has been made since then by the college. We accept the recommendations in the report and the failings are now being comprehensively addressed by management and the board.

It is important to note the backdrop to this report. The college was going through a period of substantial change in the education sector, resulting in significant challenges and new pres-

## COMMITTEE OF PUBLIC ACCOUNTS

tures for a college of our scale and capacity. From 2008 and 2009 onwards, at a time when the continued existence of the college was under question, the college focused on sustaining its provision of excellence in art and design education for increasing numbers of students in Ireland. This focus was successful and our student numbers increased by 33% over that period. Funding was used for the purposes intended. However, sufficient attention was not paid to reform of procedures and compliance issues over the same period.

In responding to the Comptroller and Auditor General, NCAD's management and current board which was appointed 2012, have worked to transform how the college does business while maintaining, of necessity, in a changing landscape, a focus on the positioning and the development of the college as a national institution working to stated national objectives.

Specific steps that we have taken in response to this report include: the introduction of new policies and procedures for procurement; reconfiguration of our entire audit process; and the completion of new tenders for a range of goods and services. The college will be completely up-to-date with accounts audits by summer of 2015.

I have furnished a briefing document to the committee which sets out in a little more detail the context for the issues that are under question.

**Chairman:** I thank Professor McGonagle. May we publish the statement?

**Professor Declan McGonagle:** Yes.

**Chairman:** I have a question about the appointment of the board. How many members are on the board?

**Professor Declan McGonagle:** Twelve members.

**Chairman:** How many of those members were on the board prior to 2012 or is it a new board?

**Professor Declan McGonagle:** One person. It is an entirely new board.

**Chairman:** Bar one.

**Professor Declan McGonagle:** Yes, bar one.

**Chairman:** How long has that person served on the board?

**Professor Declan McGonagle:** Two terms since 2009.

**Chairman:** Has a list of members been provided to the committee?

**Professor Declan McGonagle:** I can furnish a list.

**Chairman:** Yes, please.

**Deputy Patrick O'Donovan:** I thank the witnesses who have come before the committee today. I have a question for the Comptroller and Auditor General. The work typically carried out by the Comptroller and Auditor General is to oversee in excess of 300 organisations, bodies and agencies. How does the report on the NCAD compare with reports on other bodies?

**Mr. Seamus McCarthy:** Neither I nor my office have produced such a report in many years.



**Deputy Patrick O'Donovan:** Would it be up there with the worst?

**Mr. Seamus McCarthy:** In terms of financial accounting and governance, I would probably have to say "Yes".

**Deputy Patrick O'Donovan:** How would Mr. McCarthy describe the structural accounting practices in NCAD?

**Mr. Seamus McCarthy:** The board has accepted and stated that they are not fit for purpose. I think I would have to agree.

**Deputy Patrick O'Donovan:** I refer to the Comptroller and General's opening statement. He said that the 2010/2011 accounts were certified on 28 December 2014, a three-year delay. What happened between NCAD and the Comptroller and Auditor General to get that over the line, so to speak, but has not resulted in certification of the accounts for 2011 and 2012?

**Mr. Seamus McCarthy:** In a way the audit opinion I have expressed is an opinion to say that they are not over the line in certain respects. I refer to the areas I listed where we were able to gain reasonable assurance around the figures in the financial statements. We had to do more work than we would normally expect to do, certainly for a body on this scale. We had to look at more transactions. Normally, auditing is done on a sample basis. It also tests controls rather than looking at a wider sample. In this case, we found that we could not rely on controls; we had to do more testing and look at more cases. More analysis had to be done and more time had to be input into the audit.

**Deputy Patrick O'Donovan:** Is an external auditor used in such cases?

**Mr. Seamus McCarthy:** We are the external auditors.

**Deputy Patrick O'Donovan:** Are other colleges in the same situation where the Comptroller and Auditor General is the sole external auditor?

**Mr. Seamus McCarthy:** For example, we are the external auditors for all the institutes of technology. It is somewhat different in the case of the universities because private sector auditors also have a role there. Where appropriate to do so we seek to rely on the work they do so that we can cut down on our own time input. Ultimately, we carry out a full audit of all of the third level educational institutions.

**Deputy Patrick O'Donovan:** In the private sector if one cannot certify and stand over a set of accounts, one is struck off. Is it fair to say that we are looking at accounts going back to 2010 with serious questions about them? Does Mr. McCarthy agree that in the private and commercial sector that would not be tolerated?

**Mr. Seamus McCarthy:** It would not be tolerated. A company which does not file accounts would be struck off and would therefore be unable to trade. It is important to point out that this option is not normally available in a public sector body; one cannot stop it working. That is the importance of having an oversight function and ensuring that there is compliance with the governance requirements.

**Deputy Patrick O'Donovan:** I have a question for Mr. Boland following from what the Comptroller and Auditor General has said. In anyone's estimation, what the HEA, being the funding agency for NCAD, has allowed to happen on its watch is an absolute scandal. Over the past five years or thereabouts, it has pumped approximately €100 million in taxpayers' money



into a college that cannot provide a certified set of accounts, and it continued to do so without any major intervention until the Comptroller and Auditor General produced this report and until it was invited to come before the committee.

**Mr. Tom Boland:** At the very least, it is certainly not an attractive picture at all, and we accept that. However, one has to bear in mind the context, namely, that the HEA does not act as an auditor. In our oversight and accountability role for all the higher education institutions, we rely on the processes and procedures that we put in place to ensure accountability. Key to those processes and procedures is an annual statement of governance, which is signed off by the chief executive of an institution and the chair of the governing body and which either assures us that everything is in order in the college or, if things are not in order, outlines the detail and what exactly is being done about it. Overall, during the years the Deputy mentioned, the HEA was receiving statements from the college that it was abiding by the code of governance. We relied upon those statements in relation to NCAD, as we do for all the institutions.

**Deputy Patrick O'Donovan:** At no stage did the HEA ask to see a certified set of accounts.

**Mr. Tom Boland:** Indeed, we did.

**Deputy Patrick O'Donovan:** What did it get?

**Mr. Tom Boland:** As is the case with all the institutions we fund, we met the NCAD annually in the context of its budget. In that context, we would have had available to us a set of management accounts, not audited accounts. To that extent, we were always aware of the financial position of the college. Consistently at those meetings and in some correspondence, we informed the NCAD, and, on two occasions - in 2009 and 2011, I believe - we also informed the system as a whole, of the extreme importance of timely accounts and the timely laying of accounts before the Houses of the Oireachtas.

**Deputy Patrick O'Donovan:** Did the authority inform the Department of Education and Skills?

**Mr. Tom Boland:** We did.

**Deputy Patrick O'Donovan:** What response did it get from it?

**Mr. Tom Boland:** I do not think we have anything on record of formal information to the Department of Education and Skills.

**Deputy Patrick O'Donovan:** Did the authority formally communicate its concerns to the Department?

**Mr. Tom Boland:** No.

**Deputy Patrick O'Donovan:** Does Mr. Boland believe that was a mistake?

**Mr. Tom Boland:** It was not, but for the future we have to look at this. However, in relation to the accounts, to be quite honest, our files would indicate that the kinds of assurance we were getting from the college implied to us that it was in regular contact with the Comptroller and Auditor General and that the matter was being dealt with.

**Deputy Patrick O'Donovan:** Beyond the assurances the authority was getting from the college, which we know has considerable deficiencies, the authority essentially took it upon

itself to continue to put money into the college and to continue operating under the existing governance systems without any changes.

**Mr. Tom Boland:** Two points arise in that context. We are entitled to and obliged to rely upon the assurance from the colleges, in terms of both the autonomy of the colleges and our own resources.

I will just go back to my point: we were aware of the financial position of the college at all times through the availability to us, on an annual basis, of unaudited accounts and through detailed budget discussions with it. It is not as if this was a renegade college or something.

**Deputy Patrick O'Donovan:** When did the authority become aware of that?

**Mr. Tom Boland:** Consistently, every year, we are-----

**Deputy Patrick O'Donovan:** Since when?

**Mr. Tom Boland:** Since we started funding the NCAD.

**Deputy Patrick O'Donovan:** When was that?

**Mr. Tom Boland:** I am not quite sure.

**Deputy Patrick O'Donovan:** Was it 20 years ago, or ten years?

**Mr. Tom Boland:** It is of that order anyway.

**Deputy Patrick O'Donovan:** For the past 20 years, the authority knew there was a financial issue.

**Mr. Tom Boland:** No.

**Deputy Patrick O'Donovan:** What is Mr. Boland saying to me, so?

**Mr. Tom Boland:** For instance, the college has been required to make a governance statement to us since 2009. That is an important-----

**Deputy Patrick O'Donovan:** So, since 2009-----

**Mr. Tom Boland:** Since 2009, we have relied on the governance statement from the college as regards its abiding by all due process in relation to-----

**Deputy Patrick O'Donovan:** While Mr. Boland knew there were issues?

**Mr. Tom Boland:** What we knew was that there were delays in relation to the settling of accounts. I repeat that our understanding, from the information we got from the college, was that that was a matter of ongoing discussion with the Comptroller and Auditor General. We did not appreciate that there was a major problem. We got assurances from the college and we accepted them in good faith.

**Deputy Patrick O'Donovan:** It did so even though, as the Comptroller and Auditor General pointed out, going back as far as 2000 and 2001, there were 20-month delays in producing a certified set of accounts. In 2008 and 2009, there was a 39-month delay. At no stage did an alarm bell ring within the HEA.

**Mr. Tom Boland:** There were lots of alarm bells. On many occasions, we highlighted to the college, both in writing and orally, the importance of finalising its accounts. The Deputy should bear in mind that we have relatively little capacity to do much more than advocate and ask institutions to put their house in order.

**Deputy Patrick O'Donovan:** In his opening statement, Mr. Boland said the HEA was going to introduce something of a performance-based system. Essentially, he is saying it will reward the colleges that do what they should do.

**Mr. Tom Boland:** No.

**Deputy Patrick O'Donovan:** What is Mr. Boland suggesting?

**Mr. Tom Boland:** What I am suggesting is that we will penalise the institutions that do not do what they should do.

**Deputy Patrick O'Donovan:** Does Mr. Boland accept that, in penalising them, the HEA is actually only penalising students?

**Mr. Tom Boland:** It is a very good point that would have to be taken into account in terms of any level of penalty imposed. There is nothing that concentrates the minds of institutions' governors and management more than issues to do with funding and money. What we propose is a perfectly valid use of our funding function in this context.

**Deputy Patrick O'Donovan:** I would accept that, but in this case it seems the only thing that has concentrated the mind is a report from the Comptroller and Auditor General, which is damning. In the absence of the report from the Comptroller and Auditor General, it seems nothing would be happening here and that the HEA would still be ploughing along in informal discussions with the NCAD doing what it was doing up to now, which was effectively nothing.

**Mr. Tom Boland:** That is unlikely, although I am speculating. Of course, it is only one year since we introduced the new funding regime that allows us to penalise institutions in the way proposed.

**Deputy Patrick O'Donovan:** Would it be fair to say the authority introduced that regime on foot of the pending report from the Comptroller and Auditor General?

**Mr. Tom Boland:** We introduced that regime in the context of the overall reform of the higher education system and in the context of the national strategy for higher education, which actually changes the relationship between government, including the HEA, and institutions to one with a much stronger focus on performance and outcomes. It is that which allows us to get at this issue of non-performance in relation to governance.

**Deputy Patrick O'Donovan:** Those looking in from the outside will note that the HEA has a €1.2 billion budget voted from the Oireachtas. It is considerable amount of money. The NCAD has obviously come in here with its hands up and said, "Mea culpa." How many other institutions can we say, hand on heart, do not have the same problem?

**Mr. Tom Boland:** I think we can rely to a very significant extent on the extent to which former audits have been conducted by the Comptroller and Auditor General in respect of the other institutions. It does not show an absolutely clean bill of health all round, nor would one expect it to. However, in general, the system is operating very well in accordance with appropriate governance procedures. As CEO of the HEA, I do not have any anxiety that there is widespread

or any significant abuse of governance procedures.

**Deputy Patrick O'Donovan:** Would Mr. Boland accept, in respect of the five-year period we are talking about, that a college in which €100 million in taxpayers' money has been invested had significant governance issues and that they are being addressed only now?

**Mr. Tom Boland:** I would.

**Deputy Patrick O'Donovan:** Does he accept that this is a failure on the part of the HEA?

**Mr. Tom Boland:** It is a failure on the part of the HEA but it is a failure that happened in a particular context, in which we had relatively little capacity to intervene.

**Deputy Patrick O'Donovan:** Why did the HEA have little capacity to intervene?

**Mr. Tom Boland:** It was because the only real weapon at our disposal is to cajole, advise and request. We have not had up to now any meaningful instrument to force an institution to do something it does not want to do.

**Deputy Patrick O'Donovan:** Would Mr. Boland accept that having a €1.2 billion budget without the power to do what he has just outlined means the role of the HEA is probably more focused on certification, awards and finance?

**Mr. Tom Boland:** We do not have a role at all in certification or awards. In fairness, as I said, when one considers the system as a whole, one notes that it is by and large, and, indeed, overwhelmingly, very compliant with appropriate process. The Office of the Comptroller and Auditor General would have seen that down the years, notwithstanding that there have been difficulties. I do not believe we can extrapolate from the NCAD a picture of a complete failure of accountability in the higher education sector. That is unfair to the institutions and the HEA.

**Deputy Patrick O'Donovan:** Would that not be down to the institutions? As the Comptroller and Auditor General said at the start - I am paraphrasing him - the vast majority of the universities have external auditors. The Higher Education Authority, HEA, does not have an audit function but it has a responsibility to ensure the money voted from the Oireachtas goes to the purpose for which it was intended. The Comptroller and Auditor General's role is retrospective. Surely the HEA should be taking a more proactive role? There is €1.2 billion going out from these Houses to third level institutes, one of which cannot produce a certified set of accounts for five years, yet nobody, until the Comptroller and Auditor General wrote his report, thought this was a problem.

**Mr. Tom Boland:** The success of the sector, if I can put it that way, is down to the institutions and the principle of autonomy of institutions, with their responsibility within that autonomy to look after their internal affairs. That is very important. No HEA of any size could manage the system in a direct way. By and large, the success is down to the institutions.

**Deputy Patrick O'Donovan:** What does Mr. Boland mean by saying no HEA could manage the system?

**Mr. Tom Boland:** We are an institution of 60 people, and it is a vast system. We have to rely on putting in place good processes and reviewing them. The Deputy made a point about being proactive, and I can read to him a very short extract from a financial memorandum. We are in consultation about it now and it perhaps reflects where we are going with this. It states:

## COMMITTEE OF PUBLIC ACCOUNTS

Where the HEA has concerns or insufficient information to provide the assurance required, the authority will in the first instance seek to resolve matters with the chief officer of the institution. Where this has not proved possible, the authority will inform the chair of the governing body and the institution's chief officer in writing and without delay of any significant concern about the conduct of the institution. Only after such notification, and where the circumstances warrant it, the HEA may consider whether it is appropriate to hold back or suspend the payment of any or all grants due to the institution.

We are going to take a much more proactive role in this space.

**Deputy Patrick O'Donovan:** As I stated at the outset, the only people that will wind up suffering from any punishment will be the students. Of the 60 people in the organisation, how many are accountants?

**Mr. Tom Boland:** There is one.

**Deputy Patrick O'Donovan:** One.

**Mr. Tom Boland:** Well, there is a management accountant with me.

**Deputy Patrick O'Donovan:** That is one accountant for a €1.2 billion budget.

**Mr. Tom Boland:** We have two accountants.

**Deputy Patrick O'Donovan:** There are two accountants for a €1.2 billion budget.

**Mr. Tom Boland:** Yes.

**Deputy Patrick O'Donovan:** Is that sufficient, in Mr. Boland's estimation?

**Mr. Tom Boland:** Yes, in the context of our current role. It is an oversight role of the governance processes. That is exactly why I mentioned it in my opening statement. If we are to assume a formal audit function, that would be a different case. Either we would have to get more resources within the institution or subcontract services.

**Deputy Patrick O'Donovan:** Surely the HEA's role in governance extends to financial governance, which is what the report is geared towards.

**Mr. Tom Boland:** It does, absolutely.

**Deputy Patrick O'Donovan:** How can two people with a €1.2 billion budget adequately sign off on matters and say they are satisfied that all the institutions covered by the authority have proper governance models?

**Mr. Tom Boland:** There are a couple of elements to this. We rely on the role of the Comptroller and Auditor General-----

**Deputy Patrick O'Donovan:** That is retrospective.

**Mr. Tom Boland:** -----to conduct his audits. We conduct an internal review of all the financial statements given to us by the institutions. We have no statutory authority or mandate to audit the institutions. I hold my hands up in that regard.

**Deputy Patrick O'Donovan:** The HEA carried out a review of financial statements.

**Mr. Tom Boland:** Yes.

**Deputy Patrick O'Donovan:** For example, did it carry out a review of the financial statement into the National College of Art and Design, NCAD, in 2005 and 2006?

**Mr. Tom Boland:** I expect so, yes. The review of financial statements is more to consider trends in expenditure.

**Deputy Patrick O'Donovan:** It is probably fair to say that as more requirements were being placed on institutions to carry out particular work relating to governance, the delays in which certified accounts were provided lengthened. The delay in 2004 and 2005 was five months - which could be seen as fantastic - but this went to 39 months. In reviewing 2008 and 2009, when the HEA knew that there was no set of certified accounts three years later, was a question not asked? In a review is the question asked as to whether there is a certified set of accounts?

**Mr. Stewart Roche:** I, in particular, have regular contact with the finance officers in the various institutions. I contact them verbally rather than writing to them. I ask them about the status of audited accounts on a regular basis.

**Deputy Patrick O'Donovan:** Mr. Roche has had conversations about certified accounts with the NCAD between 2009 and now but what action has been taken as we knew there were no certified accounts?

**Mr. Stewart Roche:** As Mr. Boland has outlined, it is very difficult for us to use a stick as we cannot withhold elements in that particular set of circumstances. All we can do is cajole and ask for them.

**Deputy Patrick O'Donovan:** Did the authority ask, for example, how many times the audit committee met?

**Mr. Stewart Roche:** No.

**Deputy Patrick O'Donovan:** Was it not seen as important to ask that?

**Mr. Stewart Roche:** Yes.

**Deputy Patrick O'Donovan:** It would have been seen as important to ask that but it was not asked?

**Mr. Tom Boland:** May I comment? In those years we had a statement from the college that it was abiding by the governance arrangements for State agencies. We relied on that.

**Chairman:** Who made that statement?

**Mr. Tom Boland:** The college made that statement.

**Chairman:** Who signed it?

**Mr. Tom Boland:** It was signed by the chief officer and chair of the governing body.

**Chairman:** Will Mr. Boland name the person who signed that over those years?

**Mr. Tom Boland:** Most recently, of course, it would have been Professor McGonagle.



COMMITTEE OF PUBLIC ACCOUNTS

**Chairman:** Which years are covered?

**Mr. Tom Boland:** That would have been since he became director.

**Chairman:** What year was that?

**Professor Declan McGonagle:** That was 2008 but the relevant statement would have been for 2009.

**Chairman:** So from 2008 Mr. McGonagle signed off on the statements received by the authority. Prior to that, who signed them?

**Mr. Tom Boland:** That would have been his predecessor.

**Chairman:** I guessed that, but what is the name?

**Professor Declan McGonagle:** That was Professor Colm Ó Briain.

**Mr. Seamus McCarthy:** The statements were only introduced in 2009, so he would not have signed one.

**Mr. Tom Boland:** We required the NCAD in 2009 to adopt the code of governance for State agencies.

**Deputy Patrick O'Donovan:** Did Mr. Roche at any stage ask Professor McGonagle or previous directors at NCAD how many times the audit committee met?

**Mr. Stewart Roche:** I would not tend to get into that level of detail.

**Deputy Patrick O'Donovan:** Why not?

**Mr. Stewart Roche:** My primary concern related to the audited accounts of the various institutions. There are in the order of 30 institutions. I do very detailed financial and trend analysis of all the institutions and report to our executive in that regard. With institutes of technology and the whole sector, there is a full trend analysis for ten years on all aspects.

**Deputy Patrick O'Donovan:** I am referring specifically to this institution. The HEA does a very detailed analysis but I presume the first box to be ticked in any analysis is whether there is a certified set of accounts.

**Mr. Stewart Roche:** Yes.

**Deputy Patrick O'Donovan:** With that yes-or-no question, the answer was "No" for five years.

**Mr. Stewart Roche:** The last set of accounts I analysed financially for NCAD were for 2010.

**Deputy Patrick O'Donovan:** That is five years ago. For the past five years, in the conversations with people from NCAD, did Mr. Roche did not ask at any stage how many times the audit committee had met? Better still, did he not ask why the accounts were not ready?

**Mr. Tom Boland:** May I comment on that?

**Deputy Patrick O'Donovan:** I asked Mr. Roche and maybe he would like to comment.

**Mr. Tom Boland:** In fairness, it is more my responsibility as the accountable person here. I would not expect Mr. Roche to answer that question of how many times the audit committee met. I would expect that to be covered by the statement of governance from the institution. As I have stated a number of times, we consistently address the issue of lateness of accounts with NCAD on a very regular basis. There is no question of our not alerting the college to the seriousness with which we regarded the issue. That should be noted.

**Chairman:** Is there a box to tick relating to audit committee meetings?

**Mr. Tom Boland:** Excuse me?

**Chairman:** Mr. Boland has indicated that the reports received in the years mentioned from Mr. McGonagle would have had a comment on the audit committee and how many times it had met.

**Mr. Tom Boland:** No, there is no specific-----

**Chairman:** What did your comments mean?

**Mr. Tom Boland:** I refer to what the statement indicates overall. There are certain-----

**Chairman:** No. Deputy O'Donovan's questions related to the role of Mr. Roche and how he goes through the analysis from the college. Mr. Boland gave the impression in his reply that a comment of some kind on the audit committee's meetings was contained in that report. I am asking Mr. Boland specifically if he will tell me where it is in that report. Has he a copy of the report that we can see where there is some sort of comment relating to the audit committee?

**Mr. Tom Boland:** I can certainly provide a copy of it. The report states that the college abides by the code of governance for State bodies. This includes the existence of an audit committee that holds meetings.

**Chairman:** We can take it there is no comment on those matters in respect of the specific audit committees. I would simply like a copy of the report.

**Mr. Tom Boland:** I have a document which sets out what the statement of governance should contain.

**Chairman:** May we have a copy of the report?

**Mr. Tom Boland:** I will provide a copy rather than reading it out.

**Chairman:** During the meeting.

**Mr. Tom Boland:** Sure.

**Deputy Patrick O'Donovan:** That is not the question I asked. I know there is an audit committee and that such a committee is required under the code of governance. Given that he knew for five years that there were no certified accounts, there are obviously problems in the institution. One does not have to be a rocket scientist to figure that out. Did anybody in the HEA, which over this timeframe pumped €100 million into the college, think it necessary to ask whether the audit committee had met?

**Mr. Tom Boland:** I do not believe that question was asked but I know for a fact that the issue of the lateness of accounts was regularly raised.

**Deputy Patrick O'Donovan:** That is not the question I asked.

**Mr. Tom Boland:** I appreciate that. I believe that the question was not asked.

**Deputy Patrick O'Donovan:** Does Mr. Boland think it was a failure on his part not to ask that question?

**Mr. Tom Boland:** I do not think so. Rightly or wrongly - I think rightly in the circumstances - we assumed that all appropriate governance arrangements were fully operational in the college. That included an audit committee.

**Deputy Patrick O'Donovan:** I want to move on to the Department of Education and Skills but before I do so, is Mr. Boland satisfied that, with €100 million in limbo because of a lack of certified accounts over five years, taking the college's word in informal conversations without asking if the audit had met or for the minutes of the committee was an appropriate course of action?

**Mr. Tom Boland:** No, I am not satisfied. That is why we are changing our processes.

**Deputy Patrick O'Donovan:** I finally got an answer. I asked that question approximately 15 minutes ago.

**Mr. Tom Boland:** I tried to answer it. Forgive me if I did not. I am not satisfied, given the reliance we placed on assertions from this one college, that we can continue to rely on those assertions in the future. We will need to audit it in some way.

**Deputy Patrick O'Donovan:** Given the huge gaps in governance, will Mr. Boland describe how he would define appropriate governance?

**Mr. Tom Boland:** Appropriate governance is where an institution has the capacity to demonstrate that it has used its public and private funds for the purpose intended and in an effective and efficient way.

**Deputy Patrick O'Donovan:** One would imagine the production of accounts would be part of that.

**Mr. Tom Boland:** It is a very important part of the clear demonstration of accountability.

**Deputy Patrick O'Donovan:** The HEA failed in that regard. If that is Mr. Boland's definition of appropriate governance, he failed to intervene to ensure the taxpayer was protected.

**Mr. Tom Boland:** There are specific instances of weakness in our practices but, given the context in which we operated, I do not think we failed in that way. The case reveals clear weaknesses in our processes, which we are now addressing.

**Deputy Patrick O'Donovan:** What is Mr. Ó Foghlú's reaction to this? We vote money to the HEA through his Department for allocation to individual colleges. What we have heard in the past ten minutes, as well as the findings of the report by the Comptroller and Auditor General, reveals governance issues not only in the NCAD but also in the HEA.

**Mr. Seán Ó Foghlú:** As I indicated in my opening statement, we are very concerned primarily with senior management in and governance of the NCAD given that the arrangements were not put in place. We are also concerned about the processes in the HEA given that it failed to spot this at an earlier stage. We were first informed in late 2013 that serious concerns had

emerged in respect of NCAD. We acted jointly with the HEA to advance the matter.

**Deputy Patrick O'Donovan:** Who informed the Department?

**Mr. Seán Ó Foghlú:** The HEA.

**Deputy Patrick O'Donovan:** The HEA first informed the Department in 2013.

**Mr. Seán Ó Foghlú:** In late 2013.

**Deputy Patrick O'Donovan:** Did it come as a surprise that the same problem existed between 2009 and 2013 but the HEA did not tell the Department about it?

**Mr. Seán Ó Foghlú:** As we keep a record of when accounts are completed, we would have been aware that the 2010 accounts had been completed and signed off at the end of 2012 and that the 2011 accounts were under consideration. Other than that, we were not aware of the details of the concerns. A number of different strands arise from that. The first strand is to keep highlighting with the institutions their primary responsibility. The primary breakdown is within the institution. In regard to the second concern, we have had a number of meetings with the HEA and the Comptroller and the Auditor General about speeding up the processing of accounts and the information that is certified by the latter. That is not enough, however. We need a speedier process so that institutions sign off within six months of the end of the financial year in respect of formally informing the HEA that they have gone through the various steps required to ensure they have an effective system of internal financial control.

**Deputy Patrick O'Donovan:** Can Mr. Ó Foghlú return to my question about the gap that existed between 2009 and 2013? Am I correct to say he was not informed by the HEA about the problems that existed during that period?

**Mr. Seán Ó Foghlú:** We were not informed that there was a problem with the NCAD until towards the end of 2013.

**Deputy Patrick O'Donovan:** What response did the Department make to the HEA when it was told about the problem in 2013?

**Mr. Seán Ó Foghlú:** We engaged with the HEA immediately to seek to ensure that the issues identified in regard to the NCAD were addressed. We also engaged, together with the HEA, with the NCAD on the issues.

**Deputy Patrick O'Donovan:** Does Mr. Ó Foghlú think it appropriate that between 2009 and 2013 the HEA did not inform the Department?

**Mr. Seán Ó Foghlú:** There were audited accounts for 2010 at the end of 2012. Therefore, there were audited accounts in that period. I do not think it was appropriate.

**Deputy Patrick O'Donovan:** What action has the Department taken in respect of the HEA if it was not satisfied?

**Mr. Seán Ó Foghlú:** We are seeking to put in place an improved system. We need to ensure we get regular updates from the HEA both in regard to the certified accounts and the analysis of those, but also, in respect of the period prior to the accounts being certified, getting updates from the HEA on a system basis about these matters. These are the matters Mr. Boland informed the system about in terms of putting a new set of arrangements in place from April. We

are putting further arrangements in place on top of that.

**Deputy Patrick O'Donovan:** In the world outside of the public service, if I was responsible for €80 million which was channelled through me to an intermediary and on to the end user, and the intermediary did not tell me for four years that a problem existed with the end user, to say I would be dissatisfied is putting it mildly. I would certainly be looking for a change in terms of the intermediary.

**Mr. Seán Ó Foghlú:** We are looking for a change in the arrangements in the intermediary. We are looking for a revised and updated set of arrangements to be put in place.

**Deputy Patrick O'Donovan:** That is it. No more action is required as far as the Department is concerned.

**Mr. Seán Ó Foghlú:** There are further actions. As part of the implementation of the higher education strategy, the HEA is changing its role. We are putting in place new legislation and I hope the heads of the Bill will be ready for consideration by the relevant committee in the early stages of the second quarter of this year. We are also discussing these issues with the HEA and we have investigated its reorganisation with a view to ensuring that it focuses on its regulatory role. The HEA is working with us on that. It has put a number of arrangements in place and there will be further arrangements in future.

**Deputy Patrick O'Donovan:** Does Mr. Ó Foghlú think it sufficient that the HEA, with a budget that is as large as some small countries, at €1.2 billion, employs two accountants?

**Mr. Seán Ó Foghlú:** Accountancy expertise is not necessarily the primary requirement.

**Deputy Patrick O'Donovan:** That is not the question I asked.

**Mr. Seán Ó Foghlú:** I am answering the Deputy's question. It is a question of putting in place a system for analysis. It does not necessarily require an accountant to examine a report within six months. It is a question of designing a framework whereby appropriate reports are prepared and accountants can examine elements of them. The HEA recognises that it needs to develop its skill sets but whether that involves employing more than two accountants remains to be seen. That call has not been made. It is not about getting teams of accountants. It is about putting the systems in place to allow analysis to be carried out within a framework.

**Deputy Patrick O'Donovan:** I will ask Mr. McGonagle two questions before concluding. Between 2004 and 2010, when the Comptroller and Auditor General could not sign off on the accounts, the NCAD's audit committee was meeting in a haphazard way occasionally, to put it at best. Is there any reason the audit committee did not take a more proactive role?

**Professor Declan McGonagle:** As this was before my period in the college, I do not have any detailed information as to why the audit committee would not have been meeting more regularly, but I do know that in that period board members were mostly from outside Dublin and, therefore, travel would have been involved. I have no specific reasons for the period from 2004. I started in late 2008 moving into 2009. A new board was appointed in April 2009. We inherited a set of customs and practices which I think needed reform. The new board, with my appointment, had indicated that a change agenda was what it was interested in, led by academic change for the institution in terms of how the education landscape operated and how NCAD worked within that landscape. That focus became the dominant issue in that period. The year 2009 was a very significant one because it was the first year of the beginning of the cuts in the

sector and a very substantial cut to the NCAD. We also had to negotiate new validation for the courses we were offering students because the threat of abolition was hanging over the National University of Ireland, our validating body.

In terms of the brief given to me by the board we embarked on a process of developing a new internal course structure, moving from a four-year to a three-year degree. Going back to some of the previous questions and answers, it is important to understand that the conversations and meetings we have with the HEA and the Department cover more than financial issues. They are obviously underpinned by both funding issues, in terms of the amount of finance and what we can use it for, and also the procedural compliance issues, but they are also about policy.

**Deputy Patrick O'Donovan:** Yes, but I asked about the audit committee.

**Professor Declan McGonagle:** Yes, but-----

**Deputy Patrick O'Donovan:** The reason we are here is that from 2009 up to now there has been a trail of destruction in respect of certified accounts from the institution. We are trying to find out why that is the case and what has happened to make it different.

**Professor Declan McGonagle:** The fundamental issue in NCAD is capacity issues - a very small accounts office, two people, an accounts officer and an accounts assistant in that period. We have changed it now. The skill sets were not necessarily the ones that one would have wished at that time. The NCAD was a smaller college in the period 2004 to 2009. An issue we have discussed regularly in terms of our funding requirements was the very inadequate - let it be said - not fit for purpose electronic systems that we had in the-----

**Deputy Patrick O'Donovan:** Is the board fit for purpose?

**Professor Declan McGonagle:** I would argue the board is fit for purpose.

**Deputy Patrick O'Donovan:** But the systems are not?

**Professor Declan McGonagle:** The systems are not. Our failure has been not to reform the custom and practice in relation to systems.

**Deputy Patrick O'Donovan:** Whose fault is that?

**Professor Declan McGonagle:** There is a wider set of circumstances which meant that we focused in the period as the recession kicked in. As the funding issues became highly problematic for us, we could not resolve our capacity issues both in terms of systems-----

**Deputy Patrick O'Donovan:** Who is responsible for the systems and practices in the college?

**Professor Declan McGonagle:** The college is responsible.

**Deputy Patrick O'Donovan:** Who in the college?

**Professor Declan McGonagle:** The management team and then the board.

**Deputy Patrick O'Donovan:** If the systems were not fit for purpose over a five-year period, surely the management in the college was not fit for purpose either.

**Professor Declan McGonagle:** No, we would have identified the need. If the Deputy looks



at the totality of the responsibilities of the management team, it is clear that at that time we had to redefine the college. A number of reviews were starting, including the McCarthy report that argued for an amalgamation of the college. We had on our agenda - the board, which was new in March 2009, and the subsequent new board in 2012 - a set of issues which were fundamentally about the continued existence of the college. That therefore became the focus for the management team and the board reporting to the board.

**Deputy Patrick O'Donovan:** That does not explain the period 2004 to 2009 nor does it explain why every other third level institute, many of whose names are included in the McCarthy report and had question marks hanging over them, is not in the situation in which the NCAD finds itself. That response does not explain the position.

**Professor Declan McGonagle:** No, but the NCAD operates in a singular position because it is a stand-alone college. All the other providers of art and design education or studio lab-based education operate within bigger institutions. They, therefore, have cover in a way that the NCAD does not.

**Deputy Patrick O'Donovan:** Some of the smaller teacher training colleges do not have that structure.

**Professor Declan McGonagle:** They are not engaged in lab-based and studio-based learning.

**Deputy Patrick O'Donovan:** That does not take from the fact that what we are talking about here is the accounts. We are talking about the systems within the NCAD, its relationship with the HEA, and the HEA's relationship with the Department of Education and Skills, which have been an unmitigated disaster. Nothing was done over five years until the Comptroller and Auditor General decided enough was enough and published the report, after which something happened.

**Professor Declan McGonagle:** No, some actions were being-----

**Chairman:** Deputy O'Donovan-----

**Deputy Patrick O'Donovan:** I thank the Chairman.

**Professor Declan McGonagle:** Some actions were taken by the board from 2012 onwards. As I said in the briefing document and in the opening statement, we accept that we were not compliant in the period. There are reasons which I have just touched upon for that process: the scale and capacity of the college to address all of the issues we were presented with in the particular period from 2009 onwards - I cannot speak back to 2004 - when there was a set of fundamental issues which had to do with the continued existence of the college and its ability to deliver student learning on the scale that was required. For us the focus was on delivery. We accept that resulted in not sufficient attention being paid to the other issues that the Deputy has identified.

**Chairman:** I call Deputy Dowds.

**Deputy Robert Dowds:** I thank the Chairman. I thank the witnesses for appearing before the committee. I am gobsmacked by all of this. It is probably one of the most scandalous situations with which the committee has been presented. As individual Deputies we are subject to audit. I was chosen for audit last year and had to demonstrate to the auditors that I had spent

my money correctly. If my constituents think I am not up to scratch, they can sack me on that or any other ground in a little over a year's time. Is the Comptroller and Auditor General satisfied that this is a one-off situation as regards third level institutions failing to produce proper accounts?

**Mr. Seamus McCarthy:** Yes. As I mentioned to Deputy O'Donovan earlier, we had not produced another report of this kind and we have not felt the need to do so. I would say that some of the issues we raised with the NCAD occur in other colleges, particularly the non-use of competitive procurement in certain cases. Accounting errors also occur. We work with colleges to correct them and to move to present properly a true and fair view of the financial situation. There may be other governance circumstances in other colleges but for them all to come together is an unusual situation.

**Deputy Robert Dowds:** If I may, I will put a question to the staff from the NCAD. In terms of day-to-day spending, I do not understand how it would have operated. How was money divided up and did the representatives have any sense of whether it was spent appropriately or whether there were areas that were totally neglected?

**Professor Declan McGonagle:** About 83% of our spend is on payroll and pensions. There is then a set of goods and services for the college and what I would call local expenditure in relation to departmental work in some of the discipline areas on materials and some equipment. That is how the costs are broken down. The 82% is governed by national agreements and arrangements. The remaining percentage, in what has been a steeply declining budget since 2009, covers goods and services and the use of materials by Departments.

The board has monthly accounts to hand, comparisons are made between expenditure and budget and it is also involved in budget planning. At this time of year we learn our allocation for 2015 and we will have our board meeting next week. It is true to say that finance has dominated the full board's agenda since the period 2008-09.

**Deputy Robert Dowds:** What if materials were required for an area of study but there was no money to cover it? Such a situation would have arisen due to a lack of control over finances at the college.

**Professor Declan McGonagle:** No, that situation did not and does not arise which relates to my point about our focus on delivery. We focus on sustaining learning but within the capacity of the college to do so. We would argue very strongly that we have been very successful with the quality of student learning in the college, and in terms of the graduates we produce and where they go. In addition, there has been an increase in student numbers in response to a continuing demand for education in art and design at the NCAD. As has been pointed out, it takes so much management time to cover that delivery because we work the internal system all of the time.

**Deputy Robert Dowds:** If the college ran out of money could it approach the HEA for a top-up?

**Professor Declan McGonagle:** That situation has not arisen. I am not sure if it could. We have always made a very strong argument for what we needed, particularly in relation to what we have received. The HEA will have heard us on many occasions argue against the cuts that were applied nationally. It is not as if we were being singled out in any way, and I am not suggesting that. We have a deficit but we have managed our resources so that we do not run out

of money.

**Deputy Robert Dowds:** If the college can do that then it should be able to produce accounts in a reasonable time. I do not understand why it cannot do so.

**Professor Declan McGonagle:** It is a question of focus. Since 2009 we have had a series of reviews within the education landscape, which I have outlined, and we have been involved in all of them. They were fundamental reviews. Some of the reviews raised questions about the continued existence of the college and for us that focus became dominant. They were as follows: to sustain the ongoing education of the students who were enrolled; the policy issues on the future of the college; and the fundamental issue of the validation of degrees. In terms of the latter we had to negotiate a new validation arrangement with UCD. We created an academic alliance with UCD which has now moved to formal discussions about a merger. In the period under discussion our focus was geared and directed towards sustaining student learning at a high level, dealing with all the policy issues and dealing with the reviews.

I am not justifying our failures but have given the reasons they came about in a college of a particular scale and capacities. In the last year or so we have reached the end of the review process, completed the compact with the HEA and signed it off. That has allowed us to get to grips with this process over the past year.

**Deputy Robert Dowds:** I am at a loss as to why the college has been able to provide for the financial needs of the college but unable to provide accounts at a reasonable speed. I would like the Department of Public Expenditure and Reform to comment on the matter.

**Mr. John Burke:** I echo the comments made by Mr. Ó Foghlú, Secretary General at the Department of Education and Skills, that the level of compliance is unacceptable. I do not think the college can use resources as an excuse because every institution could cite the same excuse. The procedures are in place from the centre in terms of governance and also in relation to the centralised procurement rules. Therefore, it is very hard to find an acceptable set of excuses.

**Deputy Robert Dowds:** My next questions are for the Department of Public Expenditure and Reform and the Department of Education and Skills. It has been said that a new set of procedures will have to be followed. What will happen if they are not followed? Will non-compliance affect funding? Will it affect students? Will members of staff hold on to their positions even though they have not done their job adequately? Will it entail putting in the appropriate extra accountancy staff or whatever?

**Mr. Seán Ó Foghlú:** We must first seek to ensure that this situation does not happen again.

I ask the Deputy's indulgence to allow me answer a question directed at the Comptroller and Auditor General and the HEA on whether there is concern about other institutions in the sector. I am obliged to answer that question as the Accounting Officer for my Department. We always have concerns about institutions across the sector. In the higher education sector there are two other higher education institutions who have not had system reviews, or reviewed their system, of internal financial control in the last year in which the Comptroller and Auditor General signed off their accounts. I am very concerned about the matter.

**Deputy Robert Dowds:** Can the Secretary General name the institutions?

**Mr. Seán Ó Foghlú:** That information is in the public domain. It is Limerick Institute of Technology and St. Angela's College.

I am very concerned about the matter and the HEA is aware of our concerns. The HEA is also concerned and is following up on those institutions. I wanted to state that on the record because I had not been asked the question. I am not saying that those institutions have the same range of issues as the NCAD. However, there are obligations on governing bodies and senior management to ensure there are reviews on the effectiveness of internal financial controls. That is the absolute responsibility, in the code of practice, that the chair and the president combined must sign off on. That is the core issue - institutions must take on their responsibilities.

In the revised set of arrangements for performance funding, we have as a higher education system moved on to the issue which we have to be most accountable for, in combination with finance, which is performance. We have moved our funding to a place where the HEA can make a call about the future expansion, contraction or whatever of a higher education institution based on its performance, including its financial performance.

Combined with that then, and in the revised system that Mr. Boland has talked about putting place and talked about elements of, we are still reviewing. I am of the view that we will enhance that situation. It means that no institution will be able to go more than six months, at the end of a financial year, without informing the HEA that they have not put in place a system of internal financial control.

**Deputy Robert Dowds:** What will happen if they do not?

**Mr. Seán Ó Foghlú:** If they have not done so then the chair and president would be immediately told to put it in place. If they refuse to put it in place, or do not put it in place within a certain period, that will lead to more fundamental questions.

**Deputy Robert Dowds:** Such as?

**Mr. Seán Ó Foghlú:** It will lead to more fundamental questions on the continuance of the governing body, etc. There are powers in the Institutes of Technology Act and so on for governing body change if such issues arise, and if it goes to the degree where an institute has been asked to amend things but have not done so.

**Deputy Robert Dowds:** Like everyone here, I am interested in ensuring that all these institutions work well and work in the interest of students in the case of the NCAD. If the Department fails to get compliance what happens in terms of sanction? Is the situation ignored?

**Mr. Seán Ó Foghlú:** We cannot ignore it. In this instance the college has not complied but it has confirmed that it will comply. There is no evidence in its non-compliance----

**Deputy Robert Dowds:** Has the college been given a certain length of time to comply?

**Mr. Seán Ó Foghlú:** They are putting arrangements in place to review the system of internal financial control.

**Professor Declan McGonagle:** Following our discussions with officials from the Office of the Comptroller and Auditor General, we have put a whole raft of measures in place over the last ten or 11 months to cover many of these issues. Some dimensions of this matter cannot be addressed quickly, but they will be addressed. I made it clear in my briefing document that we are working hard with the officials in the Office of the Comptroller and Auditor General, the Department and the Higher Education Authority to achieve our intention of meeting our obligations by the summer of this year. We have put in place a whole raft of measures, including new

procurement procedures, procurement training and audit arrangements - the registrar might list them - that we have discussed with officials from the Higher Education Authority on foot of this process. The evidence needed to answer the question about whether we are going to do it is already in place. We are doing it.

**Deputy Robert Dowds:** I want to return to the Department of Education and Skills. I hope what Professor McGonagle has said is delivered. My colleague, Deputy O'Donovan, has said that these institutions are getting €1.2 billion on an annual basis. If any of them do not deliver, where will this lead to?

**Mr. Seán Ó Foghlú:** Fundamental questions about governance will arise if they refuse to comply on a continuing basis. Further legislation may be required. As I have said, we are putting in place a revised set of governance arrangements for the Higher Education Authority and the universities. We will have discussions on this at the Joint Committee on Education and Social Protection. Forthcoming legislation relating to the institutes of technology sector is being drafted at the moment and has been considered by the joint committee. Governance will be strengthened by a number of different Bills.

**Deputy Robert Dowds:** If people refuse to comply, will that ultimately lead to removal of finance, or people who are not doing their jobs having to stand down?

**Mr. Seán Ó Foghlú:** Ultimately, this goes to the board to ensure the chair signs off on the system of internal financial control. The board ultimately makes calls about the employment of staff and so on.

**Deputy Robert Dowds:** I do not feel there is a sufficient strength in what Mr. Ó Foghlú is saying to ensure things will be done properly. If they are not, there will be-----

**Mr. Seán Ó Foghlú:** I think there is an absolute strength in the revised set of arrangements that is being put in place by the Higher Education Authority. I think the new set of arrangements has a real strength arising from the authority's changed role in the higher education strategy and the various issues that have arisen with regard to the National College of Art and Design and other institutions.

**Deputy Robert Dowds:** I would like to put one more question to the Higher Education Authority. When its statement was being read out, it was clear that it has an oversight and regulatory role over a whole raft of institutions. It is probably not fair to generalise from one specific case; namely, the National College of Art and Design case. Does that put a question mark over whether the authority should continue in its current form? Would it be better if the authority were to be brought directly under the Department of Education and Skills, where there would be more immediate and direct observation of what it is doing?

**Mr. Tom Boland:** I will comment on that in so far as I can. I think we are trespassing into the policy area. The Government has decided as part of the national strategy for higher education that the Higher Education Authority will remain in place. I do not want to sound patronising when I say that I absolutely appreciate the rightness of this committee's concern about what has been reported by the Comptroller and Auditor General. I see the genuineness of it. Overall, the system we have operated with the institutions and the Department has been overwhelmingly effective in ensuring accountability for very significant public funding in higher education.

**Deputy Robert Dowds:** That is to the credit of the individuals in the institutions.



**Mr. Tom Boland:** I am glad the Deputy has said that because that is where the responsibility first lies. It is also to a reasonable extent to the credit of the Higher Education Authority in ensuring those institutions signed up to a code of governance that is being applied overwhelmingly across the sector. Some serious failures occurred in this case. I would like to return briefly to the Deputy's discussion with the Secretary General about what should be done.

**Deputy Robert Dowds:** It seems to me, in light of the way things were organised, that there would have been absolute chaos if the other educational institutions had not been operating effectively and properly because the Higher Education Authority would not have been able to control the situation.

**Mr. Tom Boland:** In fairness, that would have been noticed, just as it was in this case. The point is that the Comptroller and Auditor General conducts these audits as part of the system of accountability.

**Deputy Robert Dowds:** How long do we have to wait?

**Mr. Tom Boland:** I cannot speculate on that, in fairness.

**Chairman:** I call Deputy Deasy.

**Deputy John Deasy:** I welcome everyone to today's meeting. I am beginning to think we might have an oversight problem in the area of education generally.

*(Interruptions).*

**Chairman:** I ask people to remove their mobile phones from their desks.

**Deputy John Deasy:** Obviously, the oversight or lack of oversight by the Higher Education Authority is the issue we are discussing here. The other members of the committee have dealt with that. I do not want to stick with that. I am going to get into the merger between the institutes of technology in Waterford and Carlow. The historic governance issues within Waterford Institute of Technology, which have been very well publicised over the past few years, have been dealt with by this committee for a number of years. We had recommendations issued to us a few months ago with regard to the institute. It is fair to say - we can ask the Comptroller and Auditor General to comment on this - that governance issues in the institute which have been going on for a couple of years have been dealt with, most recently last year. It seems to me that this being is the case - it is well known, documented and publicised - the Higher Education Authority and the Department of Education and Skills would have paid particular attention to a merger process that has amounted to €380,000 or €400,000. I was struck by the fact that the merger process involving Cork Institute of Technology and Institute of Technology, Tralee has cost significantly less than that. By all accounts, the merger process in the Cork and Tralee case is more successful and is continuing.

We have a remit. We have absolute jurisdiction to ask what happened with regard to this merger process. What went wrong? Mr. Boland has characterised the case of the National College of Art and Design as "certainly not an attractive picture". I suggest there is more than one unattractive picture here. I am thinking of the now failed attempt to merge the institutes of technology in Waterford and Carlow. I will ask Mr. Ó Foghlú and Mr. Boland about that merger process. I want them to start by bringing us through it from point to point. Can they set out



their personal, professional and organisational involvement? How did it begin? How did their involvement proceed? Why did it break down? It is particularly interesting for me because if I am correct - maybe the Comptroller and Auditor General can back me up - it was mentioned in a recommendation that the involvement of the Higher Education Authority was lacking in the case of previous issues, including financial issues, when it came to Waterford Institute of Technology. There was a lack of communication on a number of different fronts. As a substantial amount of public money was spent on the merger process, I need to ask what kind of interaction, communication, involvement and oversight occurred within the Higher Education Authority with regard to that process. I ask Mr. Ó Foghlú and Mr. Boland to run through where we are at. Call it a brick wall or a Mexican stand-off that is where we are and it is not a good situation.

**Mr. Tom Boland:** I would not characterise this yet, and hopefully not at all, as a failed attempt at a merger. There is still scope and it is still a feasible project.

I will try to sketch out the history. We go back to the publication of the Hunt report on the national strategy for higher education that recommended the establishment of technological universities as a positive way to allow institutes of technology develop to university level. One of the other objectives of that policy approach was to consolidate the institute of technology sector because there were several small institutions, in the interests of quality and scale. Moving on, and over a period of time, the Higher Education Authority, HEA, published a landscape for the higher education sector which included the potential for a number of technological universities to be formed, including a university of the south east encompassing Waterford and Carlow. That was accepted as ministerial and Government policy and therefore passed to the institutions for implementation.

One of the very important aspects of mergers of institutions, and it forms part of national policy, is that forced mergers of institutions do not work. We have seen how it does work. It is extremely important that the institutions themselves quickly develop a shared interest and vision for what the institution will ultimately be. The HEA has also had to be-----

**Deputy John Deasy:** Are you characterising this as a forced merger?

**Mr. Tom Boland:** No. I am getting to the point of whether the HEA could have forced these institutions to do certain things. I am trying to emphasise the importance of the institutions themselves getting on with it and getting on with each other. The HEA, in the context of a technological university application, has to be somewhat hands off. We cannot be part of the development of a technological university because we have to review, make a decision and advise the Minister as to whether any particular entity should be a technological university. There would be a conflict of interest.

We have a very direct and lively interest in ensuring in the first instance that the merger of any of the institutes is done successfully. To that extent the HEA has allocated some funding, by no means the amount sought or required, for merger activity but in the context of the financial difficulties generally it cannot be and never will be enough.

In respect of Waterford-Carlow, as with all the other mergers, and not just the technological university but also the important merger of Dublin City University, St. Patrick's and Mater Dei, we have kept in close touch with the institutions to assess progress. While we were aware of some difficulties in this project up to a media announcement I was not aware that the discussions were going to break down. I had no expectation that would be the case. We had to stand back a bit but the Department appointed a facilitator to the group. Several efforts were made

and many assurances were given to me as chief executive officer, to the Department and Ministers, by the presidents and chairpersons that things would work out. Ultimately, Waterford took a fairly dramatic action to withdraw from the process. I do not think it is a failed process.

**Deputy John Deasy:** What I said was it is a failed process to date and it is. Whatever happens in the future, that is what I am interested in. There is a process in bits. Let us be clear about the situation now.

**Mr. Tom Boland:** As matters stand it has not progressed at all well. It is a failed process to that extent. I agree with the Deputy.

**Deputy John Deasy:** So you were under no illusions with regard to negotiations or discussions between the two entities that there was a problem. Who was assuring you that there were no issues?

**Mr. Tom Boland:** No I did not say there were no issues. We were always aware that there were issues but in a merger of this kind there are bound to be issues. The assurance was that they could be worked out. I had every expectation that they would be.

**Deputy John Deasy:** This involved public money. Can you give us an idea what those issues were? Let us get down to the nitty-gritty.

**Mr. Tom Boland:** Some of the issues would have been around where the headquarters of the entity would be, the relative strengths of the institutions *vis-à-vis* some of the criteria for technological universities and the extent to which the institutions were or were not taking action to address that. That was an issue. None of these issues was impossible to work out. If memory serves, they had reached a level of agreement on many of these issues when to the surprise of a lot of people Waterford withdrew from the process.

**Deputy John Deasy:** I am getting a different story. The difficulty is that those assurances or opinions given to you by those individuals were wrong. I am afraid the HEA accepted those assurances or opinions and it was incorrect to do so. Perhaps the Secretary General could give the Department's-----

**Mr. Tom Boland:** I do not accept that we were wrong to do so.

**Deputy John Deasy:** There is too much form here in respect of governance not to take a really forensic view of this merger. If I was in your position I would have kept a very close eye on everything that was occurring when it came to that merger between Waterford and Carlow. I do not think the HEA gave it the kind of oversight that was necessary. I want to hear from the Secretary General.

**Mr. Tom Boland:** We cannot make mergers happen. It has to be done by the institutions.

**Deputy John Deasy:** Okay.

**Mr. Sean Ó Foghlú:** Thank you Deputy Deasy. I wish to correct something Mr. Boland said, which I know was an accidental use of language. Waterford IT suspended its engagement with the process. It did not withdraw from the process. The process is not finished. Waterford suspended its engagement.

**Deputy John Deasy:** I have to correct you. Waterford has made it clear that it is not going to engage with regard to any other entity or Carlow and that it would prefer to go it alone.

**Mr. Sean Ó Foghlú:** No it has not. Waterford has suspended its engagement with the process. As far as I am aware that is its principal announcement in that regard. The technological university concept is Government policy, as is the process whereby criteria have to be met. There is a distance that has to be kept between the agents of Government in ensuring a fair and appropriate process is undertaken and the institutions which voluntarily put together applications, with a political background but voluntarily. It is their role to do that and they advance it in a combined way.

As Mr. Boland said, we were hearing on the grapevine that there were difficulties and there was a process put in place to bring them together. They moved away from having an external facilitator and the two institutes decided to work together without one but right down to two or three weeks prior to the announcement of the suspension by Waterford Institute of Technology the two presidents assured the Minister, and I was at the meeting, that the process was advancing.

**Deputy John Deasy:** That was two weeks before the announcement.

**Mr. Seán Ó Foghlú:** A couple of weeks. I do not have the exact date. There were difficulties. As officials, we must take the assurances that we are given. I do not agree with the Deputy that we get into micro-managing.

**Deputy John Deasy:** Was that a joint meeting between both presidents?

**Mr. Seán Ó Foghlú:** It was a joint meeting. We were informed by the two presidents that it was advancing and then at relatively short notice, there was an unravelling. Immediate action was taken on the unravelling. I was present at one of the meetings. I could not make the other. The Minister met either the chair or the vice chair and the presidents of both institutions and the process was put in place, which is led by Michael Kelly. This process is underway. Clearly we cannot be sure of the outcome of that process but dialogue is underway with Michael Kelly and we hope there will be a positive outcome for this endeavour.

**Deputy John Deasy:** I am aware of that and that is fine. I am really not concerned about Mr. Kelly at this point. I am concerned about the job that the Department and the HEA did with regard to this merger process and its involvement and oversight. I am not concerned about the Port, Hunt or Quigley reports. It is endless. What Mr. Ó Foghlú has outlined to the committee is very significant with regard to the meeting between the two presidents and what was imparted to the Minister - that there was progress and that there were no issues that could not be resolved.

**Mr. Seán Ó Foghlú:** I did not say that there were no issues. I said that there was progress. This is not the only merger process underway at the moment. There is a wide range of merger processes underway within higher education. The overall issue about how the merger processes are advancing has to be taken in the round rather than just in respect of one individual one. There are a number of different process within teacher education and the institutes of technology and in all of those processes, the institutions must take ownership to ensure they happen effectively. Even on Monday of this week, I met, as did Mr. Boland, with the presidents of the three institutes of technology in Dublin which are merging. They also have an independent facilitator in place and that merger is advancing very well.

**Deputy John Deasy:** Nobody is going to say that there will never be problems with anything. Mr. Boland said it is an unfinished process that has not failed completely. It is important that we discover the reasons why it has failed to date. Surely that is critical before we move in

any new direction with regard to a merger or non-merger? If the two presidents were giving assurances two weeks before this broke down, we have a problem. It is not Mr. Ó Foghlú or Mr Boland's problem. We may have a problem that needs to be dealt with. I am just trying to be fair here. Once both of them found that this process was broken, they obviously moved in and asked what the issues that led to that point were. What were they told?

**Mr. Seán Ó Foghlú:** Can I answer first? The process has not broken down. The process is suspended.

**Deputy John Deasy:** Fair enough.

**Mr. Seán Ó Foghlú:** We have a facilitator in place to reignite the process. Do I think it would be helpful to bring all the reasons why the process broke down into open public discussion and have a wide-ranging debate about it? No, I do not.

**Mr. Tom Boland:** Can I add to that because what the issues are and what the resolution might be are on the public record. If we look at the terms of reference given to Mr. Kelly, they relate in the first instance to the extent to which there can be a shared vision for the kind of institution that could be created in the south east. One then had the very important practical issue of the feasibility of implementing that vision. Those are the two crucial pillars on which success will rest, in particular, the extent to which the two institutions, their academic staff and their governance can have a shared vision of what they want to create.

**Deputy John Deasy:** So Mr. Ó Foghlú is not prepared to discuss the issues-----

**Mr. Seán Ó Foghlú:** I am not saying I am not prepared to. Deputy Deasy asked whether it would be helpful. I do not think that is helpful at this stage. The most important thing at this stage is to support the institutions in their engagement with Mr. Kelly. Both institutions are hurt and challenged and are going through considerations and seeking to engage in a real way with Mr. Kelly. If we had a public session with the two institutes about why they are at this place, it would not be helpful. We have a facilitator. I do not consider this process to be lost. We have a facilitator in place and I hope the facilitator's actions will lead to a positive outcome.

**Deputy John Deasy:** I am going to give Mr. Ó Foghlú an opinion more than anything else. It might be a question of sorts. If this happened on my watch, notwithstanding Mr. Kelly's prospective work, I would get the officials and possibly people from the governing body - the chairman has left Waterford Institute of Technology - in Mr. Ó Foghlú's offices. That did happen to some extent. Mr. Ó Foghlú passed the buck to Mr. Kelly. Both organisations should have moved in immediately and dealt with the two organisations singly and jointly, dealt with this once and for all and made a decision as to the best way forward for both institutions as opposed to passing it on for someone else to write a report - number four or five. Here we are waiting for another report with recommendations ad nauseam about Waterford and Carlow. This has continued for years. Notwithstanding what Mr. Ó Foghlú has said with regard to the reasons and the non-publication of the reasons why it failed or suspended, that is the approach. The public purse would probably have been better served in the long term if you did that. It is necessary at this point. It includes drilling down into the governing bodies and the people who manage both institutions to find out what can be rescued from this, if it is possible to re-merge and begin that process again.

From the standpoint of the city and the region I am dealing with it, it is a critical infrastructural component. Progress has been stagnant for a long time. One of the reasons has been that

it has not reached that stage. The process has been put together. In fairness, it is successful in Dublin but up to now, it has failed in the south east. Extraordinary measures need to be taken outside of just appointing Mr. Kelly and frankly regurgitating stuff that we already know about. It is a suggestion. Given that we are the Committee of Public Accounts and given almost €400,000 that has been spent, we will be re-engaging the public purse if this process begins again and the money needs to be better spent than it was in the past couple of years.

**Mr. Seán Ó Foghlú:** Subsequent to the suspension between the Department and the HEA, we did have some of that engagement and we came to the conclusion that the best way to address it was to put a facilitator in place to work with the two institutions. We did have some of that engagement but we did not think we were best placed to help draw those understandings out, which is quite close to what Mr. Kelly is undertaking.

**Deputy John Deasy:** If people in both institutions do not understand that the Department of Education and Skills and the HEA are exercising keen oversight of this issue and these two institutions, the Department and the HEA will be doing the same thing they have been doing for the past ten years. I appreciate Mr. Ó Foghlú and Mr. Boland coming in and they have been very frank with their responses but this has gone on too long. The two entities that are before us today are not responsible for disagreements between individuals and entities but they are responsible for finding a solution to this and they have failed so far. They are part and parcel of finding that solution be it a merger of Carlow and Waterford or some other direction. The Department and the HEA need to take extraordinary steps on this because the south east needs this. People in the south east are losing faith in government generally when it comes to this issue.

**Deputy John Perry:** We are looking at the retrospective accounts of the HEA and the National College of Art and Design. Having visited the National College of Art and Design, NCAD, I wish to put on record its extraordinary achievement. Professor McGonagle stated that 82% of NCAD's budget was spent on wages. That is €16.4 million. Is that amount clearly audited? If so, €3.6 million would be open to due diligence checks every year. Over five years, that amounts to less than €20 million.

It is important to highlight the reputation of this fine facility. There is a financial issue with the management of €3.6 million per year, but let us put that in perspective. The remaining €16.4 million is spent on contractual arrangements. Is that correct?

**Professor Declan McGonagle:** Yes. We are governed by national agreements on payroll and pensions.

**Deputy John Perry:** Perhaps the Comptroller and Auditor General might comment on due diligence. The €16.4 million, which relates to wages and costs through the payroll system, is fully audited, so the only concern is about the €3.6 million. Is that correct?

**Mr. Seamus McCarthy:** Strictly speaking, no. The income and expenditure account does not list a figure of €16.4 million for salaries.

**Deputy John Perry:** What of the figure of 82% for wage costs? Out of €20 million, that approaches €16.4 million.

**Mr. Seamus McCarthy:** I am not sure. Of the expenditure breakdown, total expenditure in the 2010-11 period was €19.2 million. The breakdown is not analysed in that way in the accounts.



**Deputy John Perry:** I know, but I come from a business background and have done a quick calculation using the 82% figure.

Professor McGonagle might tell me a bit about the college, for example, its number of students. I visited it as a Minister of State and saw the level of entrepreneurship and start-ups. It is important that we put NCAD's capacity and what it has achieved with start-ups on the record. It is also important that we examine the audit figures, but I would like to hear the story of the start-ups and the fantastic business people whom I met at the college.

**Professor Declan McGonagle:** I thank Deputy Perry for the opportunity to advertise the college. The figure of 82% relates to payroll and pensions. We have 128 full-time equivalent staff and 102 pensioners. This is an unusual proportion in terms of where our resources must go before we spend a penny on students' education. That is the other percentage to which the Deputy referred. We have increased our undergraduate student numbers from 780 to 1,033, representing a 33% increase. We have increased our first year intake by approximately 40% in the past two years. We are responding to the review processes that took place between 2009 and 2012 or 2013 by transitioning the college to a new level of academic and learning activity. One feature of this was the instigation of a development process in 2011 and 2012. The increased commercialisation opportunities that resulted from this has, in the past year, spun out two small companies for the first time in the college's history, which the Deputy referenced. A further embryonic company is emerging in an incubator unit that we have developed.

The college has been in a transformative mode for several years. This is what I meant by our focus being on delivery. One thousand students walk through our archway every day and expect to have access to staff. We have 15% fewer staff members than we did in 2009. People will refer to the fact that the sector has been badly cut back, but our calculations provide an interesting statistic on this point. The cost to the State of a student attending NCAD in 2015 is between 35% and 40% of what it was in 2008.

**Deputy John Perry:** Of what is that a percentage?

**Professor Declan McGonagle:** It is 35% to 40% of the 2008 cost to the State of a graduate emerging from NCAD. We are working with that.

**Deputy John Perry:** How does that compare with DCU and other universities?

**Professor Declan McGonagle:** We only arrived at that figure in preparation for this meeting. It owes to the general cutbacks, the way in which we attracted more students and, most importantly, our move to a three-year degree structure from a four-year one, which provides a saving to the State. We are unique in doing this. It was one of our preoccupations from 2009 onwards. As part of the review of the education landscape, institutions were asked to show that they were distinctive providers in the sector and that there was an avoidance of duplication. We have been clear that this is what we are about in our strategic path for development. It is a sustainable change. We have engaged in a new relationship with UCD with a view to creating synergies, including a raft of back office synergies that we expected to come about much sooner than they have done, that will address strategically many of the issues being discussed at this meeting and that figure in the Comptroller and Auditor General's report.

**Deputy John Perry:** In terms of our enterprise economy, start-up companies and the calibre of students, has the college international students?

**Professor Declan McGonagle:** We have a small amount of non-EU students. We par-



ticipate in the relatively small-scale science without borders programme, which is run by the Higher Education Authority, HEA. A part of our relationship with UCD will deliver an international strategy, which is one of our strategic requirements, as UCD will market our postgraduate course offers. From September onwards, we expect there to be an incremental internationalisation of NCAD's student body. We are an active participant in the ERASMUS programme.

**Deputy John Perry:** The curriculum is different than that of many institutes, as they are not as engaged in art and design courses. Is there a comparable college in the country?

**Professor Declan McGonagle:** No. We are exclusively concerned with art and design.

**Deputy John Perry:** In light of value for money, start-up companies and the next generation of business people, does NCAD work with industry?

**Professor Declan McGonagle:** Yes. We have a number of postgraduate offerings that have strong relationships with different aspects of the industry or business relevant to the discipline that is being studied. We have set our face towards being active in the economy as well as culture and society. In this regard, there has been increasing momentum in the college.

**Deputy John Perry:** Given staff and other costs, is the break even point approximately €400,000 per week?

**Professor Declan McGonagle:** I do have not that specific breakdown.

**Deputy John Perry:** Regarding reassurances about the retrospective accounts, I do not doubt that the HEA has perfected its template in other colleges. Will Professor McGonagle reassure the committee that the correct template has been installed in the college?

**Professor Declan McGonagle:** I would say, "Yes". The Department and the HEA have made it clear to us that we need to get up to date. The staff who are concerned directly with financial issues have been working extremely hard to catch up on all of these processes. The 2011-12 accounts are with the Comptroller and Auditor General's officials and we are doing the usual discussions, with fieldwork to begin on the 2012-13 period in March and on the 2013-14 period by summer. We have a schedule.

**Deputy John Perry:** Perhaps in hindsight it was a retrograde step not to put in a procedure for accounts. If 128 staff are taken with pay and pensions as 82% of accounted expenditure, the 18% remaining is for incidental expenses within the college. It is approximately, at most, €4 million per year; that is the real and auditable figure. It should be very easy to audit that figure, not the €20 million.

**Professor Declan McGonagle:** Part of our pay costs includes variables relating to hourly-paid staff. There is quite much work in maintaining a payroll process like that as well as front-line staff.

**Deputy John Perry:** I have met the students. They will play a critical role in the economy, particularly in the entrepreneurship area, including start-up companies. It is a valuable space that is filled by the college. The Comptroller and Auditor General has done retrospective accounts but has any due diligence been carried out on the financial management recently?

**Professor Declan McGonagle:** This has become a big issue for the board.

**Mr. Seán O'Laoire:** I thank the Deputy for his kind words. I will address some questions

from Deputies who have left about the role of the board. In his introduction, the Chairman asked a very pertinent question about continuity in boards. I will come back to that. I am chairing the last meeting of my tenure next Friday.

**Deputy John Perry:** I wish Mr. O’Laoire well.

**Mr. Seán O’Laoire:** Without trying to be remotely defensive about the issues which are rightly central to this hearing - I and the staff endorse everything said by the director about regret but equally our best understanding of how this came to arise - I hope that part of the legacy of this board will, if not fully squeaky clean, be in full health by autumn this year. That has been increasingly recognised by the Comptroller and Auditor General’s comments. Getting back to the deliberation of boards, I am very proud to represent a board comprising people who essentially give their services *pro bono*. I am also proud to say our accumulated expenses over the past three years of my tenure are approximately €500.

That being said, I represent a board that would be concerned about how we convey these issues to the public. Perhaps there is an “acculturation” of boards. Typically, a board might be appointed in June and its first meeting may not be until autumn or the following year. Understandably, when there was a tsunami of issues facing the board, as the director pointed out, it takes some time to see where are the fundamentals. I would have been aware of the inadequacy of the infrastructure for reporting at a very early stage. I am also aware that this has taken time. In fairness, in any contact I have had with Mr. Boland, the HEA or the Department of Education and Skills in general, there has been an understanding that there are issues. My view is that I hoped and trusted that matters would be corrected. I would like to think that today this committee will have heard of our endeavours, albeit belated. I cannot account for boards or directors which preceded us.

In the context of the correct emphasis on the importance of the college - we sometimes forget that - I probably have enough knowledge of the history of the college. It once shared premises here in Leinster House. That was not too long ago. It is a dynamic place, working within many constraints, both physically and fiscally. The spirit and commitment of the board and executive should be recorded and it has been my privilege to serve on it. I am committed to saying that we will leave the meeting, at the Chairman’s discretion, with the foundations for remediating all the structural problems which, unfortunately, we have had to put our hands up and admit to today.

**Deputy John Perry:** I compliment Mr. O’Laoire on his tenure as chairman. I was impressed on my visit to the facility, and it was strongly suggested that at some stage members of the Committee of Public Accounts could see at first hand the level of enterprise and creativity in students. It was very reassuring and I was impressed from a viewpoint of how new businesses or start-up companies could come about.

I have a question for Mr. Boland regarding subsidiarity and mergers of colleges. The issue of subsidiarity comes from Galway-Mayo Institute of Technology and the institutes of technology in Sligo and Letterkenny. They are quite different from what is in Waterford and Carlow but there is motivation on the ground for institutes of technology. It is up to each college to come forward so can Mr. Boland give any update on what is happening in that regard?

**Mr. Tom Boland:** Only yesterday I and the team from the HEA met representatives of all the institutions in the west cluster. That included the university in Galway, as well as the three institutes. We met individually and as a cluster. Overall, our impression is that in terms of the

compact with the HEA, which includes merger activity, we can be positive that the institutions are moving in the right direction. There is a great deal of work to be done and many issues have been mentioned here, including geographical dispersal of institutions. There is an appetite for proceeding both with the merger and, ultimately, with an application for status as a technological university. That latter application will fall to be dealt with through the processing criteria for the creation of technological universities. There is good “mood music” in that regard.

**Deputy John Perry:** Does the witness agree there must be very exacting standards? There is no tokenism in awarding the status of technological university. People do not want tokenism or goodwill without the institutions meeting the required educational capacity to justify the university tag. Is that an independent adjudication?

**Mr. Tom Boland:** It is a fixed policy that the creation of technological universities would not be a change of name plate and the institutions concerned will have to reach very exacting criteria. There will be assessment as to whether they have reached those criteria via a panel of international experts.

**Deputy John Perry:** I am glad to hear that. I thank Mr. Boland.

**Mr. Seamus McCarthy:** I will comment on one point raised by Deputy Perry regarding salaries and pension payments. I have not seen the 82% figure but it is important to make the general point that one cannot just assume because a figure is for payroll or pensions, it is relatively simple and straightforward. Obviously, we must audit those figures as well. A point has been made by Professor McGonagle that there is a very substantial pension charge element. That is one area in which I specifically qualified my audit opinion. That is with regard to the figures included in these financial statements for 2010/2011, as I was not satisfied that I got full explanations in that regard.

**Deputy John Perry:** The point is the remainder of the expenditure is more controllable from the perspective of getting a statutory declaration of pensions, entitlements and wages. Once the payroll, people in receipt of pensions and the 128 staff are considered, it can be easier to quantify.

**Mr. Seamus McCarthy:** Yes, but Professor McGonagle made the point that there is a number of casual employees and payments. There are many people coming on and off the payroll.

**Deputy John Perry:** Is Mr. McCarthy saying they were paid outside the books?

**Mr. Seamus McCarthy:** This is the difficulty. One must carry out the audit to be satisfied that the payments recorded in the accounts were the payments appropriate for the year. We had difficulty in getting to that.

**Deputy John Perry:** Has that difficulty been resolved?

**Mr. Seamus McCarthy:** No, there were still difficulties with information and controls as between the human resources and payments section. They are being addressed and are acknowledged in the statement on internal financial control. We will look at that again. We are looking at it in the context of the audit of the 2011-12 financial statements.

**Deputy Gabrielle McFadden:** I welcome the witnesses and thank them for attending. I am conscious that the meeting is winding down and that my question was probably answered when I stepped out of the room to go to the Chamber. I was going to let this matter go because

time was running out and people had gone into a lot of detail. However, I cannot let it go.

I have sat on the board of the governing body of an institute of technology. Therefore, I know of the dealings that board had with the HEA. I also know how conscientious the board and staff of that institute are in terms of governance, minding the books and looking after the college. Any third level institute that could state it had a 33% increase would be delighted with itself because that is what colleges want to do. For the NCAD to state insufficient attention was paid to the reform of procedures and compliance is, to my mind, not good enough. It does not tell me why it is in this position. Did somebody just not bother? Did someone think that because the problem was too big and growing we should wait? Why did we have to wait for the Comptroller and Auditor General to bring the matter to attention? It was after this that the HEA came on board. I know from my dealings with it that it was on top of the matter in its dealings with the institute to which I referred and that it was in contact with it on a regular basis. Therefore, why did matters have to reach this stage with the college? The committee acts as a watchdog, but it is not good enough for the college to state procedures are now in place and that everything will be wonderful. We are here to examine why this issue arose and learn specific details. Why did the college get into this mess in the first place? Did someone just not bother doing his or her job? For the most part, members of governing bodies work very hard on a voluntary basis. The management and staff of an institute deal with these matters too; therefore, somebody is responsible. The witnesses cannot say sufficient attention was not paid and that something is now being done. That explanation is not good enough and I want to hear specific details.

I am sorry I am asking questions that have probably been already answered, but I cannot let the matter go.

**Professor Declan McGonagle:** There is some information provided in the briefing document I have supplied. This matter has to do with sequencing. As discussed, these problems emerged in the records for the early 2000s and continued until 2008-09. In particular, the accounting issues were referred to in the terms of reference for the past five years. This is a period in which the matter could have been addressed. As our chairman attested, there was a raft of issues to do with strategic reviews on the college's agenda with which we had to deal. They had to do with fundamental issues such as validation, academic alliances and amalgamation. Cuts took place at the same time and there was a brief from the new board to create an enhanced academic profile for the college. All of these matters absorbed everybody's energy at the time. What we thought would help to address the issue, coming out of 2011 and heading into 2012, would be a move from discussions with UCD about an academic alliance to discussions about a merger. There was the identification in the memorandum of understanding on an academic alliance that back office synergy would extend to issues to do with procurement and audits. This did not include HR functions because of data protection issues but did include other back office functions. That did not happen, however, because we moved to discussions about a merger. Of course, in a merger all of these issues are contained within a larger institutional model. In terms of a merger, we ran out of time because the previous president of UCD had reached the end of his tenure. The new president waited until he had put in place his own strategic plan, which he did last autumn. That meant that we had lost between 12 and 18 months. When issues were raised in 2012 by the Comptroller and Auditor General, specifically these issues, we thought we would address them strategically as part of the process with UCD. Clearly, that methodology was inadequate. That is why the sequencing led to the current circumstances with which we are dealing.

**Deputy Gabrielle McFadden:** I accept what has been said. Were the issues discussed at a meeting of the board of management or the governing body? Did the college think these issues were too big, that it had so many other things on its plate and that it should move on? I have attended meetings of a board of management or a governing body. Therefore, I know that one does not move on to the next item until a matter has been sorted out. I cannot understand how the college moved on, it stated it had a lot of things on its plate, that it was overwhelmed and could not sort the matter out. From my experience, that would not have been the case. In the case of the board of which I was a member, one could not leave until a matter being discussed had been dealt with. It is shocking that this problem has lasted so long. It has been said there are assurances and that things have been put in place. We received assurances before and obviously they did not work out. What is the penalty if a matter is not dealt with properly within a proper period? Will funding be withdrawn? If that is the case, it is inappropriate because withdrawal will not affect the board, staff and management but the students, which is not right.

**Mr. Tom Boland:** First, I will respond to the Deputy's question about what went wrong. From the point of view of HEA, we have to be honest and say the Deputy's question must be addressed to us also. In general terms, there was over-confidence and over-reliance on assurances given to us. That confidence was based on respect - some might say the respect was excessive - for the autonomy of institutions. It was also based on our experience of the conscientiousness with which, in general, higher institutions responded to their governance obligations. What is to be done about it in the future? The Secretary General discussed the matter earlier.

We have to use our funding in a sensible way to ensure that not alone do institutions achieve the objectives they are required to achieve but also that they abide by the requirements of governance. We would be talking in the most extreme situation about up to 10% of funding being removed from an institution. In that context, one would have to make judgments about the impact of any such reduction in funding. Certainly, a message does need to be sent - such a message has been sent to the sector many times - that it is legitimate for the Government to use the instrument of funding in ensuring institutions do what they have signed up to do, in both academic and administrative terms. There is legislative provision, particularly for institutes of technology, where there is a failure of governance involving the removal of governing boards and putting in place commissions to run them. The legislation was operated on one occasion many years ago. I have every expectation and some confidence that the NCAD will do what is necessary in a timely way. Regardless of what the Office of the Comptroller and Auditor General chooses to do, the HEA will conduct a review in the very near future - we have to assess when the time is right to do so - to make sure everything is in order. We will report to the Department on that matter.

**Deputy Gabrielle McFadden:** I thank Mr. Boland and wish him well in achieving that aim, but red warning lights should be flashing. I do not believe assurances are good enough any longer, as this is State money, we are living in straitened times and all third level institutions are struggling within budgetary constraints. I thank the representatives of the HEA for coming and hope everything will work out.

**Chairman:** Does someone in the Department oversee compliance on governance issues in the HEA and colleges such as this organisation here?

**Mr. Seán Ó Foghlú:** Yes, there are staff within the higher education governance section who liaise with the Higher Education Authority in respect of compliance.

**Chairman:** Would the Department ever get down to the college level or does it stop at the



HEA?

**Mr. Seán Ó Foghlú:** On occasion, we get down to college level in combination with the HEA.

**Chairman:** In the context of governance, would that section look at the structure of the boards, who would be on those boards, the overlap of boards within the educational sector and the role of audit committees?

**Mr. Seán Ó Foghlú:** Within the higher education division, there would be a look at the structure of the boards and who would nominate to the boards. That is why we are proposing new legislation on the institutes of technology.

**Chairman:** Just looking back-----

**Mr. Seán Ó Foghlú:** The new legislation is important because we are changing the institutes of technology, we are changing to a new arrangement for technological universities, and we are looking at a new arrangement for universities. We do not look at the overlap of boards between different agencies. Indeed, under an Act of the Oireachtas, membership of former VECs nominate members to the membership of the boards of institutes of technology. There are ministerial nominations, which are overseen by the higher education division.

**Chairman:** I am not worried about who nominates them. I am interested in how the Department oversees the governance issues, particularly those relevant to boards and audit committees. What Mr. Ó Foghlú is confirming for me is that in the course of this period, the Department had, and still has, a section that would look at that.

**Mr. Seán Ó Foghlú:** That is one of its responsibilities.

**Chairman:** How is the reporting between the Department and the HEA managed? Does it happen on weekly? Do the Department and the HEA have meetings just when they are needed? How does the Department engage with Mr. Boland?

**Mr. Seán Ó Foghlú:** We have a service-level agreement which we have developed in recent years. This agreement has four formal quarterly exchanges of information. There are much more regular exchanges-----

**Chairman:** Were issues like this which were relevant to Professor McGonagle's college or any other college raised at any of those quarterly meetings?

**Mr. Seán Ó Foghlú:** As far-----

**Chairman:** Of a significant-----

**Mr. Seán Ó Foghlú:** As I said, the significant issue relating to NCAD was raised with us in late 2013.

**Chairman:** But no other college is on the radar?

**Mr. Seán Ó Foghlú:** As I said, there are, and as I said here before, I am always concerned about issues relating to governance. As I mentioned previously, there are two higher education institutions whose accounts the Comptroller and Auditor General has signed off on who did not have systems of internal financial review in place. We are in dialogue with the Higher Education Authority about those and the Higher Education Authority is in dialogue with the



institutions. There are other more minor but important issues in respect of which we are in dialogue with the Higher Education Authority. Similarly, when we have reports such as letters or concerns from the committee, they go from us to the Higher Education Authority and from the Higher Education Authority to the institutions. The Higher Education Authority would give a view on the response of the institutions and we discuss it with it. At times, we would engage in a combined way with the institutions involved if necessary.

**Chairman:** So there is a good line of communication open here.

**Mr. Seán Ó Foghlú:** There is.

**Chairman:** In spite of that line of communication, this college was allowed to perform the way it did because of the fact that there was a breakdown in that communication between the college and Mr. Boland. Is that about it?

**Mr. Tom Boland:** I think that is fair enough if one takes as a breakdown in communication the fact that the college is making assertions to us that were not factually correct at the time and we accepted those.

**Chairman:** The HEA has no role in getting into the in-depth analysis of its accounts.

**Mr. Tom Boland:** No.

**Chairman:** Does the Department have a role in respect of its engagement with Mr. Boland's outfit to look at how it is dealing with organisations below it?

**Mr. Seán Ó Foghlú:** Yes, of course we have a role to be reported on in how they are dealing with it. If we have views that they are not effective, we have a role to work it out further. This is why we are seeking to ensure that the system we will have in place is more effective. Mr. Boland mentioned the concept of spot checks. Some system issues have come up here which go beyond being informed by institutions, and even more speedily than the accounts are completed. We are looking at those issues. We obviously directly fund a number of agencies. We are looking at introducing the concept of spot checks in addition to the returns that are made in order that we have the power to make spot checks. We have found that spot checks in the buildings area have been helpful even though compliance was a matter for engagement with the likes of Revenue, the Department of Social Protection and NERA. We are advancing the concept of spot checks. Mr. Boland mentioned that in the context of the HEA. We are looking at strengthening our systems arising from that.

**Chairman:** Does Mr. Ó Foghlú feel that the Department's governance section was on top of its game during this period? Has he discovered any weaknesses in that section as he examined the HEA?

**Mr. Seán Ó Foghlú:** No, I have not discovered weaknesses in the section but I have discovered areas where we can improve.

**Chairman:** It was not weakness.

**Mr. Seán Ó Foghlú:** We were informed by the HEA as soon as it became informed.

**Chairman:** In 2013. Professor McGonagle was the one responsible for the agenda and ensuring that everything was done correctly in accordance with best practice in governance. He signed off on these reports for Mr. Boland. If the NCAD was a business, it would have been

struck off. It would not be here today. Revenue would have been after it. Perhaps the body that oversees corporate affairs would have been after it. Professor McGonagle prioritised matters within the college in a way that puts accountability and governance down the pecking order. What does Professor McGonagle think of that?

**Professor Declan McGonagle:** I have accepted that this is what happened. I do not think we-----

**Chairman:** Is it not shocking that this was allowed to happen by a board and the management team?

**Professor Declan McGonagle:** It is but I have tried to explain that it did not happen as a singular-----

**Chairman:** We were all confronted by what was required of us from 2007 onwards. Everyone started to do, as the expression went, more with less. People covered off in different ways, as it were, but the accounts were always presented. What we are confronted with here today is typical of the public service generally from what I can see here every Thursday, so it does not shock me in a way. I have been shock-proof in recent years. What is disturbing about this is the attempt to explain it all away as if some grand explanation and narrative can take this off into the ether and nobody gets to look in depth at what happened because we are planning for the future. Mr. Boland was here with us previously in connection with Waterford Institute of Technology and I must say that I would have serious reservations about the work Mr. Boland's organisation conducts. This is an example and Waterford Institute of Technology is an example. We are moving to more examples in the next few minutes. Mr. Boland has a lot to account for in terms of his stewardship of the HEA.

**Mr. Tom Boland:** I recall when we discussed the situation in Waterford. Undoubtedly, we had a robust discussion. I made the point then and I make it again now, and I think it is reasonable point to make, that the HEA does not have an audit function. The way we conduct our role of governance and accountability is by putting in place and requiring the institutions to put in place appropriate governance procedures that meet best practice. We must then reasonably rely upon the systems in the institutions to deliver on those procedures. The weakness in the system, which is now clear, although it is not a general weakness but nevertheless, now that it has been revealed, it will have to apply generally, is that we have an over-reliance on the internal governance structures to deliver what they are supposed to do.

**Chairman:** It is not a weakness, it is an outright failure to apply proper governance in this particular college and within the Higher Education Authority. Mr. Boland has nothing to be proud of in relation to any of this.

**Mr. Tom Boland:** I have, Chairman.

**Chairman:** This happened before in the WIT. It is costing taxpayers money. How long is Mr. Boland in his current position?

**Mr. Tom Boland:** Just over 11 years.

**Chairman:** During that 11-year period, Mr. Boland did not flag to the Secretary General, Mr. Seán Ó Foghlú, or his predecessor that issues were coming down the tracks, namely, that the lads in the colleges did not have time to do the books.

COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Tom Boland:** No.

**Chairman:** Mr. Boland did not go to find out. He accepted the word down along the line.

**Mr. Tom Boland:** I accepted that the processes and procedures that we put in place, with the agreement of the college, were operating. Yes, Chairman, I did, which in fairness I believe was a reasonable thing for me to do. In hindsight-----

**Chairman:** So as long as Professor McGonagle was signing off, everything was grand?

**Mr. Tom Boland:** Professor McGonagle is the accountable person for the NCAD. He has a governing body and a chairman of the governing body. It is not just Professor McGonagle as an individual. Quite clearly, with the benefit of hindsight, it is not enough and the HEA will have to conduct some kind of audit function in the future.

**Chairman:** Clearly from Mr. Boland's point of view, this is a problem for Professor McGonagle and the board of the NCAD. I know what Professor McGonagle will do in the future, but how come he signed off on documentation that was not accurate and provide it to Mr. Boland?

**Professor Declan McGonagle:** In terms of the specific areas that were signed off, we had rolled into our general board process that the audit committee would report to our board. The financial issues were so dominant that they absorbed board discussions as well. Obviously the way we were doing the signing off on the governance statement did not meet the requirement for the review, but we felt we were on top with the procedures we had in place for monthly accounts and budgetary comparisons.

**Chairman:** As this did not meet the requirement for Professor McGonagle to sign off, why did he sign off?

**Professor Declan McGonagle:** I felt we were-----

**Chairman:** Did Professor McGonagle feel he was misleading Mr. Boland?

**Professor Declan McGonagle:** No, because we did identify in some reporting that there were compliance issues.

**Chairman:** So you did tell Mr. Boland?

**Professor Declan McGonagle:** No. In some instances in terms of reporting we indicated that there were issues.

**Chairman:** When did Professor McGonagle tell Mr. Boland of these various issues?

**Mr. Tom Boland:** A number of issues were mentioned in the Comptroller and Auditor General's report in relation to procurement whereby the college in effect said that it had not always abided by formal procurement arrangements. There are two aspects to that. First, we did not follow up on that, but the statement was made in the context where the college had given us reassurance that it subsequently mended its hand and was following procurement procedures.

**Chairman:** That was a once off.

**Mr. Tom Boland:** That is the one that occurs to me in terms of the Comptroller and Auditor General's report.

**Chairman:** Let Professor McGonagle answer. Was it just a once-off occurrence?

**Professor Declan McGonagle:** I cannot be precise about that. I would need to revisit the actual letter, but I think it was more than once.

**Chairman:** It was more than once. Professor McGonagle on more than one occasion was telling Mr. Boland that he had issues. Is that a fair statement?

**Professor Declan McGonagle:** Well-----

**Chairman:** It is either yes or no. Either Professor McGonagle had or had not told Mr. Boland on more than one occasion that there were issues.

**Professor Declan McGonagle:** Yes.

**Chairman:** Procurement was one issue.

**Professor Declan McGonagle:** Yes. We would have been meeting HEA officials about the issues to do with college in general.

**Chairman:** Would Professor McGonagle have told those officials that there were some difficulties?

**Professor Declan McGonagle:** We may not have drilled down to the specific issues. The general issues-----

**Chairman:** Stop drilling and tell me this. Did you tell those officials anything in a general way about what was happening in the college?

**Professor Declan McGonagle:** I would say up to a point.

**Chairman:** You did.

**Professor Declan McGonagle:** It would not have been a comprehensive report on the basis of what-----

**Chairman:** Professor McGonagle pressed the button and the red light went on and he told them. They went back to Mr. Boland.

**Mr. Tom Boland:** There is no doubt but that we were aware from the college and otherwise that there were delays in the preparation of accounts.

**Chairman:** Why did Mr. Boland not do something about it?

**Mr. Tom Boland:** I was going to add, we were aware of it in the context that the college consistently gave us assurances that it was in discussions with the Comptroller and Auditor General. Therefore we took, perhaps unreasonably, comfort that the issue was being dealt with. We knew from the college that there were delays in producing its accounts.

**Chairman:** So, Mr. McCarthy, they were discussing it with you.

**Mr. Seamus McCarthy:** Obviously we were trying to get the audits completed. One can see the time it took from the time we received the accounts, which were late, and we could not complete the audit until we got the explanations that we required. We managed to make a bit of progress in respect of accounts for 2007-2008. But for the year 2008-2009, it slipped again.

## COMMITTEE OF PUBLIC ACCOUNTS

**Chairman:** Would Professor McGonagle have told Mr. Boland that he had slipped again, after 2007-2008?

**Mr. Seamus McCarthy:** May I make a comment on that? My predecessor reported in a special report in February 2012 that there was a problem with accounts production in the college.

**Mr. Tom Boland:** We would have, in budget meetings and outside budget meetings, consistently urged the college to get its house in order.

**Chairman:** However, Mr. Boland did nothing about it.

**Mr. Tom Boland:** That is a point that has been going around. We have very few powers-----

**Chairman:** I am going to give Mr. Boland an example. If the Revenue Commissioners turn up at the door of a man or a woman who is conducting a business and he or she is told to get his or her affairs in order and that Revenue is owed a sum of €50,000, they do not wait. The State does not treat its citizens like that. The HEA gave leeway to NCAD to continue to go as it went and Mr. Boland did nothing about it. He did not even tell the Department of Education and Skills until 2013.

**Mr. Tom Boland:** Chairman, look at the scope of the powers the Revenue Commissioners have.

**Chairman:** It is common sense, Mr. Boland. I sat here when the Waterford Institute of Technology and Mr. Boland appeared before the Committee of Public Accounts. It is exactly the same thing. No one wants to be accountable.

**Mr. Tom Boland:** It is exactly the same in the sense that the HEA has relied upon the governance systems in the institutions which overwhelmingly have been very effective. This is a particular example of a failure. We are now working on that failure.

**Chairman:** Was WIT a failure?

**Mr. Tom Boland:** Yes.

**Chairman:** Two failures.

**Mr. Tom Boland:** Yes, two failures. I do not want to sound glib about this, but two failures do not mean a disaster. They were failures but they were uncovered and effective action was taken to put things right.

**Chairman:** They were a disaster as far as the management of public funding is concerned. I am absolutely shocked at the attitude of the HEA in respect of these matters. I will tell you why. There are a number of other institutes with difficulty in respect of governance. Can Mr. Boland name those institutes?

**Mr. Tom Boland:** Currently, there is an issue with Limerick Institute of Technology to do with the statement of financial controls. St. Angela's College has some issues with that. There are a range of financial difficulties in a number of institutions that are vulnerable currently.

**Chairman:** Name them.

**Mr. Tom Boland:** Primarily, the institutes of technology in Letterkenny, Dundalk and

Tralee. There are issues to do with anonymous allegations in Cork. There were issues related to plagiarism in Tralee. There were issues to do with examinations and an inquiry was being conducted in GMIT. Those are the cases that occur to me immediately.

**Chairman:** That is a significant number.

**Mr. Tom Boland:** It is significant number. It is a very big sector and each of those issues is being dealt with.

**Chairman:** All the more reason why Mr. Boland should manage it better.

**Mr. Tom Boland:** All the more reason that when we become aware of these issues, we manage them. In fairness, Chairman, as I have demonstrated here this morning, we look at our processes and take action to strengthen them.

**Chairman:** I do not accept a great deal of what Mr. Boland has said.

**Mr. Tom Boland:** Fair enough.

**Chairman:** I want to go on to the merger of WIT and Carlow IT. Mr. Ó Foghlú said the merger was suspended.

My information is that Carlow IT received an e-mail out of the blue stating that it was going no further. I have received a copy of that e-mail but unfortunately I do not have it here. What does Mr. Ó Foghlú have to say to the fact that Carlow IT got to the point of due diligence with Waterford IT and at that point there was an immediate ending of the discussion on the amalgamation?

**Mr. Seán Ó Foghlú:** My understanding is that Waterford IT suspended and informed people in appropriate ways when the suspension took place. The Chairman has referred to an e-mail. I am not aware that the processing of the due diligence by Carlow IT in Waterford and the suspension in Waterford were directly related. They may have happened at the same time - the processes were under way - but I do not think that was the primary set of issues around which the suspension occurred.

**Chairman:** Is it not funny that it came to due diligence and then it stopped?

**Mr. Tom Boland:** Sorry to interject. I am aware - the Department may not be - that the issue around due diligence was sorted eventually. There was-----

**Chairman:** It was not sorted.

**Mr. Tom Boland:** I understand it was. There was a disagreement about it.

**Chairman:** Let me be clear. I met them. It was not sorted. It stopped. The shutters came down. That was it.

**Mr. Tom Boland:** My understanding - maybe I am wrong - is that there was a problem, but they got round it after some period of time.

**Chairman:** They did not.

**Mr. Tom Boland:** I am pretty sure they did.

**Chairman:** They went as far as due diligence and then the e-mail to end was issued. The



due diligence process was not completed.

**Mr. Tom Boland:** I do not think that is so.

**Chairman:** How much is the indebtedness in Waterford?

**Mr. Tom Boland:** Does the Chairman mean its deficit?

**Chairman:** By how much is Waterford IT in debt?

**Mr. Fergal Costello:** There is not a debt as such because institutes are not allowed to borrow, but there was an allocation by the-----

**Chairman:** I ask Mr. Costello to repeat that.

**Mr. Fergal Costello:** There is not a debt as such because institutes are not allowed to borrow under the legislation, but there was an allocation from the Department to the institute to complete work in respect of the purchase of apartments and also a sports centre. There may be some associated companies which are now being brought into Waterford which are carrying a small amount of debt as far as I know, but they are companies that were outside the institute at the time they borrowed.

**Chairman:** The reply from the Minister stated that regarding debt levels in Waterford Institute of Technology, the total debt amounted to €8,204,575 and that there was an issue with the completion of the sports project down there. Am I correct in saying that the GAA withdrew its sponsorship? Where does that now stand regarding the completion of that project?

**Mr. Stewart Roche:** The debt the Chairman referred to-----

**Chairman:** I did not. The Minister referred to it.

**Mr. Stewart Roche:** The €8 million the Chairman referred to is mainly constituted by €7 million for student residences. The position in Carriganore, as I understand it, is that the project has stalled. The costs in relation to that particular project have increased quite substantially. It was originally estimated that it was going to cost something of the order of €2.5 million to complete. I think it has gone up quite substantially from that figure. There is an issue of funding around it.

**Chairman:** How much will it cost to complete that project?

**Mr. Stewart Roche:** Some time ago the figure that was mentioned was circa €5 million.

**Chairman:** Does the HEA have that money to finish it?

**Mr. Stewart Roche:** The amount of money to be advanced was circa €10 million which was to include the original anticipated money to finish the complex of €2.5 million as well as the student accommodation, but with the issue that has arisen now in relation to the extra costs of completion, I do not think that money has been advanced.

**Deputy John Deasy:** There are discussions at the moment with regard to the additional funding of that project which is on the table. We will find out about that additional funding within the next few months.

**Mr. Stewart Roche:** There are additional costs associated-----

**Chairman:** It could be more than €5 million.

**Mr. Stewart Roche:** No. The figure I am aware of to complete Carriganore is circa €5 million; it could be higher.

**Chairman:** Is Mr. Burke from the Department of Public Expenditure and Reform happy with that?

**Mr. John Burke:** I do not have the updated position at hand; I apologise. I can revert.

**Mr. Seán Ó Foghlú:** Arising from the Quigley report, the Minister for Education and Skills agreed to make two allocations, one for the student building and the second to complete Carriganore, which at the time was €2.5 million. My understanding is that we have not paid over the €2.5 million because we have not confirmed with the institute that this will complete the project. I am not aware of the detail but the total maximum commitment the Minister for Education and Skills has given is €2.5 million. Of course we talk to the institute and I assume there is dialogue under way, but we have not committed to giving any more than €2.5 million.

**Chairman:** We were dealing with the cost to Waterford IT and Carlow IT with Deputy Deasy earlier. Does the HEA have a figure on that?

**Mr. Tom Boland:** The cost of-----

**Chairman:** Of amalgamation - this project.

**Mr. Tom Boland:** I understand the figure is somewhere in the order of €400,000, if I am correct.

**Chairman:** That is €400,000?

**Mr. Tom Boland:** It may be somewhat less. The HEA has contributed €170,000 towards that cost.

**Chairman:** I ask Mr. Boland to repeat that.

**Mr. Tom Boland:** The HEA contributed €170,000 towards that cost.

**Chairman:** However, the overall cost is €400,000.

**Mr. Tom Boland:** The overall expenditure to date that they have incurred is of that order, yes.

**Chairman:** The Minister stated that €250,000 was allocated, of which €170,000 had been disbursed. Is that what Mr. Boland is talking about?

**Mr. Tom Boland:** Yes.

**Chairman:** The remaining €80,000 has been reserved by the HEA so the other costs relative to that €400,000 are being borne by the colleges.

**Mr. Tom Boland:** Correct.

**Chairman:** Part of the problem with the HEA and the Department of Education and Skills is that when the question is asked, the answer just deals with what is coming from the Exchequer and does not deal with the amount the college spent. We do not get a complete picture. It

is wrong for the HEA to set out the information in that way. It needs to outline whatever the projected cost is, whatever the HEA has spent on it to date and whatever the colleges have spent on it to date. That is what I would like to find out. I want Mr. Boland, if he can, to get me that information - the projected cost, what has been paid out to date and what cost there is to the college. He can send that in to the clerk.

The answer to the question on the amalgamation of Cork IT and Tralee IT was €100,000. However, the merger document between those colleges stated that this financial model was addressed in section 3 of that document. It further stated that it was projected that the merger would involve one-off costs of €6.7 million. The HEA may have spent €100,000 on it to date but I want to know if that figure is true.

**Mr. Tom Boland:** I will answer the question.

**Chairman:** Is Mr. Boland aware of these figures?

**Mr. Tom Boland:** Mergers are very expensive. In an ideal world-----

**Chairman:** I ask Mr. Boland not to give me a lecture. He should just answer the question.

**Mr. Tom Boland:** In fairness, there is a background to this if I am to give a complete answer to the committee. Mergers are expensive and in an ideal world the State might be able to pick up the tab. There are very limited resources available for these mergers and there are a lot of mergers taking place. What we have had to do is to give only a small contribution towards merger costs. What we expect the institutions to do is through efficiencies or through raising revenue elsewhere to find the additional cost. It is in that context that something like this would arise.

**Chairman:** So €6.5 million is not wide of the mark - it is mentioned in this document that Mr. Boland has.

**Mr. Tom Boland:** I would anticipate that the institutions made a reasonable assessment of what the costs would be. Certainly they were looked at by our international panel and considered, in an international context, to be a reasonable cost.

**Chairman:** So €6.5 million is not off the mark, is it? Is that what Mr. Boland is saying to me?

**Mr. Tom Boland:** That is what I am saying.

**Chairman:** Relative to that figure how much is the merger of Carlow IT and Waterford IT costing?

**Mr. Tom Boland:** We have not actually got a figure for Waterford.

**Chairman:** But Mr. Boland should have it.

**Mr. Tom Boland:** No. The context in which we got that figure from Munster was in the context of its very detailed plan as to how it would become a technological university. As we have discussed here, Waterford IT and Carlow IT are still some distance away from doing that.

**Chairman:** Please answer this question. Who are the auditors within the colleges? Is there an overall contract for all the colleges?

**Mr. Seamus McCarthy:** The internal auditors are Deloitte

**Chairman:** So it is Deloitte. Would Deloitte have done the due diligence between Waterford IT and Carlow IT?

**Mr. Tom Boland:** I do not know.

**Mr. Fergal Costello:** I think Carlow IT contracted Baker Tilly Ryan Glennon to do the due diligence.

**Chairman:** What we have is Deloitte and O'Flynn Exhams doing an awful lot of the work and looking in the mirror about this work. There does not seem to be a transparent system within the colleges where real due diligence takes place and where there are separate entities from the accountancy world or the legal world, looking at this in a way that we get real figures out. To go back to the merger, due diligence for Deloitte and O'Flynn Exhams would have cost MTV €300,000. Did Mr. Boland know that?

**Mr. Tom Boland:** The office may have known it; personally, I did not.

**Chairman:** How can Mr. Boland answer parliamentary questions in the House?

**Mr. Tom Boland:** I do not-----

**Chairman:** I ask parliamentary questions when the information given is pretty sketchy and where there has to be across discussion like this to get the real figures out. That is unacceptable. I could go through an FOI request, where two communications companies were involved with CIT and nobody would release the costs. Does Mr. Boland know the costs of those two companies?

**Mr. Tom Boland:** As I sit here today I do not.

**Chairman:** Can Mr. Boland find out that information?

**Mr. Tom Boland:** I certainly can.

**Chairman:** There are many issues relevant to this; the figures are staggering. In terms of the €6.5 million, can Mr. Boland break it down for me and say who got paid what?

**Mr. Tom Boland:** €6.5 million has not been spent.

**Chairman:** I know it has not been spent but the HEA is embarking upon a project that it has been told will cost €6.5 million. If the HEA is embarking upon the same project in Carlow or Waterford, can Mr. Boland tell the committee the projected costs of that project? Otherwise, how will we manage expenditure against the projections?

**Mr. Tom Boland:** I absolutely agree that figure has been done but it is premature to do it currently, particularly with the process that is ongoing between Carlow IT and Waterford IT, but it will be done.

**Chairman:** Before one purchases something in a supermarket, one looks at the price to see whether it is within one's range. What Mr. Boland is telling me is that without even considering whether it was within HEA's range, it went off and purchased the project and does not even know how much will be paid for it.

**Mr. Tom Boland:** It is a matter of public Government policy.

**Chairman:** I know it is but it has to be costed by somebody like the representative.

**Mr. Tom Boland:** That is what I was coming to.

**Chairman:** I knew it was not the representative's fault, it was a governance fault.

**Mr. Tom Boland:** The situation is that it will be funded but it is not a question-----

**Chairman:** How can the HEA fund something like this? I will not go through all the figures. It is just amazing what it is spending its money on and Mr. Boland knows this. This is contained in a document. I am asking what Carlow IT and Waterford IT will spend their money on because Waterford does not have a good track record in this regard.

**Mr. Tom Boland:** At this moment Waterford IT and Carlow IT have not made that calculation because it is premature to do so. They have not got to the point of doing a detailed plan as to how they would become a technological university or to merge. That figure is not available.

**Chairman:** That is an extraordinary reply.

**Mr. Tom Boland:** But it is true, Chair.

**Chairman:** I will not even pursue it.

**Deputy John Deasy:** Mr. Ó Foghlú said that the merger ended, in his opinion, with an e-mail that was inappropriate.

**Mr. Seán Ó Foghlú:** Indication of the suspension was in an inappropriate manner.

**Deputy John Deasy:** Regarding the reason given in that e-mail - Mr. Ó Foghlú does not have to explain the reason which he said would be counterproductive and that is fair enough - was it given to Mr. Ó Foghlú at the meeting that occurred two weeks prior to the e-mail from the president? Was any mention made of it?

**Mr. Seán Ó Foghlú:** Approximately two weeks, it may have been three or four.

**Deputy John Deasy:** The problem we have here, and perhaps the Chairman touched on it, is that we have a lack of information. We have vacuum on top of vacuum. Nobody seems to know what is going on in these institutions. This is not new. This is an age old thing. Mr. Boland is at the helm for 11 years and the lessons should have been learned a long time ago with regard to Waterford. I am from Waterford and I like wearing the jersey but there comes a point where one has to ask some questions about how places are being run, whether they are in one's constituency or not. I get the strong impression that the two entities involved in this merger did not have a clue as to what was going on. There was form here with regard to governance, as the Chairman said, and there should have been a heightened sense of activity or scrutiny when it came to the merger process. The mistake that has been made, to a certain extent, in my opinion, is that it is now being dished off to Mr. Kelly. Good luck to him with his work. This should have resided with both organisations at a very senior level until a resolution or solution to this had been put together. Once again it is being dished off and reports forthcoming. I am afraid that history will repeat itself in about two or three years and we will be back in here, although there may be different personnel dealing with it then.

**Chairman:** Can I finish by saying this Mr. Ó Foghlú? I am going to bring the meeting to



an end because we have been here a while and we have special supervisors in the House who keep an eye on things so they will be checking on me. I was looking back over correspondence and came across correspondence from Deputy Colm Keaveney in relation to GMIT which was brought to the committee. Mr. Ó Foghlú explained to us that he would keep us posted on how things were going but that did not happen.

**Mr. Seán Ó Foghlú:** I did. I updated the committee in May of last year. There has not been a major development although Mr. Boland updated me on the position this morning, following being updated by the president of GMIT yesterday. Following a board meeting, which I understand is to take place next tomorrow, and when we have informed the HEA, we will update the committee.

**Chairman:** Yes, but that was 15 May 2014 and there were a number of questions to be answered. The representatives might reflect on that after the meeting. Those questions were not answered.

**Mr. Seán Ó Foghlú:** Yes.

**Chairman:** There were follow-up letters that we were to receive on a number of other issues which were raised and that did not happen. Then there was the issue in relation to the CIT documents. It was not just one document but three in relation to a whistleblower who had given us information. Mr. Ó Foghlú responded to the first document on 15 December in which he referred to the allegations - I stress they are only allegations. He also stated that “a full detailed report will issue to the audit committee of CIT in the next couple of weeks and CIT will respond formally to the HEA on receipt of this report”. Where is that report?

**Mr. Seán Ó Foghlú:** On the first issue, if there is outstanding correspondence we will endeavour to follow up on all of it. If there are issues about outstanding correspondence we will certainly seek to address that but to my knowledge there are none on which we are not following up. On the particular issue, CIT provided a report to the HEA late last week. We have not had an opportunity to go through it. We would not just send it straight on with an endorsement. The HEA has to interrogate it and then it has to talk to us. We may have further questions for CIT arising from it on a combined basis. We have now got that report in the HEA. We will look at it and we will respond to the committee when we have completed our consideration of it.

**Chairman:** Would Mr. Ó Foghlú have received the other two documents?

**Mr. Seán Ó Foghlú:** We received a further one which also went to Cork Institute of Technology late last year. CIT will look at it and respond to us and the HEA.

**Chairman:** There was a second document. We will check the number of documents we received from the whistleblower. I intend to have a meeting to discuss these documents if we do not receive a comprehensive reply on each of the issues raised in them. The reply of 15 December refers to a report and states the allegations contained therein offer no basis for concern.

**Mr. Seán Ó Foghlú:** I informed the Chairman that that was the institute’s view. I have not endorsed it, as I have not seen the report which is with the HEA. As Accounting Officer, I will not pass it on to the committee without actively considering it to see what we think of it, with the HEA. Only at that stage will we get it to the committee. We are looking at the matter very seriously.

**Chairman:** Can the committee work closely with Mr. Ó Foghlú on the documents we have

received regarding CIT? Can we expect to receive a comprehensive report on each of the documents?

**Mr. Seán Ó Foghlú:** Yes.

**Chairman:** I read in a report in *The Examiner* that the Committee of Public Accounts was no longer interested in CIT and what was going on in it. That is untrue; we are very interested in it. I raised questions – this goes back to the issue of spending – when €20,000 had been spent on a painting. I am not making an issue of it, as we can discuss that issue at a later date, but that activity and expenditure do not do the sector any good. There are matters in the two documents that refer to many issues within CIT and I am deeply unhappy when reading them. I would like to receive a far more efficient response from the HEA and the Department.

**Mr. Seán Ó Foghlú:** The reason it takes time is that CIT takes the allegations very seriously. It employed external agents to undertake an assessment which it has considered and forwarded to the HEA. When matters of such seriousness are raised with CIT, it takes them very seriously. As they stand, they are only allegations. We cannot assume their accuracy, but we have to examine CIT's response first. It has to put a process in place, as it is primarily responsible. Its structures, audit committee, governing body and senior management have taken these issues very seriously and sought to address them.

**Chairman:** What is the timeframe for Mr. Ó Foghlú getting back to us?

**Mr. Seán Ó Foghlú:** On the first report, the timeframe will depend on the assessment. If the assessment is that we need to talk further to CIT, it will take more time. It depends on what is contained in the report. As I have not yet seen it, I cannot comment on its seriousness or otherwise.

**Chairman:** What is the timeframe involved?

**Mr. Seán Ó Foghlú:** It will depend on the extent to which we will need to engage in dialogue with the institute after analysing it. We hope to get back to the committee as soon as we can.

**Chairman:** Will Mr. Ó Foghlú consider the question of outstanding information on the overlap with vocational education committee board members and CIT members and so on, an issue which has been raised at previous meetings of the committee?

**Mr. Seán Ó Foghlú:** I responded to that question.

**Chairman:** The clerk reminds me that there was a reply but the question was not answered.

**Mr. Seán Ó Foghlú:** I apologise if we did not answer it. If there is an outstanding question, we will certainly liaise with the clerk.

**Deputy John Deasy:** I suggest the committee ask the HEA and the Department to update it on the work Mr. Kelly is undertaking on the situation in Waterford and Carlow and to report to it within a number of weeks on the merger process? We cannot leave it open-ended.

**Chairman:** Yes; we can ask, but that should not delay the response required on the costings and its status from the college and the Department.

**Mr. Seán Ó Foghlú:** We can obtain an update on the Kelly process when it is completed. If

the report is to be sent to the Minister, it may require consideration by the Government. When it is completed, we will provide it for the committee.

**Deputy John Deasy:** When will it be completed?

**Mr. Seán Ó Foghlú:** In the near future, but it is a process that involves engagement in the south east. The key issue for us is to have that engagement and to seek a recommendation.

**Deputy John Deasy:** Does that mean Mr. Ó Foghlú is precluded from becoming involved in the issues that are historical?

**Mr. Seán Ó Foghlú:** No, I am not saying we are so precluded, but we have put a process in place. It has been in place for only a short time and we need to give it time. If we were to be involved, it would not be as effective. What we have in place is potentially effective. I reiterate what Mr. Boland said about costs. We can certainly obtain the details of the CIT-Tralee Institute of Technology merger. The institutes in Waterford and Carlow have not drawn up their detailed costs, but we can obtain the details of expenditure to date. They will be included in the next stage, should they submit a plan for the next stage of the process which I understand would be a stage 3 submission. If they submit a plan, they will cost it and the cost will be available to the committee.

**Deputy John Deasy:** The concern is that both entities have, to a certain extent, detached themselves from the process, with the appointment of Mr. Kelly. I wish him good luck in his work.

**Mr. Seán Ó Foghlú:** I would not agree.

**Deputy John Deasy:** It has proved disastrous in the past. That is my opinion and concern.

My last question may be for everyone, but I will address it to Professor McGonagle. In his organisation is there a requirement for the registrar to have an accountancy qualification?

**Professor Declan McGonagle:** Yes.

**Deputy John Deasy:** Does the person concerned have an accountancy qualification?

**Professor Declan McGonagle:** Yes.

**Chairman:** Dr. Neavyn, president of Waterford Institute of Technology, told us in November 2014 that they would report to the Minister within ten weeks. That report must now be due.

**Mr. Seán Ó Foghlú:** The work involved is under way. It took a few weeks for Mr. Kelly to start his work. There is a new chairman in WIT who is getting into his role. I am much more anxious that there be a positive outcome than the ten-week deadline being met absolutely. In the terms of reference there is a ten-week timetable.

**Chairman:** In response to the issues raised will Mr. Boland give us a copy of a risk register showing how he sees the risks within his organisation versus his oversight? The Department might do the same. Will he give us his list and response, indicating how he will deal with it?

**Mr. Tom Boland:** Very well.

**Chairman:** I will conclude the meeting by disposing of the financial statements for the HEA for 2013 and report No. 85 of the Comptroller and Auditor General, Accountability and

COMMITTEE OF PUBLIC ACCOUNTS

Governance at the National College of Art and Design. We will be expecting great things soon. Mr. Boland might have a system that actually works.

**Mr. Tom Boland:** That is what we have to do.

*The witnesses withdrew.*

The committee adjourned at 2.30 p.m. until 10 a.m. on Thursday, 29 January 2015.